

**Vermont Community Broadband Board  
Meeting  
January 3, 12:00 pm**

**AGENDA**

Meeting will be held in the GIGA Conference Room  
3<sup>rd</sup> Floor of 112 State Street, Montpelier VT

**MASKS REQUIRED**

Participants are **STRONGLY** encouraged to attend remotely

Join by video <https://bit.ly/3q9MThQ>

Join by Phone; +1 802-828-7667,,389833626#

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

- |       |  |
|-------|--|
| 12:00 | 1) Call to order   |
| 12:05 | 2) Approval of the November 29, December 13, and December 20 Draft Board Meeting Minutes   |
| 12:10 | 3) Review Proposed Act 71 Broadband Construction Program RFP   |
| 2:15  | 4) Staff Updates   |
| 2:40  | 5) VCUDA update  |
| 2:55  | 6) Public Input  |
| 3:10  | 7) Executive session - <i>Premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage (1 V.S.A. § 313 1)</i> |
| 3:45  | 9) Motion to Adjourn   |

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

**Vermont Community Broadband Board Meeting Minutes**  
**112 State Street, 3<sup>rd</sup> Floor,**  
**Giga Conference Room**  
**Montpelier, VT**  
**November 29, 2021**

**I. Call to order at 12:07 p.m.**

**Agenda Change Discussion**

Chair Patty Richards made a motion to move the make-ready discussion to item #3. Executive Director Christine Hallquist added an introduction to Stan Macel, new General Counsel of the VCBB, be moved to the start of the meeting and ten minutes to discuss a couple of budget items at the end of the meeting. Laura Sibilila moved. Patty Richards seconded. Motion carried.

**II. Roll call completed by Patty Richards.**

Patty Richards, Chair (Remote)  
Holly Groschner (Remote)  
Dan Nelson (In-person)  
Brian Otley (Remote)  
Laura Sibilila (Remote)  
Christine Hallquist (In-person)  
Robert Fish (In-person)

**III. Introduction of Stan Macel**

Executive Director Christine Hallquist introduced Stan Macel, who has joined the staff as the General Counsel of the VCBB.

- Stan provided his professional background history to the Board and the Board introduced themselves with their backgrounds.

**IV. Make-ready Considerations**

- Chair Patty Richards explained the Board felt make-ready is basically tangible construction work and should be moved into the construction phase. As some of the CUDs expressed their concern, the Board is taking up further discussion today as to whether they should roll the make-ready work into the pre-construction.
- Christine Hallquist and Rob Fish provided a proposal to the Board and a discussion ensued with Rob answering Board questions.
- Rob Fish made changes to the proposal as they were suggested and agreed upon. Once the changes were made, Will Anderson, Program Coordinator for the Vermont Communications Union District Association, stated on behalf of the CUDs, they would be comfortable working within the parameters of the proposal.

- Motion made by Laura Sibiliala to approve the pre-construction program make-ready costs as reviewed during the November 29, 2021 VCBB meeting. Patty Richards seconded the motion with the clarification that the proposal with the Board's changes was presented to the Board by Rob Fish in WORD format and reviewed during the November 29, 2021 VCBB meeting. Laura Sibiliala also suggested changing the word "proposal" to "policy" before finalizing. Motion carried at 1:13 pm. Rob Fish will post the policy on the VCBB website as below:

### **Preconstruction Program - Make Ready Costs**

#### **Goals:**

- Ensure accountability
- Reduce delays
- Speed access to funds

#### **Proposal:**

1. Make Ready Applications are allowed
2. Make Ready Construction is allowed in both the Preconstruction and Construction Program.
3. Communications Union Districts may only include Make-Ready Construction costs in the preconstruction program if the costs are within their pre-determined preconstruction allotment.
4. Communications Union Districts must certify that they are taking full advantage of the tariff reduction and submit a detailed overview of their pole applications and strategy if make-ready is included in the application. Accepted applications will be amended to reflect this change.
5. Make-Ready Construction costs will only be approved for payment when the CUD presents to staff a sufficient level of design specifications that demonstrate and can deliver a high percentage of make-ready accuracy.
6. Staff can sign off that make ready was approved in the scope of the grant and meets the requirements of #5. The applicant does not need to return to the Board for approval.
7. Communications Union Districts are encouraged to save the 25% upfront to pay for approved Make-Ready Construction to reduce the risk of state delays in issuing payments.
8. The Staff shall report out to the Board any approvals for Make Ready Construction.

