

**Vermont Community Broadband Board  
Meeting  
December 20 12:00 pm**

**AGENDA**

Board Meetings will be held remotely

Join by Video <https://bit.ly/3scJmBX>

Join by Phone; +1 802-828-7667,,949278784#

Members of the public may also attend in person at the following location. Masks required.

GIGA Conference Room  
3<sup>rd</sup> Floor of 112 State Street, Montpelier VT

***Note: There may be additional Executive Sessions if necessary.***

11:00	1) Meeting called to order and Agenda Review
11:05	2) Review Act 71 Construction Grant RFP
11:55	3) Public Input
12:00	4) Motion to Adjourn

Press inquiries; please contact Rob Fish, [Robert.fish@vermont.gov](mailto:Robert.fish@vermont.gov) 802-522-2617

## Act 71 Construction Grant Program Feedback

### From VCUA

#### Definitions:

With regard to the definition of Universal Service Plan, we suggest adding: *"Providers which are constrained by exchange areas to serve only a portion of a town may meet the requirements of a universal service plan by reference to one or more universal service plans other providers propose for other portions of a town."*

With regard to the definition of incidental overbuild, we suggest adding *"will be considered incidental if it consists of mainline access, trunk routing, or network hub integration enroute to or supporting delivery of service to unserved and underserved households."*

#### Overview:

The overview section should make clear that applicants will be building to all unserved and underserved addresses on-grid.

With regard to the Terms of Agreement, there should be a footnote for CUDs and other providers that are requesting funding for projects that are already ongoing.

#### Project Prioritization:

We suggest changing the language of point E to : "Commit to offering service at market rates, and to participating in programs that subsidize consumers"

#### Full Proposal

Our biggest issue is with Retail Pricing. Some CUDs have suggested removing this clause entirely. Alternatively, we suggest this language instead:

*"Economic factors:* Each proposal shall include information sufficient to demonstrate to the VCBB that the resulting network will be economically self-sufficient over the long haul, incorporating plans for ongoing maintenance, upgrades, replacement in addition to paying market wages to a staff sufficient for operating the network."

We don't think that affordability should be the issue here, and that it would be better to simply demonstrate economic viability at this point in the process, than to suggest what final rates will be.

## From WCVT

Page 3 – Act 71 Compliant Business Plan – I agree with the high level design as we can provide maps with customer locations noting where our cabinets are located etc. Estimates on the cost of construction are needed too and we would provide such. However much of the rest of the information can really be gleaned from our financial statements and projections. I am uncertain what is expected in terms of an “ideal operational models” and “risk management plan”.

Vs.

Page 7 – Eligibility (D) – viable business plan. This seems much more reasonable. Can we make what’s on page 3 look more like what is in law?

Page 5 – 2. Community Match mentions “a letter of commitment”. Who does this letter/from whom? Town or operator?

Universal Service Plan – Couldn’t this be as simple as having the entity certify that they are building to all unserved and underserved, identifying the unserved and underserved by identifiable group such as a town in the proposed universal service area, and noting what year construction is expected to occur. That the build will meet OPS requirements, will comply with net neutrality, will be open access, and will take part in low income plans for affordability. **After reading the whole document, any provider applying and certifying really has a universal service plan without having to specifically creating one.**

Conventional – Could we add the ability for the eligible provider to request funding when major phases of a project are complete and customers are in service? This will provide a more viable alternative to the phased approach.

Page 16 p- Qualified Census Blocks in 1. a. Do we define what a qualified census block is and how this is relevant, given we list addresses in 1. b.

If there is a way to remove some of the redundancy between the screening application and the main application, that would be helpful. Also, can we made the eligibility screening a one- time event?

## From Connectivity Division of the Public Service Department

My understanding of your question below is that you are asking us to opine on how the VCBB should implement the universal service requirements of Act 71 as it would apply to ILECs.

The definition of “universal service plan” in Act 71 provides little detail on who is required to draft the plan and what elements are included, so long as grant funds are disbursed according to the plan. According to the statute, “‘Universal service plan’ means a plan for providing each 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.” While the definition requires a plan for all unserved and underserved locations within an entire municipality, there appears to be no requirement that the plan be achieved through a single provider or a single solution. To the extent that a single municipality is solving for all unserved and underserved locations within its borders, it would likely find a single solution for its whole town impossible, except where the incumbent owns all of the exchanges within the town’s borders. Doing it any other way raises a host of issues:

1. For telephone service, providing services in a different exchange would require purchasing blocks of telephone numbers for that exchange – a headache in of itself. This would require an interconnection agreement with the ILEC of the host exchange. If it can’t obtain one, this could also create long-distance calling issues for those customers, who would likely be making long-distance calls into their local calling area by purchasing phone service from the out-of-exchange provider. Calls to your neighbors, the school, the post office, and the clerks office could all become long distance. Rural ILECs generally lack requirements to provide interconnection and resale of services that do apply to RBOCs.
2. Exchange boundaries typically line up with physical barriers. Building to customers in a different exchange may require constructing plant from a different direction and a different central office. The incumbent has already deployed fiber to all of its remotes in its own exchange. These deployments already follow the exchange boundaries. Requiring the ILEC to step outside of this network architecture could make a single solution for an entire municipality exponentially more expensive.
3. Getting backhaul from the one exchange to another could be difficult to find and expensive, especially if the host ILEC doesn’t want to sell it.
4. RLECS are subsidized by the FCC. The invaded incumbent would likely receive ongoing federal support to serve the same locations, putting the invading carrier at a competitive disadvantage. The business case for serving these areas with one carrier is already marginal, if not non-existent, which is why the high cost support is there in the first place. Adding a second competitive service won’t help either business. Nevertheless, under Vermont PUC rules there are no monopoly territories, and providers are allowed to deploy service anywhere.

At least theoretically an ILEC could deploy service outside its telephone exchanges, for example to extend service throughout a town that is only partially within its exchange boundaries. This would require the ILEC to overbuild another ILEC that already serves that area. This presents a challenge, as the business case is marginal for a single provider, much less two. Consideration should be given to the requirement to deploy appropriate telephone number sets and the associated interconnection

obligations. It should be noted that Rural Local Exchange Carriers (RLEC)s have limited interconnection obligations under federal law which serves to further discourage competitors to deploy service in these areas. (For instance, it is more difficult for CCI to expand into WCVT territory than vice versa). In practice, with very limited exceptions, ILECs do not overbuild each other's territories.

As an alternative, an ILEC could partner with another ILEC or even another company or CUD to deploy service to the sections of towns outside its exchange boundaries. As you note however, an ILEC has no control over other providers that might serve these areas. Such an arrangement would therefore be far from optimal.

The most sensible way to implement the universal service plan policy in Act 71 would be to allow an incumbent local exchange carrier (ILEC) seeking VCBB support to develop a universal service plan on an exchange boundary basis as opposed to on a town boundary basis. We think carriers will be more likely to participate, and your program will have a greater likelihood of success if you choose this path.

Telephone exchange boundaries do not align with town boundaries, so this means that portions of towns would necessitate a two-provider solution. Maps for both boundary sets are available on the geodata portal, and can be individually enabled on the PSD [interactive map](#).

