

**Vermont Community Broadband Board
Meeting
January 31, 12:00 pm**

AGENDA

Meeting will be held remotely.
3rd Floor of 112 State Street, Montpelier VT
Join by video <https://bit.ly/32zoDhi>

Join by Phone; +1 802-828-7667
Phone Conference ID: 389 833 626#

Note: There may be additional Executive Sessions if necessary.

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| 12:00 | 1) Meeting call to order |
| 12:05 | 2) Approval of the January 18, 2022 minutes |
| 12:10 | 3) Legislative update and action <ul style="list-style-type: none">• Act 71 change re. reversion of assets to state – Materials included - Action requested – Board motion to support recommended change• Other legislative updates |
| 12:40 | 4) Update on Act71 Construction Grant Program RFP – Eligibility Decisions |
| 1:00 | 5) Review Responses to NTIA Questions (materials included) |
| 2:00 | 6) Overview of regulatory requirements (FCC, E911, etc) for CUDs |
| 2:30 | 7) Consideration of Proposal to Provide a) Regulatory Assistance; b) Contract Negotiation and Drafting as a centralized support service for CUDs |
| 2:50 | 8) Staff updates |
| 3:05 | 9) VCUDA updates |
| 3:20 | 10) Public input |
| 3:30 | 11) Parking Lot and Next Meeting |
| 3:40 | 11) Executive Session: <i>Confidential discussion of potential civil action 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> |
| 3:55 | Motion to Adjourn |

Press inquiries; please contact Rob Fish, Robert.fish@vermont.gov 802-522-2617

Vermont Community Broadband Board Draft Meeting Minutes
112 State Street, 3rd Floor,
Giga Conference Room
Montpelier, VT
January 18, 2022

I. Call To Order – 9:09am

II. Roll call completed by Patty Richards

Brian Otley (Remote)
Holly Groschner (Remote)
Dan Nelson (Remote)
Patty Richards, Chair (Remote, joined at 10:17)
Laura Sibilgia (Absent)
Christine Hallquist - Staff (In-person)
Robert Fish – Staff (Remote)
Stan Macel – Staff (Remote)
Alissa Matthews – Staff (Remote)

III. Review of Agenda

There were no changes to the agenda.
Holly moved to adopt the agenda. Brian Otley seconded. Motion passed.

IV. Approval of Meeting Minutes

The Board discussed the January 3rd, 2022 draft Board Meeting minutes.
Brian Otley moved to approve the minutes, with corrected spelling of Chris Recchia adjustment. Dan Nelson seconded. The motion was approved.\

V. State Legislative Updates and Action

Stan Macel presented an overview of a proposed amendment to Act 71 changing the language regarding distribution of a CUDs assets in the case of dissolution. Staff suggested language edits to provide that upon bankruptcy a CUD's assets will be subject to receivership by a court-appointed receiver in the event of a dissolution instead of being recouped solely by the State.

Holly Groschner asked if the language has been reviewed by bond counsel and Christine clarified counsel had been consulted but had not yet vetted this specific language. The idea is that in the event of a CUDs bankruptcy, receivership guarantees the State, along with all other debtors, gets paid instead of having the State be the first in line to be paid in the event of default. Discussion included the difference between dissolution for reasons other than bankruptcy and the need to be clear about what triggers a CUD's assets to go into receivership.

Action items coming out of this were:

- Staff will vet new language with potential lenders, including banks and Paul Giuliani, who is EC Fiber's bond lawyer.
- Based on these discussions Staff will work on new language to propose at the next board meeting.

Stan Macel then discussed S.166, which proposes enhanced cleanup provisions for utility construction sites. Holly does not feel it is appropriate for the Board to weigh in either way on this bill, and everyone concurred.

Stan Macel informed the Board of S. 222 which proposes to allow electronic-only meetings through January 15, 2023. The Board understood that if this bill passes it will apply to the Board and all CUDs, and unanimously agreed to remaining entirely remote and virtual.

Stan Macel then discussed S.167 which proposes an extension of the date to achieve statewide access to 100/100 Mbps from the end of 2024 to the end of 2029. Christine Hallquist will be testifying before Senate Finance Committee later this week that 2024 is not reasonable and should be amended to 2029. Holly Groschner made a motion for the Board to support this Bill but it was decided that the Board does not need to weigh in further if Christine will be giving expert testimony on the issue.

Request made to include a legislative update on all future agendas.

VI. Financial Report

Christine Hallquist presented the format that she will use to provide financial reports to the Board, at the meeting following the 10th of each month.

Items discussed included:

- Two lines are soon to be added - a Project Developer (limited service staff position) and a Fiber Optics Engineer Contractor.
- Christine Hallquist will change the format to have budgeted versus actual expenses side-by-side.
- The Board agreed that as long as the new format is complete, given the cost codes that the State would expect to see, it should be fine.
- Rob Fish clarified that the H.315 Funds were transferred over as interim support and \$1.6 Million was distributed through capacity building pre-construction grants and are obligated in grant contracts.
- The remaining funds that are committed to the VCBB, but not yet obligated in contracts, are planned to provide additional support to the CUDs through possible grant writing, fundraising, legal, or other services.
- Christine Hallquist will adjust the budget format so that the H.315 funds are included in the overall budget.
- Staff are working to get the rest of the ARPA pre-construction grant funds obligated.

VII. Federal Legislation and Rule-Making

Stan Macel presented an overview of the federal Infrastructure Investment and Jobs Act (IIJA) which includes \$65 Billion in new investments for broadband over five years. This includes the FCC's Affordability Connectivity Program (ACP) which is a successor to the Emergency Broadband Benefit (EBB) and is proposed to reduce the support from \$50 to \$30 per month limit but eligibility is broadened and households can receive a one-time discount of up to \$100 for a tablet from a participating provider.

Staff asked if VCBB should take action to promote the ACP program and if so how. Rob Fish added that final treasury rules for ARPA funds require participation in ACP if providers are receiving funds. It's an important program but there's a low take-rate. Staff is seeking Board guidance on how to help CUDs and other providers participate and get Vermonters to sign-up.

Holly Groschner is President of Equal Access to Broadband, a non-profit funded by ECFiber and other private contributors. Issues with EBB & ACP that she addressed included:

- Difficulty for low- income households to access these subsidies, with an almost two hours per household registration time, so non-profit assistance is necessary.
- Most CUDs and ISP are not set up as social services, and this assistance is not built into customer service response time for commercial entities.
- Social Services Agencies are already overwhelmed providing food, heat, and other social services.
- Reduction of subsidy negatively impacts rural broadband customers and individual ISPs may need to add subsidies.
- Just promotion is not going to be effective - financial literacy is needed to understand what telecom opportunities households have to reduce costs.
- Experience has shown the best point of contact is through Supervisory Union Districts, technical managers in the school systems, and Community Action Agencies.

Dan Nelson would be in support of funding a marketing campaign that does not duplicate but complements what is already being done by the Public Services Department and is aimed at increasing the take-rate and helping Vermonters sign-up for this program.