## **V. NEK Community Broadband**

Executive Director Christine Hallquist recommended approval of the NEK Community Broadband grant application. Christine noted that the request came in approximately \$16,000 over the allocation however Christa Shute, Executive Director with NEK, explained she copied the amount from page 2 of the RFP. Brian Otley made the motion to approve the application in the amount of \$6,670,000 and Holly Groschner seconded. Chair Patty Richards wanted to add the proposal was very well written and NEK did a “tremendous job”. Motion carried at 1:21 pm.

## **VI. Draft and Proposed Construction Grant RFP - Continued Discussion from November 22, 2021 Meeting**

The VCBB finished the review of the Construction RFP. VCBB Staff will make the recommended changes and bring the RFP back for final approval at the December 13, 2021 meeting. This keeps the VCBB on schedule for issuing the RFP in mid-December and accepting construction grant applications in Mid-January of 2022.

## **VII. Budget Discussion**

- Executive Director Christine Hallquist will be ready to present a budget to the Board during the December 13, 2021 meeting. The budget will have a request for a fiber optic engineer consultant which would be a contracted position. Staff would like to have that individual on board in January of 2022 to provide technical expertise to the construction grant applications that will be coming in.
- The VCBB has approved expenditures of H.315 funds for a grant writer to help the CUD access fund from the USDA ReConnect grant program.
- The VCBB approved expenditures for a software platform to be used for grant management and reporting. The goal is to have the platform in place by mid-January to accommodate the construction grant program. This will enable the VCBB and the CUDs to report progress as well as comply with state and federal grant requirements in a cost effective and manageable way as well as provide key metrics on overall program progress and success.

## **VIII. Public Comment(s)**

## **IX. Adjournment**

Laura Sibilia moved to adjourn and Holly Groschner seconded. Meeting was adjourned at 4:01 p.m.

Minutes submitted by: Audrey Fargo, Temporary VCBB Recorder

**Vermont Community Broadband Board Draft Meeting Minutes**  
**112 State Street, 3<sup>rd</sup> Floor,**  
**Giga Conference Room**  
**Montpelier, VT**  
**December 13, 2021**

**I. Call To Order – 12:09pm**

**II. Roll call completed by Patty Richards**

Patty Richards, Chair Remote)  
Holly Groschner (In-person)  
Dan Nelson (Remote)  
Brian Otley (Remote)  
Laura Sibilia (Remote)(joined at 12:30 pm)  
Christine Hallquist - staff (In-person)  
Robert Fish - staff (Remote)  
Stan Macel – staff (Remote)

**III. Review of Agenda**

There were no changes to the agenda.

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

**IV. Approval of Meeting Minutes**

The Board then discussed the November 22, 2021 draft Board Meeting minutes. Holly Groschner moved to make a small amendment to the minutes, adding the words “as amended” just above Roman Numeral IV on page one. Holly Groschner moved to approve the minutes, as amended. Patty Richards seconded. The motion was approved.

**V. 2021 and 2022 Budget Proposals**

The Board then discussed the Board’s 2021 and 2022 budget proposals with Christine Hallquist.

- There were discussions about specific line items and whether grants in the 2022 budget were secured or contingent. Brian Otley suggested that those numbers that are not locked up be noted (e.g., by asterisk or color coding) in future budgets, and Holly Groschner agreed.
- The Board also discussed plans for reporting to the legislature regarding requests for additional funding, to be discussed in more detail in January. Christine Hallquist

noted that the numbers for the 2021 capital budget are firm, other than the Northern Borders Grant, which staff is working to finalize.