On a broader note, when reviewing universal service plans generally, the VCBB should also consider voice service. Specifically, the VCBB should require that in addition to addressing broadband internet access service, universal service plans should also address voice service, and require grantees to obtain a certificate of public good from the Vermont PUC for the provision of this voice service.

Please let me know if you have any questions. Thank you,

Clay



**Vermont Community Broadband**

Board (VCBB)

112 State Street

Montpelier, VT 05620-2601

**Contact:** Robert Fish, Deputy Director, 802-522-2617,  
[robert.fish@vermont.gov](mailto:robert.fish@vermont.gov).

**BROADBAND CONSTRUCTION PROGRAM REQUEST FOR PROPOSAL**

**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 at all on-grid underserved and unserved locations within their Universal Service Plan.

**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.

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 AND EXPLANATIONS

**“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 has access to a wireline broadband connection capable of speeds of at least 4 Mbps download 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload. <sup>1</sup>

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<sup>1</sup> 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

**“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.

**“Act 71 Compliant Business Plan”** means a business plan for the proposed universal service plan. For the purposes of this grant, an actionable business plan is a document that a financial institution would find sufficient basis on which to provide financial support. The business plan shall include, but is not limited to: high-level engineering and design plans, market analysis, take-rate assumptions, and as relevant cash flow positive date, loan payoff date, financing models, pro forma financial projections, estimated construction costs, ideal operational models, and an evaluation of risks including labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses. This requirement applies to all eligible applicants.

**“Incidental Overbuild”** means overbuilding addresses areas currently serviced by a reliable wireline connection of at least 25/3 Mbps. 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.”*

In general, any overbuild of served addresses that is less than 20% of the total number of addresses passed will be considered incidental since the project is “designed to” provide service to unserved and underserved households.<sup>23</sup>

In general, Point to Point Fiber between hubs without drops and crossing areas with access to

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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

<sup>2</sup> From FAQ - 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.

<sup>3</sup> Section 60102 of the new infrastructure bill, H.R. 3684: (D) Underserved service project.--The term “underserved service project” means a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations or underserved locations.

wireline connection of at least 25/3 do not count as overbuild. This includes mainline access, trunk routing, and network hub integration enroute to or supporting delivery of service to unserved and underserved locations.

Applicants should explain why any overbuilding is necessary and how it is incidental to the project's overall objective. The Board will review proposed projects and consider the justification given for all overbuild.

**“Vermont Community Broadband Board Outside Plant Design (OSP) Requirements”** means standards developed by the Vermont Community Broadband Board as outlined in Addendum 1. (see pg 26)

### FUNDING AVAILABLE

The total amount of funding available will be established through the legislature. Total funding available to each Communications Union District and to towns not members of a Communications Union District will be determined by the percentage of road segments with unserved or underserved addresses and an incentive program to encourage contributions by communities' benefiting from the proposed projects.

#### 1. **Percentage of Roads Unserved or Underserved in the District or Town(s) -- \$100 Million**

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.

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.

	<b>% of underserved roads</b>
Addison	8.98%
CV	9.70%
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.

[Note] This will be adjusted using the new CUD maps at the time of posting. We expect some slight changes as additional towns have joined CUDs or switched CUDs.

**2. Community Match: The Board will match town contributions of State Fiscal Recovery Funds allocated on a first come first serve basis up to a total of \$16 Million**

The total per single Communications Union District or from all towns not a member of a Communications Union District will receive from the pool of money is equal to the percentage allowed under the unserved and underserved road miles formula detailed above. This funding will be distributed on a first-come first serve basis. This additional pool of funds is to incentivize communities to contributing additional funds. A letter of commitment must be included in the grant application from the municipality providing the matching funds. Funds not matched by March 15, 2021 will be returned to the funding pool allocated by unserved and underserved road mile.

## 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](#)).

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 Twenty-Four Months (24) of approval of the Application.

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.

The Board will award up to the maximum amount to each Applicant as determined by the underserved mileage formula plus any matching funds. At the Board's discretion, unawarded preconstruction funds allocated but not awarded to a Communications Union District may added to the total amount available via this Program.

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](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 questions about the RFP. All communications concerning this RFP should be sent by email to [vcbb@vermont.gov](mailto: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.

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 are encouraged to 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](mailto: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. At the Applicant's discretion, the Applicant may also submit the Eligible Screening Pre-Proposal at this time in lieu of the Notice of Intent.

*Questions:* Upon submission of Notice of Intent, the Applicant is permitted to post questions related to the RFP. The questions will be posted to the VCBB 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. Eligibility decisions will be made by the Staff within five (5) business days. Review of an invited proposal will be made at a future Vermont Community Broadband Board Meeting. Proposals should be sent via email to [vcbb@vermont.gov](mailto:vcbb@vermont.gov) in PDF format. Upon invitation for a Full Proposals, Applicants may be provided with a unique login to be used for uploading High Levels Design and mapping data. 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 24 months.

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## ELIGIBILITY

The Board will only consider applicants and projects that meet 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) Construction needs to be completed within 24 months.
- (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.<sup>4</sup> The Board reserves the right to offer consideration to projects without such letters, but it is the responsibility of the Applicant to justify why the proposed project does not undermine or conflict with the Universal Service Plan of an existing Communications Union District. The Board reserves the options to review or dismissal such applications.

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<sup>4</sup> 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.

- (F) The proposed project involves only the Incidental Overbuilding of addresses currently served by a 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 willingness to follow the guidelines. Final designs are subject to review by an independent Engineer contracted through the Vermont Community Broadband Board.
- (H) All projects must provide broadband service that complies with the consumer protection and net neutrality standards established by the State.
- (I) The Applicant must agree to provisions contained in Act 71 or Act 71 as may be amended.<sup>5</sup>
- (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.<sup>6</sup>

## PROJECT PRIORITIZATION

Upon the determination that the Applicant is eligible for consideration, the Board shall give priority to broadband projects and applicants that:

- (A) Leverage existing other resources and assets, including
- (B) Demonstrate project readiness and Community Support.
- (C) Support low-income or disadvantaged communities.
- (D) Promote geographic diversity of fund allocations.
- (E) Provide consumers with affordable service options and/or commit to participate in a program that subsidizes low income consumers.
- (F) Include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes.
- (G) Quality of Service

## APPLICATION PROCESS OVERVIEW

The application requirements for this Program as set by Act 71 are substantial. To ensure that no

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<sup>5</sup> Please see <https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT071/ACT071%20As%20Enacted.pdf>

<sup>6</sup> 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>

potential applicant expends extensive resources in developing a project that is not considered as a result of the nonconformance to criteria and requirements set forth in Act 71, the Board has as established a two step process:

**1) Eligibility Screening Pre-Proposal** - Staff will review the materials submitted for eligibility and invite proposals from those applicants whose proposed Universal Service Area(s) are deemed eligible. Staff may determine that all, some, or none of the areas are. If a Universal Service Area and the Applicant are deemed eligible, the Applicant need not submit additional prescreening materials for subsequent projects within the same Universal Service Area.

**2) Full Proposals by Invitation Only** - Full proposals will be accepted by invitation only. The Applicant will have the option to between two paths. The first “Conventional” Path is a traditional bid for service. The second option, “Phased Approach” is for applicants that desire a more collaborative approach with additional oversight in exchange for performance payments.