Stan Macel then discussed the National Telecommunications and Information Association's (NTIA) request for public comment due February 4th, 2022. The notice includes a list of questions and the Public Service Department plans to provide comments and requests VCBB to contribute in conjunction with partners including the VT League of Cities and Towns. Christine Hallquist also mentioned that State Broadband Leaders Network has concerns about the accuracy of the FCC data being used to allocate the funds.

Holly requested that staff bring up areas of focus that they believe are issues within the questions. Brian Otley suggested that the Board already weighed in on many of the topics NTIA is seeking input on, that the Staff reflect prior opinions and discussions in their comments. Dan Nelson requested that VCBB Staff and the Public Service Department share draft of their coordinated response with Board.

Christine Hallquist raised concerns about data accuracy and would like to establish a real time network performance monitoring standard so that there is no reliance on self-reporting. This will be one of the areas for feedback to the NTIA and Staff would like input from Dan Nelson and Brian Otley on what performance standards should be.

Dan Nelson proposed that as proposals come in, applicants describe their network reporting capacity which should be in place as part of their network design. Brian Otley clarified that VCBB is not looking for real-time reporting, but periodic reporting on real-time monitoring.

Stan Macel discussed a potential conflict between a provision of IJJA and Act 71. Holly Groschner clarified that IJJA does not preclude Act 71, it puts a condition on participation. No reconciliation of this conflict is planned, but VCBB should raise awareness that additional changes to Act 71 may be needed to align with final rules of IJJA.

Dan Nelson suggested that CUDs prepare to carefully manage their deployments, so dollars can

be allocated in the fringe areas effectively.

Stan Macel provided a summary of the final rules issued by the Treasury regarding the State and Local Fiscal Recovery Fund (SLFRF) guidelines under ARPA and reviewed the updated eligibility and additional requirements of recipients.

VIII. Staff Updates

Christine Hallquist will be presenting a status update to Senate Finance this week. Workforce development program is gaining momentum, ACCD is now involved along with VTC and VCCV to fill in a long-term labor pipeline but now working with Communication Workers of America for short-term construction labor solutions.

Rob Fish shared that this week the Broadband Construction RFP will be posted, finalizing the Fiber Optic Engineer RFP, doing more outreach for Project Developer position, applied for a match waiver from Northern Borders Regional Commission to give more flexibility to be able to leverage other types of financing with the Rural Forest Economy Partnership Grant.

Alissa Matthews will be managing the contract for the State's GIS project and assisting with drafting RFPs for other service contracts, the new Grants Administrator at the Public Service Department is working centralize reporting, streamline processes related to federal guidelines, and ensuring lines of communication are effective with the Department. Christine Hallquist will be attending the State Broadband Leaders Network Meeting in March.

IX. VCUDA Update

Will Anderson provided an update for VCUDA. He discussed the priority to get a hold of the new RFP from the VCBB and will be the major focus in the coming months.

VCUDA has not taken a position on S.166 or S.167 but will have a discussion about them. Expressed concern over opening up ACT 71, considering the amount of work that has gone into the bill.

Discussed the workforce survey deployed through the Department of Labor and although they did not get the quantity or quality of responses desired, the conclusion is there was support for expanded training and apprenticeship programs with Vermont Community Colleges. Additionally, the survey showed that the contractors available to be hired by CUDs in 2022 have a stable workforce but they do not have additional capacity to hire, train, and conduct additional projects. Capacity is going to need to be much greater for bringing short-term effective labor into Vermont considering there are seven CUDs needing to buildout drastic solution for construction.

He briefly discussed ACT 71 clause of where assets would go in the event of a CUD failure and supports the proposal of receivership language to address concerns when CUDs seek third party private sector funding. Vermont Economic Development (VEDA) loan programs are not suitable for CUDS based on current Act 71 language and unfavorable interest rates and he feels that a more innovative solution is needed in order for CUDs to utilize grant funds in parallel with loan funds. He suggested that VEDA should have a more community public oriented approach and should work with VCBB and possibly the Vermont Community Foundation to start a lower-interest loan fund that does not conflict with ARPA funded grants.

Holly Groschner suggested the VCBB take a closer look at Act 71 obligations for VEDA and the VCBB's responsibility to work with VEDA and raised the importance of understanding the legislative intent. Rob Fish added that VCBB has been in discussions with VEDA regarding how they can play a larger role. The challenge is that ARPA funds can not cover finance charges and a revolving loan fund is not favorable, but they are exploring other opportunities to make the funding packages more attractive. Will Anderson wishes to join those conversations.

Rob Fish announced the Administration's support of an additional \$195 million from the Infrastructure Bill to support broadband infrastructure, but it still needs to be approved by the legislature including getting through several committees including Senate Finance, House Energy and Tech, and the Appropriations Committee. It will apply to the budget that would be effective July 1st, 2022, but the VCBB's intent is that the majority of it will be added to the funds available through the Broadband Construction Program. Will Anderson committed to providing support in securing that funding from the legislature.

Holly Groschner suggested that as a matter of public relations the VCBB publish an editorial coming from Patty Richards on behalf of the full Board to be public with support for additional resources.

X. Public Input

One member of the public provided input.

- Steve Huffaker stepped forward to ask when CUDs should expect the Construction RFP to be released and Rob Fish confirmed that they should see it by the EOB January 18th, 2022.

XI. Motion to Adjourn

There was no need for an Executive Session. Dan Nelson made a motion to adjourn. Patty Richards seconded the motion. The meeting was adjourned at 11:17am.

PROPOSAL TO SEEK A CHANGE TO ACT 71

VCBB plans to propose a minor change to Act 71.

Currently, Act 71 has two requirements that deal with assets returning to the State:

- 30 V.S.A. 8086(c) (p. 17 of text of Act 71), regarding the Construction Grant program, provides that the Board “shall establish policies and standard grant terms and conditions that ... establish standards for recouping grant funds and transferring ownership of grant-funded network assets to the State if a grantee materially fails to comply with the terms and conditions of a grant.”
- Section 7, “Transfer of Fiber-Optic Assets” (on p. 25 of Act 71), requires that, in the event of a CUD dissolution, its assets shall “become property of the State” to be managed by PSD.

We understand from discussions with CUDs, state officials and professionals in the bond market that one or both of these provisions may make it difficult for CUDs to access the bond market; creditors want assurances that they will be able to obtain a CUD’s assets through liens before entering into financing agreements. Thus, we plan to propose minor edits to provide that a CUD’s assets would remain subject to creditors’ liens.

Below are two alternatives for each requirement.