- The Board discussed the line item regarding the Construction Coordination Fund and suggested that the staff get feedback from the CUDs and/or VCUDA regarding this Fund.
- Next the Board discussed the Personnel line items, and Brian Otley and Holly Groschner wanted to understand the project developer role in more detail. The Board recommended taking out the Project Manager role at this time, with the option to come back to the Board if the position becomes necessary in the future.
- The Board did not have concerns about line items for equipment, software and supplies, or contracted services.
- Rob Fish noted that the executive assistant position would soon be filled with an excellent candidate.
- The Board discussed possible contracted legal services for specialized functions with the need for niche expertise, and asked how that would interface with the new General Counsel. They asked that Stan Macel work to monitor legal work with any outside vendor, which he agreed to do. The Board then inquired about the role of the fiber optic engineer who would work to review CUD plans. After discussion, the Board supported the line item, but urged staff to make sure that the resource is a deployed in a helpful way, engaging early (not meant to be a punitive tool).
- Regarding training and education, Christine Hallquist noted that she was working closely with the Department of Labor and others on this item, and that, as of now, the source of Funding is The Vermont Community Broadband Fund, 30 V.S.A. Section 8083(b)(3). Patty Richards wanted to clarify that this money was being used specifically for telecom-related training, and Christine Hallquist confirmed that it is. Laura Sibilia asked for details about the program, and Christine Hallquist provided details about the intended users. Rob Fish noted that there will be a survey to all major telecom employers in the State to identify current needs. Laura Sibilia expressed that the goal should be a program to meet the needs of employers, and Christine Hallquist confirmed that the development team is striving to meet that goal. Patty Richards asked how the cost for the program was calculated. Christine Hallquist noted that it was calculated using data from NEK Broadband and the Vermont Technical College, based on 144 classroom hours for the number of candidates necessary for projected upcoming projects (375 candidates). Patty Richards asked whether these funds were sufficient, and Christine Hallquist noted that we or the Department of Labor might need to request additional funds in the future from the legislature. Laura Sibilia encouraged seeking matching funds from other organizations as well.

- Christine Hallquist discussed connectivity grants, suggesting that the Board use the balance of the Universal Service Fund money (which is an annual fund), to address additional discrete projects, such as filling in service for some of the unique addresses that are pockets in other regions. The Board discussed the USF funds.
- Patty Richards made a motion to approve the 2021 budget as proposed, with the amendments discussed (e.g., removing the project manager position at this time, consulting with the CUDs regarding the \$5 million expense). Laura Sibilie seconded the motion, and the 2021 budget was approved. Christine Hallquist recommended presenting the 2022 Budget in March 2022 when there is a higher confidence in the funding numbers.

## **VI. Proposed Construction Grant Program RFP**

Rob Fish presented the Construction Grant Program RFP to the Board. Holly Groschner first asked to discuss the meaning of Universal Service Plan, used throughout the document, before discussing the specific provisions of the RFP. Patty Richards suggested that this discussion be a separate agenda item at a later date. Christine Hallquist proposed that the staff come back with a recommendation on Universal Service Plan at a later date.

Rob Fish then discussed the RFP in detail. There were several discussions about specific provisions of the RFP, including affordability, sustainability and funding. Based on these discussions, for the benefit of the Board, Rob Fish edited the draft document in real time on the screen at the meeting. Staff proposed to have a one-hour follow-up open meeting on December 20, 2021 for the sole purpose of reviewing and discussing the proposed changes to the updated RFP as a result of the Board's discussion, with the goal of acting on the RFP at that time.

## **VII. Staff Updates**

As mentioned previously, there will be an Administrative Assistant joining the VCBB in January. There were no other staff updates.