<b>Conventional</b>	<b>Phased</b>
Open to All Eligible Applicants	Open to Eligible Applicants Constructing Publicly Owned Infrastructure
Requires “Not to Exceed” Price	Requires “Estimated” Cost
Payment once the network is certified as complete. Payment shall not exceed the “Not to Exceed” Price.	Performance payments in exchange for additional accountability and transparency steps to be negotiated in the grant agreement.
All documentation provided in Full Proposal	Iterative Process to ensure network and retails serviced offered comply with Act 71 requirements.
Detailed Design Certified by Principal Engineer to be compliant with VCBB Outside Plan Design Requirements due 120 days following grant execution. Failure to do so will result in possible forfeiture of the award.	Iterative process between Applicant and VCBB Staff and Contractors to ensure detailed design meetings all VCBB Outside Plant Design Requirements.
Quarterly Progress Reports	Monthly Reporting
Submission of “As Built” Plans and On-Site Inspection Required for final release of funds.	Submission of “As Built” Plans and On-Site Inspection Required for final release of funds.
If Applicant offers a phased approach to building out the entire Universal Service Plan, the Applicant may seek reimbursement after each phase is completed, inspected. And offering service rather than wait until the completion of the entire Universal Service Plan.	

## STEP 1: PRE-PROPOSAL ELIGIBILITY SCREENING

To be invited to submit a full proposal, Applicants shall provide the following as a single PDF.

Proposals will be evaluated based on meeting the basic eligibility requirements, the ability of the provider to perform the necessary work, estimated cost, and the appropriateness project towards advancing the goal of universal services.

### **Eligibility Screening 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.
  - 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).

### **Eligibility Screening Part 2: Applicant Certification**

Applicant Certification: Applicant shall certify in writing they understand that the following conditions will apply to any project funded by the VCCB Construction Grant Program:

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 all information in the proposal is accurate.*
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 without the prior written approval from the Board.*
7. *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.*
8. *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.*
9. *Each person signing the proposal certifies they have reviewed the following documents: [Attachment C, STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT \(Construction\) for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic, Applicability of Federal Requirements to Vermont State Fiscal Recovery Fund Projects, and State Fiscal Recovery Program Assurances v5.](#)*

### **Eligibility Screening Part 3: General Information**

1. *Responding Eligible Entity and Brief History of the Eligible Entity and Partners.*
  - a) 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.
  - b) Applicant shall indicate their experience and/or their partner(s) ’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. *Business Plan and Financial History*
  - a) Applicants shall certify they have a compliant business plan. If the Applicant does not have a business plan compliant with Act 71 at this time, the Applicant must describe the business model and steps that will be taken to develop such a plan. The plan will be required if the Applicant is invited to submit a full application.

*Act 71 § 8086(d) requires the Board to “determine that the applicant has produced a viable business plan for its 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.”*

- b) The Board reserves the right to require the submission of an Applicant’s financial information before inviting a proposal.

### 3. Preferred Application Process

The Applicant shall state their preferred application path

- Conventional: The conventional grant program requires the submission of extensive materials and a not to exceed price. Grantee is reimbursed for total incurred costs up to the “not to exceed” price once the project is completed and the final built design is signed off on by the Board.
- Phased: The phased approach requires an applicant interested in engaging in a collaborative and iterative process with the Board for projects that will result in publicly owned infrastructure. In exchange for performance payments, Grantee will share plans, including detailed design and provide the opportunity for input from Board experts.

### Eligibility Screening Part 4: Proposed Universal Service Area(s)

#### 1. Proposed Service Area

- a. Applicant shall detail the town(s) in which they propose providing universal service to all on grid unserved and underserved addresses
- b. If the Applicant is unable to directly provide service to some addresses, the applicant must explain why and how those addresses will be served.
- c. Applicant shall provide a map showing current coverage in the proposed Universal Service Area and the total number of underserved addresses.
- d. Applicant shall describe who will own the resulting infrastructure.
- e. If the Applicant is proposing to serve a town currently a member of a Communications Union District, the provider shall explain the relationship with the Communications Union District. Letters of support confirming the support of the Communications Union District are encouraged.

*According to Act 71, § 8086(e) The Board shall not award 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*

If there is no relationship, it is the responsibility of the Applicant to convince the Board that a full proposal should be invited. An Applicant seeking funding for a project in Communications Union District should provide the following information at a minimum:

- i. Whether the town was a member of the Communications Union

- District as of June 1, 2021.
- ii. An overview of the Applicant's relationship with the Communications Union District. The Board will consider whether the Applicant replied to RFPs and/or made a substantial attempt to forge a partnership.
  - iii. Why the proposed project will not conflict or undermine the business plan of the Communications Union District.
  - iv. Why it is in the best interest of the State to consider a full proposal.

The Staff shall make the decision whether the Applicant's complies with this requirement of Act 71, § 8086(e). A potential Applicant not invited to submit a full proposal because of this clause may appeal to the VCBB Board.

### *3. Estimated Cost for Universal Service Area*

Applicants must be able to provide a total estimate for serving the 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.

### *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 municipality or region subject to the potential grant proposal.

## **STEP 2: FULL PROPOSAL (BY INVITATION ONLY)**

In response to this RFP, each bidder is required to submit a proposal organized into the sections as outline below.

The information required for the full proposal builds off the submission in the Eligibility Screening Phase. Applicants are encouraged to read each section carefully for additional information required in this phase and to further elaborate on previous answers. Applicants shall also respond to any questions posed in the invitation for a full proposal. The full proposal also requests information the specific phase of the Universal Service Plan Project for which the

Applicant is requesting funding and additional information related to other design and process concerns per Act 71.

Applicants shall refer to the following chart to determine which questions must be answered and answer those questions as outlined below.

<b>Applications Steps</b>	<b>Conventional</b>	<b>Phased</b>
Part 1 – Transmittal Letter and Proposal Overview	Required	Required
Part 2 – Applicant Certification	Required	Required
Part 2 – General Information	Required	Required
Part 3 – Proposed Universal Service Area	Required	Required
Part 4 - Project Description	Required	Questions 1, 2, 3, 5 are required at this time.
Part 5: Act 71 Considerations	Required with supporting information	Required
Part 6: Attachments	Required	Required

**Full Proposal Part 1: Transmittal Letter and Proposal Overview**

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 #*
  
3. *Preferred Application Process*
  
4. *Total Estimated Cost to Complete the Universal Service Plan*
  
5. “Not to Exceed” or “Estimated Cost” for the Universal Service Project to be completed in the next 24 months.

6. *Amount of Community Match Secured and an overview of any other funds to be contributed to the project*

## **Full Proposal Part 2: Applicant Certification**

Applicant Certification: Applicant shall certify in writing acceptance 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 all information in the proposal is accurate to the best of their knowledge.*
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 without the prior written approval from the Board.*
7. *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.*
8. *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.*
9. *Each person signing the proposal certifies they have reviewed the following documents: [Attachment C, STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT \(Construction\) for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic](#), [Applicability of Federal Requirements to Vermont State Fiscal Recovery Fund Projects](#), and [State Fiscal Recovery Program Assurances v5](#).*

## **Full Proposal Part 2: General Information**

### *1. 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.

### *2. Business Plan and Other Financial Information*

- a. A completed Act 71 Compliant Business Plan is required.
- b. The Board reserves the right to require the submission of additional financial information as part of the full Application or during the subsequent review of applications submitted.