POSSIBLE PROPOSED LANGUAGE TO 30 V.S.A. 8086(c)(3):

Option 1 (STATE)

- *The Board shall ... establish standards for recouping grant funds and transferring ownership of grant-funded network assets, which shall remain subject to any outstanding bondholders’ or creditors’ liens, if applicable, to the State if a grantee materially fails to comply with the terms and conditions of a grant.*

Option 2 (RECEIVER)

- *The Board shall ... establish standards for recouping grant funds and transferring ownership of grant-funded network assets, which shall remain subject to any outstanding bondholders’ or creditors’ liens, if applicable, ~~to the State~~ a court-appointed receiver if a grantee materially fails to comply with the terms and conditions of a grant.*

POSSIBLE PROPOSED LANGUAGE TO SECTION 7:

Option 1 (STATE)

- *In addition, the transfer shall include a requirement that, ~~upon the dissolution of~~ in the event that a communications union district is unable to meet its financial commitments, any such fiber assets shall remain subject to any outstanding bondholders' or creditors' liens, if applicable, and become the property of the State to be managed by the Department of Public Service.*

Option 2 (RECEIVER)

- *In addition, the transfer shall include a requirement that, ~~upon the dissolution of~~ in the event that a communications union district is unable to meet its financial commitments, any such fiber assets shall ~~become the property of the State to be managed by the Department of Public Service~~ remain subject to any outstanding bondholders' or creditors' liens, if applicable, and be subject to receivership by a court-appointed receiver.*

**Before the
U.S. Department of Commerce
National Telecommunications and Information Administration
Washington, D.C.**

Infrastructure Investment and Jobs Act)
Implementation) Docket No. 220105-0002

**COMMENTS OF VERMONT DEPARTMENT OF PUBLIC SERVICE
AND VERMONT COMMUNITY BROADBAND BOARD**

The Vermont Department of Public Service and Vermont Community Broadband Board welcome the opportunity to comment on the National Telecommunications and Information Administration’s (“NTIA”) Request for Comment (“RFC”) on the Infrastructure Investment and Jobs Act (“Act”) Implementation.¹ VTDPS and VCBB applaud Congress and the Administration’s historic investment in broadband infrastructure in order “to help close the digital divide and ensure that all Americans have access to reliable, affordable, high-speed broadband.”²

I. INTRODUCTION AND SUMMARY

VTDPS is an executive branch agency charged with representing the public interest in energy, telecommunications, and water utility matters. The mission of the VTDPS is to serve Vermont through public advocacy, planning, programs, and other actions that meet the public's need for least cost, environmentally sound, efficient, reliable, secure, sustainable and safe energy, telecommunications and regulated utility systems in the state. VTDPS has vast experience in administering programs designed to promote and bridge the digital divide and expand broadband access to underserved and unserved locations in Vermont.

¹ Request for Comments, 87 Fed. Reg. 1122 (Jan 10, 2022) (“*Request for Comments*”), <https://www.govinfo.gov/content/pkg/FR-2022-01-10/pdf/2022-00221.pdf>.

² *Id.* at 1

The Vermont Community Broadband Board (“VCBB”) was created by the Vermont Legislature in 2021 to coordinate, facilitate, support and accelerate the development and implementation of universal community broadband solutions. It is tasked with, among other things, coordinating and facilitating community broadband efforts, supporting the communications union districts, providing grants for preconstruction and construction costs of broadband projects, and promoting a strong communications workforce in Vermont.

These comments respond to NTIA’s Request for Comment and provide recommendations to guide how NTIA can “help meet the President’s goal to close the digital divide.”³ VTDPS and VCBB agree with NTIA that this effort requires both a “whole-of-government” and “whole-of-country” effort. To that end and based on our past and current experience in bringing broadband to those most in need of such service, it is the hope of VTDPS and VCBB that these comments will assist NTIA in implementing each broadband grant program in an effective and efficient manner that is in the public interest.

II. VERMONT BROADBAND INITIATIVES

The RFC requests comment from those “who have applied to or had experience with other federal or state broadband funding programs” and, in turn, provide recommendations for how to effectively implement those funding programs NTIA is charged with administering.⁴ Below is a high-level overview of the various broadband funding programs available in Vermont, including those created specifically in response to the COVID-19 emergency.

a. Connectivity Initiative and Broadband Innovation Grant Program

Until 2021, VTDPS worked to promote and expand broadband access to underserved and

³ RFC

⁴ RFC

unserved locations in Vermont.⁵ Specifically, VTDPS administered two programs directed at bringing broadband to the most remote areas of the state. The first was granting of broadband development awards through the state’s Connectivity Initiative, which was funded through Vermont’s Universal Service Fund (“VUSF”).⁶ Connectivity Initiative grants were awarded to providers that agreed to extend service to those areas of the state least likely to be served through the private sector or through federal programs.⁷ Any local or private funding obtained by communities in collaboration with providers for broadband development were matched with Connectivity Initiative funding.⁸

In order to receive Connectivity Initiative funding, a broadband provider was required to commit to provide 25/3 Mbps in underserved areas. The program included an aggressive buildout schedule that required a network to be completed within one year of receiving funding, the intent of which was to ensure that providers quickly used state funding to deploy broadband facilities to those communities most in need. In 2020, as part of the state’s COVID-19 response, VTDPS made \$12 million available for Connectivity Initiative grants, which were distributed in three funding rounds of \$4 million each.⁹ Responsibility for the Connectivity Initiative transferred to the VCBB on January 1, 2022.

The second broadband program VTDPS administered is the Broadband Innovation Grant (“BIG”) program, created in 2019. The Vermont Legislature allocated \$700,000 from the state’s General Fund to the VUSF to fund grants issued through the program. Up to \$60,000 in BIG

⁵ As further explained herein, it was in 2021 that the Vermont Legislature enacted Act 71, which effectively transferred the broadband duties of VTDPS to a newly created entity, the VCBB. Specifically, Act 71 prescribed a set of statutory criteria to guide the VCBB in funding the planning and construction of last mile broadband in Vermont.

⁶ 30 V.S.A. § 7515b.

⁷ *Id.*

⁸ See Vermont Department of Public Service Internet and Mobile Wireless, available at <https://publicservice.vermont.gov/connectivity> (last visited April 2, 2020).

⁹ Connectivity Initiative activity was suspended in 2021 pending establishment of the VCBB.

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grant funds could be used to fund feasibility studies related to the deployment of broadband in rural unserved and underserved areas of Vermont. Eligible applicants included [CUDs] and other units of government, nonprofit organizations, cooperatives, and for-profit businesses. Over the life of the program, VTDPs issued approximately \$679,000 worth of grants to twelve entities in 2020. The program sunset in 2021.

b. Emergency Broadband Action Plan

In 2020, as part of the state’s response to the COVID-19 emergency, the Emergency Broadband Action Plan (“EBAP”) was created. The EBAP was organized into two sections, with the first focusing on immediate proposed actions to respond to the state of emergency and the second focusing on long-term deployment methods. Most of the proposals in the first section were subsequently enacted into law by the Vermont Legislature and funded with monies from the state’s Coronavirus Relief Fund.

c. Broadband Pre-Construction Grant Program

The purpose of the Broadband Preconstruction Grant Program is to provide grants to Communications Union Districts for preconstruction costs related to eligible broadband projects. Pre-construction expenses can include feasibility studies, business planning, pole data surveys, engineering and design, and make-ready work associated with the construction of broadband networks, including consultant, legal, and administrative expenses, and any other cost deemed appropriate by the Board. In its first 6 months, the VCBB issued \$21 million dollars of the \$30 million budgeted for pre-construction and provided pre-construction grants to 7 of the 9 Communication Union Districts.

d. Broadband Construction Grant Program

In January 2022, The VCBB formally released the RFP for the \$116 Million Broadband Construction Grant Program. The grant program is open to 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. Eligible applicants are (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.

III. NTIA QUESTIONS AND RESPONSES

1. What are the most important steps NTIA can take to ensure that the Bipartisan Infrastructure Law's broadband programs meet their goals with respect to access, adoption, affordability, digital equity, and digital inclusion?