## **VIII. VCUDA Update**

Will Anderson provided an update for VCUDA. He congratulated Rob Fish on his promotion to Deputy Director. He then noted that while the CUDs had not yet had an opportunity to build consensus on the budget item related to construction coordination, but expects that this is something that the CUDs would support as it would bring additional support to the CUD community. He also noted that the CUDs would support the Board's interpretation of Universal Service. Regarding Incidental Overbuild, and more broadly the RFP in its entirety, Will Anderson noted these are in line with VCUDA's recommendations, and he supports the short meeting on the 20<sup>th</sup> for the Board to review the RFP.

## **IX. Public Input**

Several members of the public provided input.

- Irv Thomae of EC Fiber noted he liked the matching concept, and urged the Board to consider it in March rather than April.
- Christa Shute of NEK Broadband identified a few items on the RFP to discuss, as well as provided an update on some of the workforce issues.
- F.X. Flinn of EC Fiber expressed a concern regarding the matching concept.

#### **X. Executive Session**

Patty Richards made a motion to go into Executive Session, to discuss confidential negotiations, where premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage (1 V.S.A. Section 313.1). Dan Nelson seconded the motion. The Board approved the motion and went into executive session.

#### **XI. Motion to Adjourn**

Patty Richards made a motion to adjourn, and Dan Nelson seconded the motion, and the meeting was adjourned.



**Vermont Community Broadband Board Draft Meeting Minutes**  
**112 State Street, 3<sup>rd</sup> Floor,**  
**Giga Conference Room**  
**Montpelier, VT**  
**December 20, 2021**

**I. Call To Order – 11:04 AM**

**II. Roll call completed by Patty Richards**

Patty Richards, Chair (Remote)  
Holly Groschner (Remote)  
Dan Nelson (Remote)  
Brian Otley (Remote)  
Laura Sibilia (Remote)  
Christine Hallquist - staff (In-person)  
Robert Fish - staff (Remote)  
Stan Macel – staff (Remote)

**III. Review of Agenda**

The agenda contained one topic for discussion, to review the Construction Grant RFP. There were no changes to the agenda.

**IV. Review of Construction Grant RFP**

The Board then discussed the draft Construction Grant RFP.

Holly Groschner began with an opening statement. She expressed concerns that she was unable to tell if comments had been incorporated and thus stated that she would not be able to vote affirmatively on the proposal. She noted that there is a lot of discussion remaining and that the Board must consider all comments, including those from the Public Service Department and VCUDA. Rob Fish responded, noting that the staff incorporated every comment that was actionable in the latest draft, which has been posted on the VCBB website. Patty Richards noted Holly Groschner's concerns and suggested that she should express her concerns issue by issue as the Board reviews the document. Holly Groschner responded that it is unreasonable to think that the Board members would track every comment and whether or not it has been resolved. She asked Rob Fish to add in new VCUDA comments as the Board reviews the document. Rob Fish noted that the VCUDA comments have been incorporated in the version that is on the Board's website. Patty Richards noted that reviewing the latest document will be difficult for the Board since Board members reviewed

an earlier version. Rob Fish then shared the latest version of the document on the screen of the meeting so that all attendees could see it.

There was a brief discussion of typographical errors, and the staff noted that those would be dealt with after the meeting, so that the Board could focus on substantive edits to the document.

Rob Fish noted that Universal Service Plan would be a defined term and capitalized throughout, and that it would cover all on grid underserved and unserved locations.

He also noted that “Access to broadband” should be defined. We have consensus that it means a passing but not a drop.

Holly Groschner noted that a business plan should consider the percentage of the population that is low income. Rob Fish noted that demographics is discussed later in the document regarding Universal Service Plan, and that the concept of take rate assumptions could capture information based on low-income populations. Holly Groschner noted that it was discussed in Act 71; Rob Fish responded that he quoted language of Act 71 in the definition of business plan. Patty Richards noted that this concept is not required as part of Act 71 and that the Board should move to the next topic.

Rob Fish continued by reviewing additional wordsmithing changes, including changing “risk management plan” to “evaluation of risks.” Laura Sibilia noted that these concepts are different but she is Ok with the language as written.