## **Full Proposal Part 3: Proposed Universal Service Area**

### *1. Proposed Universal Service Area*

- a. Applicant shall detail the town(s) in which they propose providing universal service. This includes describing the demographics, including the overall density of the underserved areas and whether the area includes any Qualified Census Blocks and Difficult Development Areas.<sup>7</sup>
- b. Applicant shall provide a map showing current coverage in the proposed Universal Service Area and the total number of underserved addresses.
- c. Applicant shall describe who will own the resulting infrastructure.
- d. If the Applicant is proposing to serve a town currently a member of a Communications Union District, the provider shall provide a letter of support from the District and documentation explaining the relationship.

### *2. Universal Service Plan*

Successful Applicants will provide a Universal Service Plan to provide directly or cause to provide 100/100 Mbps service to all on grid unserved or underserved locations.

- 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 shall explain how all other on grid

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<sup>7</sup> See Qualified Census Tracts and Difficult Development Areas: <https://www.huduser.gov/portal/datasets/qct.html>

underserved and unserved addresses will be served.

- Applicants shall provide an overview of obstacles to providing service to all on grid underserved and unserved addresses.
- Applicant may submit commitment letters from other providers if applicable.
- Preference will be given to Applicants submitting joint applications covering an entire community within the allowable timeframe.
- Applicants shall provide a timeline for achieving universal service.
- If the project requires multiple phases and will take more than 2 years to complete, the Applicant shall provide a timeline showing each phase.
- Applicants should attach any documents supporting their commitment to universal service.

### *3. Estimated Total Cost to Serve All Unserved and Underserved Address in Universal Service Area*

Applicants must be able to provide a total estimated cost for the serving all unserved and underserved addresses in the 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.

### *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 invested by the Applicant.

### *5. Community Engagement*

Applicant shall detail all efforts to engage the local municipality or region subject to the grant proposal.

## **Full Proposal Part 4: 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 or Estimated Price:* For “Conventional” Applications, Applicant shall provide a total, “not-to-exceed,” turn-key price for the proposed project. Applicants choosing the “Phased” approach shall provide an Estimate. This figure shall describe if the price of drops is included in the Application. These take-rate assumptions shall be included in the grant application. To prioritize network construction, the amount

dedicated to drops should be consistent with the requirements of the feasibility plan. Applicants are encouraged to raise funds from communities to pay for drops to residents.

3. *Timeline:* While the proposed funding should be for a specific project of the universal service plan (unless the project can be completed in a single phase in the next 24 months), the proposal should detail the timeline for this project and additional phases of the universal service plan.
4. *Retail Pricing:* If available, each proposal should list all proposed retail prices for service. Prices shall include additional fees (such as equipment rentals) that could be assessed against consumer accounts. If the Applicant provides symmetrical service elsewhere and the pricing proposed deviates from that price, the Applicant shall describe the factors that contributed to any cost increases.

If the Applicant has yet to determine pricing, the Applicant shall detail how pricing will be determined and demonstrate to the Board that the resulting network will be economically self-sufficient over the long haul, incorporating plans for ongoing maintenance, upgrades, replacement in addition to paying market wages to a staff sufficient for operating the network. “

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. *Network Performance and Monitoring* - Applicants shall describe a plan for monitoring, identifying, and responding to issues related to the management of the links between network head-ends, devices and users. The purpose is to identify congestion, maximize throughput, and improve network performance.
8. *Other Information:* Any information the Applicant deems relevant to demonstrate the technical, financial, and economic feasibility of the project and project team.

### **Full Proposal Part 5: Act 71 Considerations**

Act 71 requires the Board to evaluate how proposed projects address 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 attach documentation, including a summary of any agreements of such collaboration with the following entities:

- a) Other CUDs or municipalities that were not part of a CUD on June 1, 2021.
- 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, as well as plan to provide interconnection locations, 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 any overbuild is necessary and how it is incidental to the overall objective of the project.

Point to Point Fiber between hubs without drops and crossing areas with access to wireline connection of at least 25/3 does not count as overbuild.

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.”*

As a rule, any overbuild of served addresses that is less than 20% of the total number of miles passed will be considered incidental since the project is “designed to” provide service to unserved and underserved households.

#### 4. *Sustainability*

Applicant shall describe in detail how they plan to fulfil their Universal Service Plan within the required timeframe. Applicant shall describe all other sources of funding and the status. How will this grant if approved increase your long-term network and business sustainability? Please describe how this grant is consistent with your existing business plan.

#### 5. *Affordability*

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

### **Full Proposal Part 6: 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*

Non-CUD applicants are required to include letters of support from municipality to be served.

#### 3. *Documentation of Any Community Matching Funds*

#### 4. *Response to Service Quality Complaints*

The Applicant is advised that the Board may review complaints and service quality investigations involving the proposed service provider. The Applicant should be prepared to explain why those issues are no longer and their level of confidence in the provider

#### 5. *Operating Agreements and Other Partnership Agreements*

Applicant shall provide an overview of any operating or partnership agreement entered into by the Communications Union District. If the Applicant has not entered into such agreement, the Applicant shall provide an overview of discussions and a timeline. If an applicant is not pursuing such agreements, the Applicant shall detail its plan for operating the network

#### 6. *Maps, Spreadsheets and High-Level Network Design*

Applicants are required to provide a map and accompanying spreadsheet showing the project addresses, E-Site IDs, current level of service, and expected date that service will be available. The Applicant will be given directions on where to upload project information upon the extension of an invitation to submit a full application.

#### 7. *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.

## 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.

### *Conventional Applications - Submission of Detailed Design*

Within One-Hundred-Twenty (120) Days of execution of a grant agreement, Applicant choosing the “conventional” path must provide the Detailed Project Plans to the Board. The Principal Engineer must certify that plans are in full compliance with the Vermont Community Broadband Outside Plan Design Requirements. The plans will be subject for review by the Board’s contracted Fiber Optics Engineer. Any construction occurring before the Detailed Design is accepted is at the Grantees own risk. A failure to submit a design within the allotted time may result in the cancelation of the grant award.

### *Phased Approach Applications – Submission of Detailed Design*

Applicants pursuing the “phased” approach will negotiate a timeline with the Board for the various performance reviews required in exchange for access to funds. This includes a timeline for the formal, iterative process to ensure that the Detailed Design meets all Outside Plant Standards. This timeline will be negotiated with the Applicant and included in the grant agreement. A failure you to agree on a timeline will result in the cancellation of the grant award.

### *Progress Reports*

Applicants pursuing the “Conventional” Path will be required to file quarterly progress reports consistent with the grant agreement and state and federal requirements. Once construction reaches the point of providing service, Applicants shall provide a minimum of bi-weekly updates detailing the addresses that now have access to service.