The most important steps that the NTIA can take to ensure that the broadband programs meet their goals are to:

- Establish guidelines and streamlined processes that encourage community-owned broadband infrastructure
- Provide financial and other encouragement to pole-owning utilities to accelerate make-ready work as well as provide favorable arrangements to telecommunication entities that are making connections to underserved and unserved locations.
- Provide financial and other encouragement for coordination with transportation, housing and electric utilities on project planning to help reduce the cost of make-ready and avoid digging twice.
- Many low-income families live in multi-tenant buildings. Multi-tenant rental units utilities often are supplied via underground conduit. To provide broadband will require digging or directional boring, which can be expensive. The NTIA can help by recognizing those costs and establish policies on how to provide funding to get these connected.
- Landlords of multi-tenant units sometimes make special arrangements with single source providers with a kick-back to the building owner. Disallow sole-source carriers for multi-tenant units and require open access.
- Encourage work with homeless organizations to provide hardware and co-working spaces in transitional housing and libraries.
- Address programs for newly connected elderly and low-income that provide hardware and training.
- Adopt a build once philosophy only supporting currently available technology solutions that that are future proof with public funds. This would limit funding to reliable, wireless connections achieving speeds of at least 100/100 Mbps symmetrical.
- Promote affordability, equity and inclusion, as discussed more specifically in the

comments below.

2. Obtaining stakeholder input is critical to the success of this effort. How best can NTIA ensure that all voices and perspectives are heard and brought to bear on questions relating to the Bipartisan Infrastructure Law's broadband programs? Are there steps NTIA can and should take beyond those described above?

NTIA can best ensure that all voices and perspectives are heard by:

- Encouraging the creation of interagency and government/nonprofit working groups to share information, best practices, and coordinate efforts.
- Setting up regional listening sessions with a few states at a time to obtain feedback from staff and stakeholders to allow time to for more detailed discussions on topics such as data integrity, quality standards, technology challenges, safety practices, and workforce development.

3. Transparency and public accountability are critical to the success of the Bipartisan Infrastructure Law's broadband programs. What types of data should NTIA require funding recipients to collect and maintain to facilitate assessment of the Bipartisan Infrastructure Law programs' impact, evaluate targets, promote accountability, and/or coordinate with other federal and state programs? Are there existing data collection processes or templates that could be used as a model? How should this information be reported and analyzed, and what standards, if any, should NTIA, grant recipients, and/or sub-grantees apply in determining whether funds are being used lawfully and effectively?

NTIA should take the following steps with regard to data:

- All new networks should be required to implement the tools to provide real-time performance monitoring and reporting down to the location. Monthly reporting should include overall Customer Average Interruption Duration Index (CAIDI), System Average Interruption Frequency Index (SAIFI), Customer Average Latency and System Average Latency. Fiber Optic infrastructure has the capability to preform to the same standards as we expect from our electric distribution systems. The performance requirements and reporting from the electric distribution systems are a good model to follow, with the addition of latency monitoring and reporting.
- Require quarterly public planned versus actual reporting of average cost for construction mile, average cost per customer installation, take-rate, mileage and passings.
- Require all participants, public or private, to make construction plans public. This is to help maximize the grant dollars by avoiding unnecessary or unplanned duplication of networks.

4. NTIA has an interest in ensuring that the Bipartisan Infrastructure Law is implemented in a way that promotes the efficient use of federal funds. How should NTIA and grant recipients verify that funding is used in a way that complements other federal and state broadband programs?

- NTIA should provide additional incentives for local investment by providing additional funding (over the committed grant amount) matching funds for local investments.
- NTIA should favor projects that create a publicly owned asset.

- NTIA should favor projects using existing reliable wireline technology to achieve speeds of at least 100/100 Mbps.
- NTIA should favor projects that only cover the cost of drops if the resident is low-income or the drops are required to ensure a sustainable business plan. The focus first should be on building the network.

Supporting States, Territories, and SubGrantees To Achieve the Goal

5. In implementing the Bipartisan Infrastructure Law's programs, NTIA will offer technical assistance to states, localities, prospective sub-grantees, and other interested parties. What kinds of technical assistance would be most valuable? How might technical assistance evolve over the duration of the grant program implementation.

The following kinds of technical assistance would be valuable:

- To provide a repository of best practices in areas such as; Board Policies, RFPs, grant agreements, operating and maintenance agreements, contract templates.
- The State Broadband Leaders Network is an important resource; continue to lead and support that effort.
- As the project matures, performance reporting will become more important. Technical assistance to support performance reporting would be useful.
- The NTIA should provide technical assistance to new market entries to ease regulatory compliance concerns.

6. The Bipartisan Infrastructure Law requires states and territories to competitively select subgrantees to deploy broadband, carry out digital equity programs, and accomplish other tasks. How should NTIA assess a particular state or territory's subgrant award process? What criteria, if any, should NTIA apply to evaluate such processes? What process steps, if any, should NTIA require (e.g., Request for Proposal)? Are there specific types of competitive subgrant processes that should be presumed eligible (e.g., publicly released requests for proposals and reverse auctions)?

- The NTIA should allow states to favor publicly owned infrastructure
- The NTIA should allow states to set speed requirements above the 100/20 Mbps threshold if those requirements are in state statute.
- Existing grant programs developed under ARPA that align with ARPA guidelines should be presumed eligible. Grants issued under those programs should be amended to allow for the quick and effective distribution of additional funds to further extend the networks of previously vetted and accepted applicants.

7. NTIA views the participation of a variety of provider types as important to achieving the overall goals of the Bipartisan Infrastructure Law broadband programs. How can NTIA ensure that all potential subrecipients, including small and medium providers, cooperatives, non-profits, municipalities, electric utilities, and larger for-profit companies alike have meaningful and robust opportunities to partner and compete for funding under the programs?

NTIA can ensure that a variety of subrecipients are involved in the process as follows:

- Require a substantial private match from incumbent receipts
- Favor projects that create publicly owned infrastructure
- Require heavy weighting in grants scoring for projects that create public infrastructure and provide symmetrical speeds of at least 100/100.
- Smaller providers likely do not have the resources to respond to comprehensive RFPs. Provide for an initial screening mechanism to allow respondents to make an informed decision on whether to move forward with a more detailed proposal.
- Provide incentives to encourage faster (earlier) connection of locations.
- Work with the Department of Energy to create incentives for the electric utilities to develop smart grid infrastructures including coordination on decarbonization of the electric grid as well as feeder optimization through interactive vehicle charging stations and rate structures
- Coordinate smart transportation systems to maximize the use of the broadband infrastructure.
- Provide incentives through the USDA to optimize agricultural practices through the use of broadband systems, such as: real-time soil and crop moisture content, smart watering systems, soil and crop nutrient systems, herd tracking and management.

8. States and regions across the country face a variety of barriers to achieving the goal of universal, affordable, reliable, high-speed broadband and broadband needs, which vary from place to place. These challenges range from economic and financial circumstances to unique geographic conditions, topologies, or other challenges that will impact the likelihood of success of this program. In implementing the Bipartisan Infrastructure Law's broadband programs, how can NTIA best address such circumstances?