Rob Fish also noted that, based on the Board’s prior guidance, staff changed “As a rule” to “In general.” There was some discussion about this point, and the Board agreed with its prior recommendation to change the language to “in general.”

Holly Groschner then asked if the Board was in agreement that it would adjust final numbers regarding the percentages of unserved roads in each CUD. Rob Fish clarified that the numbers would be updated with the construction grant. No other Board members raised objections.

Next was a discussion of the sunset provision in the matching funds section of the RFP, and whether the date of March 15, 2022 was too short a timeframe. It was noted that some Town meetings do not occur until late March, and as a result the sunset provision should be extended. Christine Hallquist noted that the CUDs felt strongly about the provision and had different thoughts. The Board asked to hear from CUD representatives, and Christa Shute of NEK Broadband commented that sometime after April 1<sup>st</sup> could work but that it should not extend indefinitely. She also asked for clarification that the grant pool of \$16 million would be apportioned based on the percentages of road miles discussed earlier in the RFP, which staff confirmed. David Jones of DV Fiber voiced concerns that obtaining funds could be difficult, and echoed Christa Shute’s concerns that funds be apportioned among the CUDs. The Board agreed on April 15, 2022. F.X. Flinn of ECFiber urged the Board to consider

removing the matching provision. David Healy of CVFiber spoke in favor of the provision. Patty Richards proposed that the date be set at April 15<sup>th</sup>, 2022. Holly Groschner suggested a later date, Dan Nelson supported an extension of either length, but Laura Sibilila and Brian Otley supported April 15<sup>th</sup>, and thus a majority of the Board supported the date of April 15, 2022.

Rob Fish continued with review of the document, suggesting that language that Board staff will not communicate directly with Applicant should be stricken, since this language was derived from a different type of bid process. The Board supported this change. The Board provided comments on specific language, e.g., not to create the defined term “Universal Service Area”, and to edit an incomplete sentence in the “Eligibility Screening Pre-Proposal” section of the document.

Holly Groschner commented that the Department of Public Service provided comments regarding the definition of Universal Service Plans that the staff should consider. Laura Sibilila noted that the definition of Universal Service Plan in Act 71 was intentional and that the Board should consider the definition in the Act.

Because the time was running short and the Board had not reviewed the entire document, it was proposed that the Board consider a new draft of the document at its meeting on January 3, 2022. After discussion regarding next steps, it was agreed that the Board would consider a new draft incorporating comments from VCUDA on January 3, 2022.

## **V. Motion to Adjourn**

Patty Richards made a motion to adjourn, and Dan Nelson seconded the motion, and the meeting was adjourned.



**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 ("Act 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 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

**"Access to Broadband"** means constructing a broadband network capable of providing Internet access at speeds of at least 100/100Mbps where the broadband network passes the location, has sufficient capacity to serve the location at the required speed, and can be connected to the location if a customer contracts to receive the service.

**"Eligible Provider"** means: (A) a Communications Union District ("CUD"); (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.*

**"Small communications carrier"** means: (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 Location"** 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 ("IFR") 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

**“Unserved Location”** 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 in 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>

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subscribe to services at or above the 25 Mbps/3 Mbps threshold. Whether there is a provider serving the area that advertises or otherwise claims to offer speeds that meet the 25 Mbps download and 3 Mbps upload speed thresholds is not dispositive. In evaluating such data, recipients may take into account a variety of factors, including whether users actually receive service at or above the speed thresholds at all hours of the day, whether factors other than speed such as latency or jitter, or deterioration of the existing connections make the user experience unreliable, and whether the existing service is being delivered by legacy technologies, such as copper telephone lines (typically using Digital Subscriber Line technology) or early versions of cable system technology (DOCSIS 2.0 or earlier).

<https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf> Item 6.11

<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

In general, 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. This includes mainline access, trunk routing, and network hub integration enroute to or supporting delivery of service to unserved and underserved locations.