Applicants pursuing the “Phased” Path will be required to file monthly reports and meet other performance requirements to be outlined in the grant agreement. Once construction reaches the point of providing service, Applicants shall provide a minimum of bi-weekly updates detailing the addresses that now have access to service.

### *Construction of the Network*

Within Twenty-four (24) 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 at a lower price, but consumers must be able to purchase broadband service at speeds of at least 100/100 Mbps. Speed guarantees are to be verified through an acceptance test with the customer and are subject to verification by the Board.
2. If applicable, offer service to the identified locations at the same rates and terms and conditions or better than 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. Once addresses begin to be connected provide quarterly updates via the online portal detailing service availability at each location in the project. Applicant must also notify those addresses that service is now available.
5. Final, "as built network designs" must be provided upon the completion of construction.
6. The Board reserves the right to inspect the network before certifying project completion.

## 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 that align with the goal and priorities outline in this Request for Proposals. Qualitative determinations will be made regarding community need and community impacts. Scoring will not be numerical.

**Selection without Further 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.

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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](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.

**Appeal Process:** If an application is rejected, the Applicant can appeal the decision. The Applicant must submit an appeal letter to the VCBB within 30 days of the rejection. The letter must explain why the Applicant disagrees with the decision and provide documentation detailing as to why the Applicant thinks it should have been approved. Grounds for appeal shall include evidence of at least one of the following:

- The proposal was reviewed on the basis of criteria other than those appearing in the RFP.
- The staff or the Board decision was influenced by members who failed to disclose conflicts of interest
- The rejection decision was made based on erroneous information or calculations.

## 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:** The agreement may be modified to comply with updated Treasury Guidance, administrative, judicial or legislative decisions.

**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 notify the Board of any support from other state or federal programs for the locations awarded to the Applicant. The Interim Treasury Rule does not restrict other funding sources being used for projects provided those funds are used for different expenses than the State Fiscal Recovery Funds.

**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:** Payment will be made on a performance schedule detailed to be detailed in the grant agreement.

## **ADDENDUM 1: Vermont Community Broadband Board Outside Plant Design (OSP) Requirements**

*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 splicing and reservation recommendations to assist with outside plant equipment and fiber sizing
  - b. Loss Budgets

- c. Account for future and/or unplanned growth including public safety and mobile wireless. Grantee must leave no less than 3 tubes of spare fibers on cables between hubs. Grantee must also spare 1 tube on cables from the OLT to the splitter when not between hubs. 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<sup>8</sup> so that provisioning and activation can be done with minimal truck rolls or future design requirements.
    - b. An estimate for drop distance and route for 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 prior to close-out must include detailed planned optical measured loss (dB) calculations. These planned losses will be compared to actual losses to ensure they fall within the Optical Extents budget. Loss testing shall be done in accordance with ANSI/TIA/EIA 526-7.
  4. Prior to close-out the grantee will provide splice diagrams in GIS format.
  5. Grantee must recommend integration locations for transit to other access points, that consider:
    - i. Geographic redundance
    - ii. Connections with adjacent CUD networks
    - iii. Connections with private networks, including leased fiber routes
    - iv. Future redundancy opportunities
  6. Prior to close-out Grantee must provide before design mapping deliverables in a single GIS (ESRI Preferred) form at including:
    - a. Online and downloadable field engineering data
    - b. Online and downloadable detailed construction maps
      - i. Bills of materials linked to location
    - c. GIS network diagram that reflects what was built

Equipment and materials specified must comply with the domestic content requirements of the American Rescue Plan Act

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<sup>8</sup> A demand point is defined as a wired structure or a structure to be wired. Structures that are off grid are not "wired". Demand points also exclude any points that are already served at 25/3 or greater



**Vermont Community Broadband**

Board (VCBB)

112 State Street

Montpelier, VT 05620-2601

**Contact:** Robert Fish, Deputy Director, 802-522-2617,  
[robert.fish@vermont.gov](mailto:robert.fish@vermont.gov).

**BROADBAND CONSTRUCTION PROGRAM REQUEST FOR PROPOSAL**

**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 at all on-grid underserved and unserved locations within their Universal Service Plan.

**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.

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 AND EXPLANATIONS

**“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 has access to a wireline broadband connection capable of speeds of at least 4 Mbps download 1 Mbps upload but less than 25 Mbps download and 3 Mbps upload. <sup>1</sup>

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<sup>1</sup> 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

**“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.

**“Act 71 Compliant Business Plan”** means a business plan for the proposed universal service plan. For the purposes of this grant, an actionable business plan is a document that a financial institution would find sufficient basis on which to provide financial support. The business plan shall include, but is not limited to: high-level engineering and design plans, market analysis, take-rate assumptions, and as relevant cash flow positive date, loan payoff date, financing models, pro forma financial projections, estimated construction costs, ideal operational models, and an evaluation of risks including labor needs and availability, supply-chain contingencies for equipment and materials, make-ready work, and any other relevant capital and operational expenses. This requirement applies to all eligible applicants.

**“Incidental Overbuild”** means overbuilding addresses areas currently serviced by a reliable wireline connection of at least 25/3 Mbps. 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.”*

In general, any overbuild of served addresses that is less than 20% of the total number of addresses passed will be considered incidental since the project is “designed to” provide service to unserved and underserved households.<sup>23</sup>

In general, Point to Point Fiber between hubs without drops and crossing areas with access to

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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

<sup>2</sup> From FAQ - 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.

<sup>3</sup> Section 60102 of the new infrastructure bill, H.R. 3684: (D) Underserved service project.--The term “underserved service project” means a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations or underserved locations.

wireline connection of at least 25/3 do not count as overbuild. This includes mainline access, trunk routing, and network hub integration enroute to or supporting delivery of service to unserved and underserved locations.

Applicants should explain why any overbuilding is necessary and how it is incidental to the project's overall objective. The Board will review proposed projects and consider the justification given for all overbuild.

**“Vermont Community Broadband Board Outside Plant Design (OSP) Requirements”** means standards developed by the Vermont Community Broadband Board as outlined in Addendum 1. (see pg 26)

### FUNDING AVAILABLE

The total amount of funding available will be established through the legislature. Total funding available to each Communications Union District and to towns not members of a Communications Union District will be determined by the percentage of road segments with unserved or underserved addresses and an incentive program to encourage contributions by communities' benefiting from the proposed projects.

#### 1. **Percentage of Roads Unserved or Underserved in the District or Town(s) -- \$100 Million**

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.

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.

	<b>% of underserved roads</b>
Addison	8.98%
CV	9.70%
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.

[Note] This will be adjusted using the new CUD maps at the time of posting. We expect some slight changes as additional towns have joined CUDs or switched CUDs.

**2. Community Match: The Board will match town contributions of State Fiscal Recovery Funds allocated on a first come first serve basis up to a total of \$16 Million**

The total per single Communications Union District or from all towns not a member of a Communications Union District will receive from the pool of money is equal to the percentage allowed under the unserved and underserved road miles formula detailed above. This funding will be distributed on a first-come first serve basis. This additional pool of funds is to incentivize communities to contributing additional funds. A letter of commitment must be included in the grant application from the municipality providing the matching funds. Funds not matched by March 15, 2021 will be returned to the funding pool allocated by unserved and underserved road mile.