NTIA can do the following to overcome barriers to broadband service:

- Direct funding to the unserved and underserved locations as a priority.
- Allow greater percentages of grant funding for lower density areas.
- Allow other federal matching funds to be used by community owned networks
- Allow for overbuilding of any project that previously received federal funding but that has not yet achieved current speed requirements.

9. Several Bipartisan Infrastructure Law broadband programs provide that, absent a waiver, a grant or subgrant recipient must contribute its own funding, or funding obtained from a non-federal source, to "match" funding provided by the BIL program. Under what circumstances, if any, should NTIA agree to waive these matching fund requirements, and what criteria should it assess (in accordance with any criteria established by the statute) when considering waiver requests?

- This rule should not apply to community owned networks. The community owned networks should be evaluated on their business plans with funding directed to serve the lower density underserved and unserved areas, as well as low-income, no-income locations. Publicly-owned infrastructure should be exempt.

Ensuring the Future of America Is Made in America by All of America's Workers

10. The COVID–19 pandemic has disrupted global supply chains and impacted employment patterns. What is the likely impact of current workforce and supply chain constraints on the speed with which states, service providers, and others achieve the Bipartisan Infrastructure Law’s network deployment objectives? Are the areas unserved or underserved by broadband networks, which will see substantial new deployments under the Bipartisan Infrastructure Law’s broadband provisions, likely to face particularly significant workforce or supply-chain constraints? What steps, if any, should NTIA take to mitigate the impact of workforce or supply-chain limitations?

The NTIA should take the following steps regarding workforce and supply-chain limitations:

- Allow and ease regulatory barriers to guest worker programs that would allow the importing of out of state and out of country labor if paired with workforce development programs to train local workers.
- Allow for exemptions to “buy American” provisions if such a requirement would result in cost increases of more than 35% or delays in excess of 6 months. These increases will ultimately be passed onto the consumer. A balance needs to be struck between supporting American manufacturing and closing the digital divide.

11. One objective of the Bipartisan Infrastructure Law is to ensure American workers have access to high quality jobs, especially those who were impacted the most by the pandemic, including women and people of color. What federal policy tools can NTIA apply to help ensure that broadband funding is deployed in a way that maximizes the creation of good paying jobs and that women and people of color have full opportunity to secure those jobs.

- Establish Pay-It-Forward Programs that allow workers to earn while they learn

12. What steps, if any, should NTIA take to ensure maximum use of American-made network components and that supply shortages are addressed in ways that create high quality jobs for all Americans? What impact, if any, will application of the “Buy American” requirements in the Bipartisan Infrastructure Law have on supply chain and workforce challenges and on the speed with which the nation can reach the goal of 100% broadband connectivity?

- While supporting domestic suppliers should always be a priority, the lead times for key materials is now extending out to a year, which will have serious negative impact to meeting construction schedules as well as put upward pressures on prices. The NTIA should put together a working group to evaluate and monitor lead times for materials and create temporary exceptions for specific line items from approved vendors as needed to keep construction on schedule.

Broadband Equity, Access and Deployment (BEAD) Program

The BEAD Program is a \$42.45 billion program for states, territories, the District of Columbia (DC), and Puerto Rico (P.R.) (“states and territories”) to utilize for broadband deployment, mapping, equity and adoption projects. Each state, DC, and P.R. will receive an initial allocation of \$100 million—and \$100 million will be divided equally among the

U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. NTIA will distribute the remaining funding based on a formula that considers the number of unserved and high-cost locations in the state, based on the updated broadband availability maps to be published by the FCC. The Bipartisan Infrastructure Law also provides NTIA with discretion to establish additional eligible uses for the funding. BEAD program funding will be dispersed in three phases. The first phase allows states and territories to access up to \$5 million each to support planning efforts, including building capacity in state broadband offices and to fund outreach and coordination activities with local communities and stakeholders. The second phase requires states and territories to submit an initial broadband plan to NTIA. These plans must be informed by collaboration with local and regional entities and will lay out how each respective state and territory will use the BEAD funding and other funds to bring reliable, affordable, high-speed broadband to all residents. Once NTIA approves the initial plan, states and territories will be able to access additional funds from their BEAD allocation. States and territories will be able to access the remaining funds upon review and approval of a final plan by NTIA.

Ensuring Publicly Funded Broadband Networks That Sustain and Scale

13. NTIA is committed to ensuring that networks built using taxpayer funds are capable of meeting Americans' evolving digital needs, including broadband speeds and other essential network features. What guidance or requirements, if any, should NTIA consider with respect to network reliability and availability, cybersecurity, resiliency, latency, or other service quality features and metrics? What criteria should NTIA establish to assess grant recipients' plans to ensure that service providers maintain and/or exceed thresholds for reliability, quality of service, sustainability, upgradability and other required service Characteristics?

The NTIA should impose the following requirements to ensure network reliability:

- The NTIA should only fund networks capable of achieving speeds of 100 up and down symmetrically.
- The NTIA should require 99.9% or better on system and customer up-time
- Require all networks to monitor and report network performance metrics down to the address level in real-time, set minimum performance requirements, and require monthly reporting on the following:
 - Outage measure – System Average Interruption Frequency Index
 - Outage measure – Customer Average Interruption Frequency Index
 - Outage measure – Customer Average Interruption Duration Index
 - Latency measure – System Average Latency Index
 - Latency measure – Customer Average Latency Index
- The NTIA should only award grants to proven technology.
- The NTIA should include penalties if a network does not reach professed speeds
- The NTIA should require the annual submission of actual speed data under penalty of perjury from any entity that receives funding. This requirement should cover the entire network; not only networks funded with public dollars.
- The NTIA should require progress payments based on meeting agreed upon performance

- on those networks in terms of planned versus actual location service goals
- Require ongoing network performance monitoring and reporting. Set high standards for the performance in the following -
 - Outage measure – System Average Interruption Frequency Index
 - Less than 5 hours per year
 - Outage measure – Customer Average Interruption Frequency Index
 - Less than 3 hours per year
 - Outage measure – Customer Average Interruption Duration Index
 - Average restoration time less than 90 minutes
 - Latency measure – System Average Latency Index
 - Below 15 ms with an upper bound of 30 ms
 - Latency measure – Customer Average Latency Index
 - Below 30 ms with an upper bound of 50 ms

14. NTIA is committed to ensuring that networks constructed using taxpayer funds are designed to provide robust and sustainable service at affordable prices over the long term. What criteria should NTIA require states to consider to ensure that projects will provide sustainable service, will best serve unserved and underserved communities, will provide accessible and affordable broadband in historically disconnected communities, and will benefit from ongoing investment from the network provider over time?

The NTIA should use the following criteria to ensure the sustainable and fair service:

- The NTIA should only fund networks capable of achieving speeds of 100 up and down symmetrically.
- The NTIA should require 99.9% or better on system and customer up-time
- Require all networks to monitor and report network performance metrics down to the address level in real-time, set minimum performance requirements, and require monthly reporting on the following:
 - Outage measure – System Average Interruption Frequency Index
 - Outage measure – Customer Average Interruption Frequency Index
 - Outage measure – Customer Average Interruption Duration Index
 - Latency measure – System Average Latency Index
 - Latency measure – Customer Average Latency Index
- Require a plan for Universal Service from all grant participants
- The NTIA should acknowledge that cost per address is not the only metric to review grant applications. A failure to consider other factors would result in inferior service and the cherry-picking of areas with the highest density.
- The NTIA should establish a high-cost fund to address low-income addresses that must be served by conduit and/or for areas under a certain density to ensure the highest speeds reach those populations.