Applicants should identify all overbuild areas and 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.

## 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 or cable, and 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.

% of underserved roads	
Addison	8.98%
CVFiber	9.70%
DVFiber	10.40%
ECFiber	8.07%
Lamoille FiberNet	5.87%
NEK Broadband	24.75%

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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.

Northwest Fiberworx	7.85%
Otter Creek	4.87%
Southern Vermont	4.60%
No CUD	14.91%

This formula is subject to change based on new data and is for informative purposes only. The percentage of underserved roads, representing the percentage of grant allocation, in a town not a member of a CUD at the time this RFP is posted shall be allocated to any CUD that a town joins. 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 amount that a single Communications Union District or 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. The maximum allocation per Eligible Provider is the same percentage allocated to the CUD or non-CUD towns under section 1. This additional pool of funds is to incentivize communities to contribute additional funds. A letter of commitment must be included in the grant application from the municipality providing the matching funds. Funds not matched by April 15, 2022 will be returned to the funding pool allocated by unserved and underserved road mile. All remaining funds will be restored to the CUDs or non-CUD towns based on the percentages above, with any monies already received by the CUD or non-CUD towns through this program subtracted from the total (e.g., the total amount received by each CUD through the matching program and remaining funds should be based on the percentages above).

## RFP OVERVIEW

The Board seeks proposals from Eligible Providers to provide Access to Broadband to Unserved Locations and Underserved Locations 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 to provide Access to Broadband to serve these locations proposed as part of the RFP with broadband Internet access at speeds of at least 100/100Mbps. The Applicant will be required to complete construction and offer service to those locations within Twenty-Four Months (24) of approval of the Application or other timeframe specifically enumerated in the RFP, absent force majeure.



The Applicant is committing to provide Access to Broadband to all Unserved Locations and Underserved Locations that currently receive electric service in the network area it proposes to build in the RFP application as part of its overall 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 pre-construction 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:* 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. The Board will post any changes to its website. It is the responsibility of the Applicant to check the Board's website for revisions to the RFP.

*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 of Intent 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 to Respond.

*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 in most cases; in some instances the Staff may request further information in order to make an eligibility decision, and it will make such a request within five (5) business days. Review of an invited proposal will be made at a future Vermont Community Broadband Board Meeting. Eligibility proposals should be sent via email to

[vcbb@vermont.gov](mailto:vcbb@vermont.gov) in PDF format. Upon invitation for a Full Proposal, an Applicant may be provided with a unique login to be used for uploading RFP materials. It is the responsibility of the Applicant to assure delivery of proposal(s) on or before the applicable 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 an application resulting from these sessions will be in writing and will be incorporated in the application. Applicants are expected to attend (which may include attending in-person or remotely depending on applicable protocols at the time) the Board Meeting(s) where the Application will be deliberated by the 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 provides or proposes to provide service.

*Timeline:* The Board will begin reviewing submissions at the first Board Meeting following January 15, 2022 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.

Any work an Applicant begins on its proposed project prior to execution of a grant agreement is at the Applicant's risk. Construction of the project must be completed within 24 months of execution of the grant agreement or other time specifically enumerated in the grant agreement, absent force majeure.

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## ELIGIBILITY

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

- (A) Applicant is 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 Access to Broadband to every Unserved Location and Underserved Location with electric utility service in a Town or Communications Union District. The approach may be phased and must contain binding commitments to provide or cause to be provided Access to Broadband to every Unserved Location and Underserved Location with electric utility service in a Town or Communications Union District.
- (C) Construction needs to be completed within 24 months or other time specifically

enumerated in the grant agreement, absent force majeure.

- (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 District(s) must be included in the application package.<sup>4</sup> The Board reserves the right to offer consideration of projects without such letters upon notice to the affected CUD, but it is the responsibility of the Applicant to justify how 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 dismiss such applications.
- (F) The proposed project only involves Incidental Overbuild 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 its willingness to follow the guidelines. Final designs are subject to review by an independent engineer contracted through the 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 follow 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:

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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.