## 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](#)).

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 Twenty-Four Months (24) of approval of the Application.

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.

The Board will award up to the maximum amount to each Applicant as determined by the underserved mileage formula plus any matching funds. At the Board's discretion, unawarded preconstruction funds allocated but not awarded to a Communications Union District may added to the total amount available via this Program.

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](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 questions about the RFP. All communications concerning this RFP should be sent by email to [vcbb@vermont.gov](mailto: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.

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 are encouraged to 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](mailto: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. At the Applicant's discretion, the Applicant may also submit the Eligible Screening Pre-Proposal at this time in lieu of the Notice of Intent.

*Questions:* Upon submission of Notice of Intent, the Applicant is permitted to post questions related to the RFP. The questions will be posted to the VCBB 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. Eligibility decisions will be made by the Staff within five (5) business days. Review of an invited proposal will be made at a future Vermont Community Broadband Board Meeting. Proposals should be sent via email to [vcbb@vermont.gov](mailto:vcbb@vermont.gov) in PDF format. Upon invitation for a Full Proposals, Applicants may be provided with a unique login to be used for uploading High Levels Design and mapping data. 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 24 months.

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## 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) Construction needs to be completed within 24 months.
- (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.<sup>4</sup> The Board reserves the right to offer consideration to projects without such letters, but it is the responsibility of the Applicant to justify why the proposed project does not undermine or conflict with the Universal Service Plan of an existing Communications Union District. The Board reserves the options to review or dismissal such applications.

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<sup>4</sup> 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.

- (F) The proposed project involves only the Incidental Overbuilding of addresses currently served by a 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 willingness to follow the guidelines. Final designs are subject to review by an independent Engineer contracted through the Vermont Community Broadband Board.
- (H) All projects must provide broadband service that complies with the consumer protection and net neutrality standards established by the State.
- (I) The Applicant must agree to provisions contained in Act 71 or Act 71 as may be amended.<sup>5</sup>
- (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.<sup>6</sup>

## PROJECT PRIORITIZATION

Upon the determination that the Applicant is eligible for consideration, the Board shall give priority to broadband projects and applicants that:

- (A) Leverage existing other resources and assets, including
- (B) Demonstrate project readiness and Community Support.
- (C) Support low-income or disadvantaged communities.
- (D) Promote geographic diversity of fund allocations.
- (E) Provide consumers with affordable service options and/or commit to participate in a program that subsidizes low income consumers.
- (F) Include public broadband assets that can be shared by multiple service providers and that can support a variety of public purposes.
- (G) Quality of Service

## APPLICATION PROCESS OVERVIEW

The application requirements for this Program as set by Act 71 are substantial. To ensure that no

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<sup>5</sup> Please see <https://legislature.vermont.gov/Documents/2022/Docs/ACTS/ACT071/ACT071%20As%20Enacted.pdf>

<sup>6</sup> 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>

potential applicant expends extensive resources in developing a project that is not considered as a result of the nonconformance to criteria and requirements set forth in Act 71, the Board has as established a two step process:

**1) Eligibility Screening Pre-Proposal** - Staff will review the materials submitted for eligibility and invite proposals from those applicants whose proposed Universal Service Area(s) are deemed eligible. Staff may determine that all, some, or none of the areas are. If a Universal Service Area and the Applicant are deemed eligible, the Applicant need not submit additional prescreening materials for subsequent projects within the same Universal Service Area.

**2) Full Proposals by Invitation Only** - Full proposals will be accepted by invitation only. The Applicant will have the option to between two paths. The first “Conventional” Path is a traditional bid for service. The second option, “Phased Approach” is for applicants that desire a more collaborative approach with additional oversight in exchange for performance payments.

<b>Conventional</b>	<b>Phased</b>
Open to All Eligible Applicants	Open to Eligible Applicants Constructing Publicly Owned Infrastructure
Requires “Not to Exceed” Price	Requires “Estimated” Cost
Payment once the network is certified as complete. Payment shall not exceed the “Not to Exceed” Price.	Performance payments in exchange for additional accountability and transparency steps to be negotiated in the grant agreement.
All documentation provided in Full Proposal	Iterative Process to ensure network and retails serviced offered comply with Act 71 requirements.
Detailed Design Certified by Principal Engineer to be compliant with VCBB Outside Plan Design Requirements due 120 days following grant execution. Failure to do so will result in possible forfeiture of the award.	Iterative process between Applicant and VCBB Staff and Contractors to ensure detailed design meetings all VCBB Outside Plant Design Requirements.
Quarterly Progress Reports	Monthly Reporting
Submission of “As Built” Plans and On-Site Inspection Required for final release of funds.	Submission of “As Built” Plans and On-Site Inspection Required for final release of funds.
If Applicant offers a phased approach to building out the entire Universal Service Plan, the Applicant may seek reimbursement after each phase is completed, inspected. And offering service rather than wait until the completion of the entire Universal Service Plan.	

## STEP 1: PRE-PROPOSAL ELIGIBILITY SCREENING

To be invited to submit a full proposal, Applicants shall provide the following as a single PDF.

Proposals will be evaluated based on meeting the basic eligibility requirements, the ability of the provider to perform the necessary work, estimated cost, and the appropriateness project towards advancing the goal of universal services.

### **Eligibility Screening 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.
  - 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).

### **Eligibility Screening Part 2: Applicant Certification**

Applicant Certification: Applicant shall certify in writing they understand that the following conditions will apply to any project funded by the VCCB Construction Grant Program:

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 all information in the proposal is accurate.*
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 without the prior written approval from the Board.*
7. *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.*
8. *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.*
9. *Each person signing the proposal certifies they have reviewed the following documents: [Attachment C, STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT \(Construction\) for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic, Applicability of Federal Requirements to Vermont State Fiscal Recovery Fund Projects, and State Fiscal Recovery Program Assurances v5.](#)*

### **Eligibility Screening Part 3: General Information**

1. *Responding Eligible Entity and Brief History of the Eligible Entity and Partners.*
  - a) 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.
  - b) Applicant shall indicate their experience and/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. *Business Plan and Financial History*
  - a) Applicants shall certify they have a compliant business plan. If the Applicant does not have a business plan compliant with Act 71 at this time, the Applicant must describe the business model and steps that will be taken to develop such a plan. The plan will be required if the Applicant is invited to submit a full application.

*Act 71 § 8086(d) requires the Board to “determine that the applicant has produced a viable business plan for its 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.”*

- b) The Board reserves the right to require the submission of an Applicant's financial information before inviting a proposal.

### 3. Preferred Application Process

The Applicant shall state their preferred application path

- Conventional: The conventional grant program requires the submission of extensive materials and a not to exceed price. Grantee is reimbursed for total incurred costs up to the “not to exceed” price once the project is completed and the final built design is signed off on by the Board.
- Phased: The phased approach requires an applicant interested in engaging in a collaborative and iterative process with the Board for projects that will result in publicly owned infrastructure. In exchange for performance payments, Grantee will share plans, including detailed design and provide the opportunity for input from Board experts.