15. In its effort to ensure that BEAD funded networks can scale to meet Americans' evolving needs, and to ensure the public achieves the greatest benefit from the federal investment, NTIA seeks to understand reasonably foreseeable use cases for America's broadband infrastructure over the next five, ten, and twenty years. What sort of speeds, throughput, latencies, or other metrics will be required to fully connect all Americans to

meaningful use over the next five, ten, and twenty years? How can the BEAD program meet our nation's broadband network connectivity needs in the future and what other benefits can Americans expect from this program and the networks it will help fund in other industries and across the economy? How can existing infrastructure be leveraged to facilitate and amplify these benefits? What are the best sources of evidence for these questions and for predicted future uses of broadband?

The NTIA should consider the following requirement:

- Only fund Fiber to the Premise networks. Fiber Optic networks are now well below any other technology in terms of life-cycle costs. These networks are also the only technology that will provide consistently reliable service.

Allocation and Use of BEAD Funds To Achieve Universal, Reliable, Affordable, High-Speed Broadband

16. Broadband deployment projects can take months or years to complete. As a result, there are numerous areas where an entity has made commitments to deploy service—using its own funding, government funding, or a combination of the two—but in which service has not yet been deployed. How should NTIA treat prior buildout commitments that are not reflected in the updated FCC maps because the projects themselves are not yet complete? What risks should be mitigated in considering these areas as “served” in the goal to connect all Americans to reliable, affordable, highspeed broadband?

- Projects should only be exempted from overbuild if a) they are fully funded and engineered; b) pole applications have been filed; and c) speeds to be provided are at least 100/100 Mbps. In these cases, only incidental overbuild should be allowed.
- The entity should only be allowed to receive additional funding if the proposed project will complete a wire-center and prevent donut holes of underserved addresses that will be difficult to reach.
- The NTIA should consider projects in areas that do not meet the previously stated criteria only if the speed to be provided exceeds the original project.
- In all cases, incidental overbuild should be allowed.

17. Ten percent of total BEAD funding is reserved for distribution based on how many unserved locations within a state or territory are also locations in which the cost to deploy service is higher than the nationwide average. The Bipartisan Infrastructure Law provides that, in calculating the cost of deployment, NTIA should consider factors such as the area's remoteness, population density, topography, poverty rate, or “any other factor identified by the Assistant Secretary, in consultation with the [FCC], that contributes to the higher cost of deploying broadband service in the area.” BIL § 60102(a)(2)(G). What additional factors, if any, should NTIA consider in determining what constitutes a “high cost Area”?

The NTIA should also consider the following factors in determining what constitutes a “high cost Area”:

- Areas in which means tested addresses can only be reached by conduit, such as mobile

home parks.

- If the NTIA chooses to allow wireless solutions (though we encourage the NTIA not to), areas in which service can only be provided by fiber as a result of topography should be considered high cost.
- The number of miles of incidental overbuild required to access the underserved and unserved addresses
- Set these benchmarks based on the entire network all-in costs, including the drops to the premise.

18. The Bipartisan Infrastructure Law provides that BEAD funding can be used in a variety of specific ways, including the provision of service to unserved and underserved areas, connection of community anchor institutions, data collection, installation of service within multi-family residential buildings, and broadband adoption programs. The law also permits the Assistant Secretary to designate other eligible uses that facilitate the program's goals. What additional uses, if any, should NTIA deem eligible for BEAD funding?

The NTIA should deem the following eligible for BEAD funding:

- Workforce development, to ensure the trained labor resources are available
- Pre-purchasing of long lead-time and critical materials.
- Require a minimum amount of spare fiber be available for future growth, public safety and mobile wireless.
- Coordination between state agencies, utilities, and municipalities to ensure that fiber and conduit are deployed along with other pre-planned projects. Even if the fiber is not lit, there would be substantial cost savings.

Establishing Strong Partnerships Between State, Local, and Tribal Governments

19. Community engagement is critical to eliminating barriers to broadband access and adoption. NTIA views strong involvement between states and local communities as key to ensuring that the broadband needs of all unserved and underserved locations are accounted for in state plans submitted for funding. What requirements should NTIA establish for states/territories to ensure that local perspectives are critical factors in the design of state plans?

The NTIA should impose the following requirements regarding community engagement:

- Only fund community owned networks or, in the alternative, at least prioritize community owned networks
- Require Universal Service plans
- Allow communities to veto certain technologies.
- Require provide providers not building publicly owned infrastructure to hold public meetings in impacted communities and/or to submit to a public oversight process.

20. When formulating state broadband plans, what state agencies or stakeholder groups should be considered in the development of those plans?

The following agencies and groups should be considered in state broadband plans:

- Construction plans should be coordinated with Agency of Transportation, Housing agencies, and electric utility construction plans to take advantage of reduced make-ready work through shared trenching and utility pole height coordination.
- Work with anchor institutions, such as libraries, schools, state parks, state and municipal buildings to identify opportunities for replacing existing contracts with more favorable contracts based on the grant funded infrastructure plans.
- Work with municipal authorities, electric utilities, anchor institutions and/or private interests for easements for and access to suitable sites for central hubs and local hubs for the distribution network.
- Require all existing telecommunication network providers and electric utilities to make GIS files of their existing and planned networks public.

21. How can NTIA ensure that states/ territories consult with Tribal governments about how best to meet Tribal members' needs when providing funding for broadband service to unserved and underserved locations on Tribal lands within state boundaries?

Low-Cost Broadband Service Option and Other Ways To Address Affordability

22. The Bipartisan Infrastructure Law requires that BEAD funding recipients offer at least one low-cost broadband option and directs NTIA to determine which subscribers are eligible for that low-cost option. BIL § 60102(h)(5)(A). How should NTIA define the term "eligible subscriber?" In other words, what factors should qualify an individual or household for a low-cost broadband option?

- The NTIA should require coordination with Community Action Agencies to identify "eligible subscriber". This is too complex a question for telecommunication companies to answer and the agencies are in place to do this. The Community Action Agencies are in place to review an individual's overall economic situation.
- When applying for other state benefits, applicants should be asked if they would like to sign up for the Affordable Connectivity Initiative. The state or agencies should be responsible for ensuring the information is properly transmitted to the telecom company serving the address.
- Align eligibility with existing high take-rate programs, such as free or reduced school lunches.

23. Under the Bipartisan Infrastructure Law, states and territories are charged with developing low-cost broadband service options in consultation with NTIA and broadband providers interested in receiving funding within the state. BIL § 60102(h)(5)(B). What factors should NTIA consider in guiding the states in design of these programs to achieve this goal? Should NTIA define a baseline standard for the "low-cost broadband service option" to encourage states/ territories to adopt similar or identical definitions and to reduce the administrative costs associated with requiring providers to offer disparate plans in each state and territory? What are the benefits and risks, if any, of such an Approach?