<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>

- (A) Leverage existing other resources and assets.
- (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 supports 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) Provide a network design that is scalable, addresses redundancy and will result in high reliability and resiliency.

## APPLICATION PROCESS OVERVIEW

The application requirements for this Program as set by Act 71 are substantial. To ensure that no 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 each applicant whose proposed Universal Service Plan is deemed eligible. Staff may determine that all, some, or none of the areas in the Universal Service Plan are eligible. If a Universal Service Plan and the Applicant are deemed eligible, the Applicant need not submit additional prescreening materials for subsequent projects within the same Universal Service Plan.

**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.

Conventional	Phased
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 retail services offered comply with Act 71 requirements.
Detailed Design Certified by Principal Engineer to be compliant with VCBB Outside Plan Design	Iterative process among Applicant, VCBB Staff and Contractors to ensure detailed design

Requirements due 120 days following grant execution. Failure to do so will result in possible forfeiture of the award.	meets 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 staged approach to building out the entire Universal Service Plan, the Applicant may seek reimbursement at intervals to be negotiated in the Grant Agreement, based on meeting certain performance metrics with the Board.	

## 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 of the project towards advancing the goal of providing 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 Applicants -- 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 Applicant company shall be provided in the proposal(s).

### Eligibility Screening Part 2: Applicant Certification

Applicant Certification: Applicant shall certify in writing it understands 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 Communications Union 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 provide Access to Broadband to every Unserved Location and Underserved Location with electric utility service in a Town or Communications Union District may result in a forfeiture of assets built using funds received as a result of this Application.*
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 Applicant and Brief History of the Applicant 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 its 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 Plan Area(s)

### 1. Proposed Service Area

- a. Applicant shall detail the town(s) in which it proposes 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 Plan 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 the Applicant has no formal relationship with the Communications Union District, 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 a Communications Union District should provide the following information at a minimum:

- i. Whether the town a) was a member of the Communications Union District as of June 1, 2021; b) became a member of the Communications Union District after June 1, 2021; or c) is not a member of the Communications Union District.
- 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, and any reasons why a partnership was not formed.
- 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 will advise each CUD of the contents of any proposal to provide service within the CUDs' municipal borders and will rely on written testimony from each affected CUD regarding the likely impact of the Applicant's proposal on the CUD's business plan.

The Staff shall make the decision whether the Applicant 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 this determination to the VCBB Board.

A CUD affected by a Staff decision to permit the Applicant to submit a full proposal may appeal that decision to the Board. The Vermont Communications Union Districts Association ("VCUDA") or other CUDs may submit material that may further inform the Board's decision.



## *2. Estimated Cost for Universal Service Plan Area*

Applicants must be able to provide a total estimate for serving the proposed Universal Service Plan area. The Applicant should describe how the estimate was arrived upon and the factors that will influence the final cost to serve the proposed Universal Service Plan area. Included in the cost estimate will be the number of Underserved Locations and Unserved Locations to which service will be offered.

## *3. Other Funding Sources for the Project*

Applicant should detail any additional financial support reasonably anticipated to be provided to the proposed Universal Service Plan area. This includes any federal grants or contracts; contributions from communities to be served; or private capital to be invested by the Applicant.

## *4. 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 Applicant that is invited to make a full proposal will be required to submit a proposal organized into the sections as outlined 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 requests information regarding the specific project phase of the Universal Service Plan 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 Plan 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 complete contact information. A Communications Union District must also detail the vendor partner(s) with which it has contracted to manage design, construction, operation, and provision of Internet Services.
  - *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 Applicant 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 Plan project to be completed in the next 24 months (or in a 24 month period)
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 provide Access to Broadband to every Unserved Location and Underserved Location with electric utility service in a Town or Communications Union District within the timeline the Applicant specifically enumerated in its Application other than as a result of force majeure may result in a forfeiture of assets built using funds received as a result of this Application.*
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 Applicant(s) shall be responsible for all contract performance, whether or not subcontractors are used. The Applicant will be the sole point of contact with the Board regarding the contract, including subcontracted work.
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 Plan**

#### *1. Proposed Universal Service Plan*

- a. Applicant shall detail the town(s) in which it proposes 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 Plan and the total number of Unserved Locations and Underserved Locations.
- 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 Unserved Locations and Underserved Locations with electric utility service.