### Eligibility Screening Part 4: Proposed Universal Service Area(s)

#### 1. Proposed Service Area

- a. Applicant shall detail the town(s) in which they propose providing universal service to all on grid unserved and underserved addresses
- b. If the Applicant is unable to directly provide service to some addresses, the applicant must explain why and how those addresses will be served.
- c. Applicant shall provide a map showing current coverage in the proposed Universal Service Area and the total number of underserved addresses.
- d. Applicant shall describe who will own the resulting infrastructure.
- e. If the Applicant is proposing to serve a town currently a member of a Communications Union District, the provider shall explain the relationship with the Communications Union District. Letters of support confirming the support of the Communications Union District are encouraged.

*According to Act 71, § 8086(e) The Board shall not award 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*

If there is no relationship, it is the responsibility of the Applicant to convince the Board that a full proposal should be invited. An Applicant seeking funding for a project in Communications Union District should provide the following information at a minimum:

- i. Whether the town was a member of the Communications Union

- District as of June 1, 2021.
- ii. An overview of the Applicant's relationship with the Communications Union District. The Board will consider whether the Applicant replied to RFPs and/or made a substantial attempt to forge a partnership.
  - iii. Why the proposed project will not conflict or undermine the business plan of the Communications Union District.
  - iv. Why it is in the best interest of the State to consider a full proposal.

The Staff shall make the decision whether the Applicant's complies with this requirement of Act 71, § 8086(e). A potential Applicant not invited to submit a full proposal because of this clause may appeal to the VCBB Board.

### *3. Estimated Cost for Universal Service Area*

Applicants must be able to provide a total estimate for serving the 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.

### *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 municipality or region subject to the potential grant proposal.

## **STEP 2: FULL PROPOSAL (BY INVITATION ONLY)**

In response to this RFP, each bidder is required to submit a proposal organized into the sections as outline below.

The information required for the full proposal builds off the submission in the Eligibility Screening Phase. Applicants are encouraged to read each section carefully for additional information required in this phase and to further elaborate on previous answers. Applicants shall also respond to any questions posed in the invitation for a full proposal. The full proposal also requests information the specific phase of the Universal Service Plan Project for which the

Applicant is requesting funding and additional information related to other design and process concerns per Act 71.

Applicants shall refer to the following chart to determine which questions must be answered and answer those questions as outlined below.

<b>Applications Steps</b>	<b>Conventional</b>	<b>Phased</b>
Part 1 – Transmittal Letter and Proposal Overview	Required	Required
Part 2 – Applicant Certification	Required	Required
Part 2 – General Information	Required	Required
Part 3 – Proposed Universal Service Area	Required	Required
Part 4 - Project Description	Required	Questions 1, 2, 3, 5 are required at this time.
Part 5: Act 71 Considerations	Required with supporting information	Required
Part 6: Attachments	Required	Required

**Full Proposal Part 1: Transmittal Letter and Proposal Overview**

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 #*
  
3. *Preferred Application Process*
  
4. *Total Estimated Cost to Complete the Universal Service Plan*
  
5. “Not to Exceed” or “Estimated Cost” for the Universal Service Project to be completed in the next 24 months.

6. *Amount of Community Match Secured and an overview of any other funds to be contributed to the project*

## **Full Proposal Part 2: Applicant Certification**

Applicant Certification: Applicant shall certify in writing acceptance 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 all information in the proposal is accurate to the best of their knowledge.*
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 without the prior written approval from the Board.*
7. *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.*
8. *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.*
9. *Each person signing the proposal certifies they have reviewed the following documents: [Attachment C, STATE OF VERMONT- FEDERAL TERMS SUPPLEMENT \(Construction\) for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic](#), [Applicability of Federal Requirements to Vermont State Fiscal Recovery Fund Projects](#), and [State Fiscal Recovery Program Assurances v5](#).*

## **Full Proposal Part 2: General Information**

### *1. 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.

### *2. Business Plan and Other Financial Information*

- a. A completed Act 71 Compliant Business Plan is required.
- b. The Board reserves the right to require the submission of additional financial information as part of the full Application or during the subsequent review of applications submitted.

## **Full Proposal Part 3: Proposed Universal Service Area**

### *1. Proposed Universal Service Area*

- a. Applicant shall detail the town(s) in which they propose providing universal service. This includes describing the demographics, including the overall density of the underserved areas and whether the area includes any Qualified Census Blocks and Difficult Development Areas.<sup>7</sup>
- b. Applicant shall provide a map showing current coverage in the proposed Universal Service Area and the total number of underserved addresses.
- c. Applicant shall describe who will own the resulting infrastructure.
- d. If the Applicant is proposing to serve a town currently a member of a Communications Union District, the provider shall provide a letter of support from the District and documentation explaining the relationship.

### *2. Universal Service Plan*

Successful Applicants will provide a Universal Service Plan to provide directly or cause to provide 100/100 Mbps service to all on grid unserved or underserved locations.

- 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 shall explain how all other on grid

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<sup>7</sup> See Qualified Census Tracts and Difficult Development Areas: <https://www.huduser.gov/portal/datasets/qct.html>

underserved and unserved addresses will be served.

- Applicants shall provide an overview of obstacles to providing service to all on grid underserved and unserved addresses.
- Applicant may submit commitment letters from other providers if applicable.
- Preference will be given to Applicants submitting joint applications covering an entire community within the allowable timeframe.
- Applicants shall provide a timeline for achieving universal service.
- If the project requires multiple phases and will take more than 2 years to complete, the Applicant shall provide a timeline showing each phase.
- Applicants should attach any documents supporting their commitment to universal service.

### *3. Estimated Total Cost to Serve All Unserved and Underserved Address in Universal Service Area*

Applicants must be able to provide a total estimated cost for the serving all unserved and underserved addresses in the 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.

### *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 invested by the Applicant.

### *5. Community Engagement*

Applicant shall detail all efforts to engage the local municipality or region subject to the grant proposal.

## **Full Proposal Part 4: 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 or Estimated Price:* For “Conventional” Applications, Applicant shall provide a total, “not-to-exceed,” turn-key price for the proposed project. Applicants choosing the “Phased” approach shall provide an Estimate. This figure shall describe if the price of drops is included in the Application. These take-rate assumptions shall be included in the grant application. To prioritize network construction, the amount

dedicated to drops should be consistent with the requirements of the feasibility plan. Applicants are encouraged to raise funds from communities to pay for drops to residents.

3. *Timeline:* While the proposed funding should be for a specific project of the universal service plan (unless the project can be completed in a single phase in the next 24 months), the proposal should detail the timeline for this project and additional phases of the universal service plan.
4. *Retail Pricing:* If available, each proposal should list all proposed retail prices for service. Prices shall include additional fees (such as equipment rentals) that could be assessed against consumer accounts. If the Applicant provides symmetrical service elsewhere and the pricing proposed deviates from that price, the Applicant shall describe the factors that contributed to any cost increases.

If the Applicant has yet to determine pricing, the Applicant shall detail how pricing will be determined and demonstrate to the Board that the resulting network will be economically self-sufficient over the long haul, incorporating plans for ongoing maintenance, upgrades, replacement in addition to paying market wages to a staff sufficient for operating the network. “

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. *Network Performance and Monitoring* - Applicants shall describe a plan for monitoring, identifying, and responding to issues related to the management of the links between network head-ends, devices and users. The purpose is to identify congestion, maximize throughput, and improve network performance.
8. *Other Information:* Any information the Applicant deems relevant to demonstrate the technical, financial, and economic feasibility of the project and project team.