The NTIA should consider the following regarding low-cost service:

- The NTIA should create a 0% loan fund for public entities constructing broadband network. By keeping financing charges low, the cost to the end consumer stays low.
- Investor-owned telecommunications companies should be prohibited from profiting on basic broadband service. Those profits should come from other services offered as way to ensure a low-cost plan.
- The grant recipients should have a low-cost option (\$30/month) that is specifically designed for those who qualify under a hardship defined by the Community Action Agencies. This income-challenged base of users would not be able to afford to connect anyhow, and this would result in a more favorable business plan for the telecommunications provider. That \$30/month would most likely come from the Affordable Connectivity Program.

24. Affordability is a key objective of the Bipartisan Infrastructure Law’s broadband programs. What factors should be considered in the deployment of BEAD funds to help drive affordability beyond the low-cost option?

The NTIA should consider the following factors regarding affordability:

- Only fund community owned networks, or, in the alternative, at least provide incentives for community owned networks.
- Only fund fiber optic networks. The others are too expensive over time.
- Disallow “teaser rates”. An introductory rate is a low rate charged to a customer during the initial stages of a contract period. The rate is not permanent and after it expires a normal or higher than normal rate will apply.
- Disallow requirements to purchase other bundled services. For instance, do not allow an additional charge if a consumer is not interested in purchasing phone service.
- The NTIA should create a 0% loan fund for public entities constructing broadband networks. By keeping financing charges low, the cost to the end consumer stays low.
- Investor-owned telecommunications companies should be prohibited from profiting on basic broadband service. Those profits should come from other services offered as way to ensure a low-cost plan.

Implementation of the Digital Equity Act of 2021

The Digital Equity Act dedicated \$2.75 billion to establish three grant programs that promote digital inclusion and equity to ensure that all individuals and communities have the skills, technology, and capacity needed to reap the full benefits of our digital economy. The goal of these programs is to promote the meaningful adoption and use of broadband services across targeted populations, including low-income households, aging populations, incarcerated individuals, veterans, individuals with disabilities, individuals with a language barrier, racial and ethnic minorities, and rural inhabitants. As noted above, given the sequence of programs that NTIA is implementing, NTIA intends to release another request for comment (RFC) in the future to address the State Digital Equity Capacity Grant Program and Digital Equity Competitive Grant Programs. The questions below are specific to the Digital Equity Planning Grant Program. State Digital Equity Plans

25. The Bipartisan Infrastructure Law includes historic investments in digital inclusion and digital equity, promising to bring all Americans the benefits of connectivity irrespective of age, income, race or ethnicity, sex, gender, disability status, veteran status, or any other characteristic. NTIA seeks to ensure that states use Digital Equity Planning Grants to their best effect. What are the best practices NTIA should require of states in building Digital Equity Plans? What are the most effective digital equity and adoption interventions states should include in their digital equity plans and what evidence of outcomes exists for those solutions?

- Require extensive stakeholder engagement
- Allow libraries to apply directly to become digital literacy and access hubs
- Integrate digital literacy into school curricula

26. Some states and territories will benefit from technical assistance in preparing Digital Equity Plans. What types of technical assistance, support, data, or programmatic requirements should NTIA provide to states and territories to produce State Digital Equity Plans that fully address gaps in broadband adoption, promote digital skills, advance equitable access to education, healthcare and government services, and build information technology capacity to enable full participation in the economy for covered populations? What steps, if any, should NTIA take to monitor and assess these practices?

The NTIA should consider the following technical assistance steps for states and territories preparing digital equity plans:

- Provide GIS map overlays for demographic information, such as income, free and reduced lunch eligibility, energy and transportation burdens, etc.

27. Equity is also a named goal of the BEAD program described above. How should NTIA ensure that State Digital Equity Plans and the plans created by states and territories for the BEAD program are complementary, sequenced and integrated appropriately to address the goal of universal broadband access and adoption?

The NTIA should consider the following regarding state digital equity plans:

- Only allow and fund one equity plan per state. As part of the grant criteria, the plan should be coordinated with other state agencies and organizations, including:
 - Department for children and families
 - Homeless agencies
 - Community Action Agencies
 - Groups and/or agencies that help those with disabilities
 - Agencies for the aging
 - Other low-income support agencies
- Work with health-care providers to identify health care needs with respect to digital equity.
- Work with schools to identify educational needs with respect to digital equity.
- Require states to create processes for applicants to sign up for the ACA when applying for other benefits OR automatically sign up those beneficiaries to the program.

28. *How should NTIA ensure that State Digital Equity Plans impact and interact with the State’s goals, plans and outcomes related to: (i) Economic and workforce development; (ii) education; (iii) health; (iv) civic and social engagement; (v) climate and critical infrastructure resiliency; and (vi) delivery of other essential services, especially with respect to covered populations mentioned in Bipartisan Infrastructure Law § 60303(2)(C)?*

NTIA should consider the following requirements for State implementation of digital equity plans:

- Establish a Digital Equity Office in each state. This office would either work within or closely with the state Broadband Office. The Digital Equity Office would be responsible for coordinating the state’s digital equity plan. This plan would be tied to the grants issued by the state with the state Broadband Office monitoring for compliance.
- Only allow and fund one digital equity plan per state. As part of the grant criteria, the plan should be coordinated with other state agencies and organizations, including:
 - Department for children and families
 - Homeless agencies
 - Community Action Agencies
 - Groups and/or agencies that help those with disabilities
 - Other low-income support agencies.

29. *The Bipartisan Infrastructure Law directs states and territories to include in their digital equity plans “measurable objectives for documenting and promoting: (i) The availability of, and affordability of access to, fixed and wireless broadband technology; (ii) the online accessibility and inclusivity of public resources and services; (iii) digital literacy; (iv) awareness of, and the use of, measures to secure the online privacy of, and cybersecurity with respect to, an individual; and (v) the availability and affordability of consumer devices and technical support for those devices.” What best practices, if any, should states follow in developing such objectives? What steps, if any, should NTIA take to promote or require adoption of these best practices? What additional guidance and oversight about the content of the State Digital Equity Plans should NTIA provide?*

NTIA should consider the following regarding digital equity plans:

- Funding should be used to prioritize ubiquitous construction of Fiber to the Premise networks. This technology is “future-proof” and is the lowest cost. When fiber becomes ubiquitous, the cost of fixed and mobile wireless becomes so low that it too will become ubiquitous.
- Develop and adopt a Cybersecurity Capability Maturity Model (C2M2) for the telecommunications industry. This model was designed to protect the electric infrastructure. It is now past time that we apply similar standards to the telecommunications infrastructure.
- Encourage development of an agency in each state that is specifically committed to Digital Equity. This agency would be commissioned with the task of providing the hardware and ongoing support. This project will require a specific set of skills that existing state agencies are not likely to have.