- 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 Access to Broadband to all other Unserved Locations and Underserved Locations with electric utility service will be served.
- Applicants shall provide an overview of obstacles to providing Access to Broadband to all other Unserved locations and Underserved Locations with electric utility service.
- 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 two years to complete, the Applicant shall provide a timeline showing each phase.
- Applicants should attach any documents supporting their commitment to

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

universal service.

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

The Applicant must be able to provide a total estimated cost for Access to Broadband to every Unserved Location and Underserved Location with electric utility service in the area encompassed by the Applicant's Universal Service Plan, including the number of such locations. The Applicant should describe how the estimate was arrived upon and factors that will influence the final cost to serve the entire Universal Service Plan.

**4. *Other Funding Sources for the Plan***

Applicant shall detail any known or reasonably anticipated additional financial support to be provided to this Universal Service Plan. 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 request 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 exceeds 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 of such a plan 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 the qualifications and capabilities of the 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 and attach documentation, including a summary of any agreements demonstrating 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 area of the Universal Service Plan. 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 supporting future growth.

## 3. *Incidental Overbuild*

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 addresses 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 it plans to fulfil its Universal Service Plan within the required timeframe. Applicant shall describe all other sources of funding known or reasonably expected, and their 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 certify it is participating in the Federal Emergency Broadband Benefit or subsequent program, or, if it is not participating in such a program, Applicant should indicate how and when it intends to participate or explain the reasons it is not participating and detail other steps it is taking to ensure its network is affordable to those who qualify for such assistance.

## 6. Technical and Security Approach

- How the project plans to operate the network, including tools, or techniques in a manner that ensure reliable communications.
- How the project plans to assess operational performance of the proposed network, including tools, and techniques and use the results of this assessment to optimize the way the services are delivered, and the network is operated.
- A summary of the information exchange interfaces for communicating devices and systems (i.e., their points of connection with other elements of the system).
- A summary of how the project will provide openly available and proprietary aspects of the interface specifications, and how existing (legacy) communicating devices or systems will be integrated into the project.
- A summary of how the project will address response to failure and device upgrade scenarios, such that overall system impact is mitigated.
- A summary of how the project will support compatibility with cyber security framework for standards and protocols (I recommend NIST)
- A summary of the cyber security risks and how they will be mitigated (focusing on vulnerabilities and impact).
- A summary of the cyber security criteria utilized for vendor and device selection.
- A summary of the relevant cyber security standards and/or best practices that will be followed.
- A summary of how the project will support emerging cyber security standards.

## Full Proposal Part 6: Attachments

### 1. *Act 71 Compliant Business Plan*

### 2. *Letters of Support*

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

### 3. *Documentation of Any Commitment of 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 it believes those complaints and/or investigations are no longer issues and describe its 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***

Applicant is 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 via a system established by the Board and detailed in the grant agreement.

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 via a system established by the Board and detailed in the grant agreement.

#### *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 at 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 a proposal without further discussion. 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 Plan 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).

**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. After an agreement has been executed, it is expected that all submitted responses may be reviewed by any person unless subject to confidentiality or other legal restrictions. 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 an 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 to 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 E-911 Address<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 design mapping deliverables in a single GIS (ESRI Preferred) form including:
  - a. Online and downloadable field engineering data
  - b. Online and downloadable detailed construction maps
    - i. Bills of materials linked to location

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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

- c. GIS network diagram that reflects what was built
- 7. Equipment and materials specified must comply with the domestic content requirements of the American Rescue Plan Act

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