### **Full Proposal Part 5: Act 71 Considerations**

Act 71 requires the Board to evaluate how proposed projects address 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 attach documentation, including a summary of any agreements of such collaboration with the following entities:

- a) Other CUDs or municipalities that were not part of a CUD on June 1, 2021.
- 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, as well as plan to provide interconnection locations, 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 any overbuild is necessary and how it is incidental to the overall objective of the project.

Point to Point Fiber between hubs without drops and crossing areas with access to wireline connection of at least 25/3 does not count as overbuild.

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.”*

As a rule, any overbuild of served addresses that is less than 20% of the total number of miles passed will be considered incidental since the project is “designed to” provide service to unserved and underserved households.

#### 4. *Sustainability*

Applicant shall describe in detail how they plan to fulfil their Universal Service Plan within the required timeframe. Applicant shall describe all other sources of funding and the status. How will this grant if approved increase your long-term network and business sustainability? Please describe how this grant is consistent with your existing business plan.

#### 5. *Affordability*

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

### **Full Proposal Part 6: 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*

Non-CUD applicants are required to include letters of support from municipality to be served.

#### 3. *Documentation of Any Community Matching Funds*

#### 4. *Response to Service Quality Complaints*

The Applicant is advised that the Board may review complaints and service quality investigations involving the proposed service provider. The Applicant should be prepared to explain why those issues are no longer and their level of confidence in the provider

#### 5. *Operating Agreements and Other Partnership Agreements*

Applicant shall provide an overview of any operating or partnership agreement entered into by the Communications Union District. If the Applicant has not entered into such agreement, the Applicant shall provide an overview of discussions and a timeline. If an applicant is not pursuing such agreements, the Applicant shall detail its plan for operating the network

#### 6. *Maps, Spreadsheets and High-Level Network Design*

Applicants are required to provide a map and accompanying spreadsheet showing the project addresses, E-Site IDs, current level of service, and expected date that service will be available. The Applicant will be given directions on where to upload project information upon the extension of an invitation to submit a full application.

#### 7. *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.

## 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.

### *Conventional Applications - Submission of Detailed Design*

Within One-Hundred-Twenty (120) Days of execution of a grant agreement, Applicant choosing the “conventional” path must provide the Detailed Project Plans to the Board. The Principal Engineer must certify that plans are in full compliance with the Vermont Community Broadband Outside Plan Design Requirements. The plans will be subject for review by the Board’s contracted Fiber Optics Engineer. Any construction occurring before the Detailed Design is accepted is at the Grantees own risk. A failure to submit a design within the allotted time may result in the cancelation of the grant award.

### *Phased Approach Applications – Submission of Detailed Design*

Applicants pursuing the “phased” approach will negotiate a timeline with the Board for the various performance reviews required in exchange for access to funds. This includes a timeline for the formal, iterative process to ensure that the Detailed Design meets all Outside Plant Standards. This timeline will be negotiated with the Applicant and included in the grant agreement. A failure you to agree on a timeline will result in the cancellation of the grant award.

### *Progress Reports*

Applicants pursuing the “Conventional” Path will be required to file quarterly progress reports consistent with the grant agreement and state and federal requirements. Once construction reaches the point of providing service, Applicants shall provide a minimum of bi-weekly updates detailing the addresses that now have access to service.

Applicants pursuing the “Phased” Path will be required to file monthly reports and meet other performance requirements to be outlined in the grant agreement. Once construction reaches the point of providing service, Applicants shall provide a minimum of bi-weekly updates detailing the addresses that now have access to service.

### *Construction of the Network*

Within Twenty-four (24) 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 at a lower price, but consumers must be able to purchase broadband service at speeds of at least 100/100 Mbps. Speed guarantees are to be verified through an acceptance test with the customer and are subject to verification by the Board.
2. If applicable, offer service to the identified locations at the same rates and terms and conditions or better than 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. Once addresses begin to be connected provide quarterly updates via the online portal detailing service availability at each location in the project. Applicant must also notify those addresses that service is now available.
5. Final, "as built network designs" must be provided upon the completion of construction.
6. The Board reserves the right to inspect the network before certifying project completion.

## 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 that align with the goal and priorities outline in this Request for Proposals. Qualitative determinations will be made regarding community need and community impacts. Scoring will not be numerical.

**Selection without Further 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.

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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](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.

**Appeal Process:** If an application is rejected, the Applicant can appeal the decision. The Applicant must submit an appeal letter to the VCBB within 30 days of the rejection. The letter must explain why the Applicant disagrees with the decision and provide documentation detailing as to why the Applicant thinks it should have been approved. Grounds for appeal shall include evidence of at least one of the following:

- The proposal was reviewed on the basis of criteria other than those appearing in the RFP.
- The staff or the Board decision was influenced by members who failed to disclose conflicts of interest
- The rejection decision was made based on erroneous information or calculations.

## 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:** The agreement may be modified to comply with updated Treasury Guidance, administrative, judicial or legislative decisions.

**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 notify the Board of any support from other state or federal programs for the locations awarded to the Applicant. The Interim Treasury Rule does not restrict other funding sources being used for projects provided those funds are used for different expenses than the State Fiscal Recovery Funds.

**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:** Payment will be made on a performance schedule detailed to be detailed in the grant agreement.

## ADDENDUM 1: Vermont Community Broadband Board Outside Plant Design (OSP) Requirements

*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 sparring and reservation recommendations to assist with outside plant equipment and fiber sizing
  - b. Loss Budgets
  - c. Account for future and/or unplanned growth including public safety and mobile wireless. Grantee must leave no less than 3 tubes of spare fibers on cables between hubs. Grantee must also spare 1 tube on cables from the OLT to the splitter when not between hubs. 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<sup>8</sup> so that provisioning and activation can be done with minimal truck rolls or future design requirements.
  - b. An estimate for drop distance and route for 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 prior to close-out must include detailed planned optical measured loss (dB) calculations. These planned losses will be compared to actual losses to ensure they fall within the Optical Extents budget. Loss testing shall be done in accordance with ANSI/TIA/EIA 526-7.
4. Prior to close-out the grantee will provide splice diagrams in GIS format.
5. Grantee must recommend integration locations for transit to other access points, that consider:
  - i. Geographic redundance
  - ii. Connections with adjacent CUD networks
  - iii. Connections with private networks, including leased fiber routes
  - iv. Future redundancy opportunities
6. Prior to close-out Grantee must provide before design mapping deliverables in a single GIS (ESRI Preferred) form at including:
  - a. Online and downloadable field engineering data
  - b. Online and downloadable detailed construction maps
    - i. Bills of materials linked to location
  - c. GIS network diagram that reflects what was built

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<sup>8</sup> A demand point is defined as a wired structure are a structure to be wired. Structures that are off grid are not "wired". Demand points also exclude any points that are already served at 25/3 or greater

Equipment and materials specified must comply with the domestic content requirements of the American Rescue Plan Act

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