Digital Equity Coordination Requirements

30. *The Bipartisan Infrastructure Law requires state and territories to consult with historically marginalized and disadvantaged groups, including individuals who live in low-income households, aging individuals, incarcerated individuals (other than individuals who are incarcerated in a Federal correctional facility), veterans, individuals with disabilities, individuals with a language barrier (including individuals who are English learners and have low levels of literacy), individuals who are members of a racial or ethnic minority group, and individuals who primarily reside in a rural area. What steps should NTIA take to ensure that states consult with these groups as well as any other potential beneficiaries of digital inclusion and digital equity programs, when planning, developing, and implementing their State Digital Equity Plans? What steps, if any, should NTIA take to monitor and assess these practices?*

NTIA should take the following steps regarding digital equity coordination:

- Encourage development of an agency in each state that is specifically committed to Digital Equity. This agency would be commissioned with the task of providing the hardware and ongoing support. This project will require a specific set of skills that existing state agencies are not likely to have. Such agencies could be tasked with the following:
 - Require ongoing reporting on adoption rates and corrective action plans within disadvantaged communities
 - Identify skills gaps
 - Support the digital skills trainings identified through the gap analysis,

31. *The Bipartisan Infrastructure Law also requires states and territories to coordinate with local governments and other political subdivisions in developing State Digital Equity Plans. What steps should states take to fulfill this mandate? How should NTIA assess whether a state has engaged in adequate coordination with its political subdivisions?*

- Encourage development of an agency in each state that is specifically committed to Digital Equity. This agency would be commissioned with the task of providing the hardware and ongoing support. It could also oversee coordination of the Digital Equity Plan with local governments in the State.

Implementation of Middle Mile Broadband Infrastructure (MMBI) Grant Program

This MMBI is a \$1 billion program for the construction, improvement, or acquisition of middle-mile infrastructure. The purpose of the grant program is to expand and extend middle-mile infrastructure to reduce the cost of connecting unserved and underserved areas to the internet backbone. Eligible applicants include states, political subdivisions of a State, tribal governments, technology companies, electric utilities, utility cooperatives, public utility districts, telecommunications companies, telecommunications cooperatives, nonprofit foundations, nonprofit corporations, nonprofit institutions, nonprofit associations, regional planning councils, Native entities, or economic development authorities.

32. *Middle-mile infrastructure is essential to American connectivity. Lack of affordable middle-mile access can have a substantial impact on the retail prices charged for*

broadband services. How should the Assistant Secretary ensure that middle-mile investments are appropriately targeted to areas where middle-mile service is non-existent or relatively expensive? To what extent should middle-mile grants be targeted to areas in which middle-mile facilities exist but cannot economically be utilized by providers that do not own them? Should NTIA target middle-mile funds to areas where interconnection and backhaul costs are impacted by a lack of competition or other high-cost factors?

The NTIA should impose the following requirements for middle mile projects:

- Middle Mile should be publicly-owned and/or provide at cost access to any provider.
- Establish reporting requirements for, and monitor bulk data costs by region
- Require coordination of middle mile networks for the following:
 - Geographic redundance
 - Connection with adjacent networks for resiliency
 - Connections to other networks to support lower bulk data costs.

33. The Bipartisan Infrastructure Law’s provisions regarding the Middle Mile Broadband Infrastructure Grant Program set out a range of considerations governing NTIA’s assessment of proposals seeking middle-mile funding, including improving affordability, redundancy and resiliency in existing markets, leveraging existing rights-of-way, assets, and infrastructure, and facilitating the development of carrier-neutral interconnection points. See BIL § 60401(e), (b)(2), (d)(2). How should NTIA implement these requirements, and the others listed in the legislation, in prioritizing middle-mile grant Applications?

- Require all middle mile existing and planned networks to be publicly share their GIS inventory files.
- Require middle mile networks to be community (publicly) owned.
- Require adequate spare fiber for future growth.

34. What requirements, if any, should NTIA impose on federally funded middle-mile projects with respect to the placement of splice points and access to those splice points? Should NTIA impose other requirements regarding the location or locations at which a Middle mile grantee must allow interconnection by other providers?

The NTIA should impose the following requirements for middle mile projects:

- Middle mile plans must include splice points for -
 - Interconnections with other networks for resiliency, geographic redundancy and reduced costs
 - Drops at key road crossings
 - Drops for anchor institutions

35. How can the Middle Mile Broadband Infrastructure program leverage existing middle-mile facilities, access to rights of way, poles, conduit, and other infrastructure and capabilities that are owned, operated, or maintained by traditional and non-traditional providers (public and investor-owned utilities, grid operators, co-ops, academic institutions, cloud service providers, and others) to accelerate the deployment of affordable, accessible, high-speed broadband service to all Americans? What technical

assistance or guidance should NTIA provide to encourage applications for this program? Are there examples of successful deployments and/or benefits provided by non-traditional providers to highlight?

- Construction plans should be coordinated with Agency of Transportation, Housing agencies, and electric utility construction plans to take advantage of reduced make-ready work through shared trenching and utility pole height coordination.
- The state of Vermont's two largest electric utilities offers a make-ready discount program to incentivize construction of networks to unserved locations. In early 2021, the Vermont Public Utility Commission approved a Temporary Unserved Location Broadband Deployment Rider effective with bills rendered on and after March 15, 2021. The Program is intended to support broadband providers offering service to unserved locations by providing a discount of up to \$2,000 on make-ready services

36. As network demand grows, capacity needs in the middle mile and network core grow as well. What scalability requirements, if any, should NTIA place on middle-mile grant Recipients?

- The incremental fiber costs during construction are insignificant in terms of overall project costs. Middle mile infrastructure should have an ample number of spare tubes available for future growth.

Respectfully submitted,

By:

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February __, 2022



REQUEST FOR PROPOSAL
For
Telecommunications Contract Negotiator/Legal
Counsel for Municipal Telecoms

Issue Date: January 26, 2022

Response Due Date: February 15, 2022

Department Contact: Stan Macel, General Counsel
Rob Fish, Deputy Director
Vermont Community Broadband Board
112 State Street
Montpelier, VT 05620

Phone: 802-636-7321

Email: stan.macel@vermont.gov

Vermont Community Broadband Board REQUEST FOR PROPOSALS

The Vermont Community Broadband Board (VCCB) “Board” provides funding, oversight, and support for the State of Vermont in its efforts to get every address connected to high-speed Broadband. As defined in [Act 71](#), passed by the legislature and signed into law on June 8, 2021, Communication Union Districts (CUDs) have been established to construct and operate fiber optic networks to carry out Broadband goals.

The State’s strategy for broadband deployment focuses on public entities called Communications Union Districts. A Communications Union District is an organization of two or more towns that join together as a municipal entity to build communication infrastructure together. 207 Vermont towns are actively involved in CUDs with over 404 volunteer board members and alternates supporting Vermont’s effort to get everyone connected. Over 90 percent of the unserved and underserved addresses are covered by CUDs

Most Communications Union Districts are volunteer-run or dependent on a small staff. Only one Communications Union District is serving customers. Over the next year, the eight other Districts will begin providing broadband internet service, as well as Voice Over Internet Protocol (VOIP) phone service. Some may also provide other over-the-top services. The organizations are not in competition and service territories do not overlap.

The purpose of this RFP is to identify a consultant or consultants that can provide expert behind-the-scenes and in-the-room assistance upon request to Communications Union Districts negotiating partnership agreements and other contracts with private Internet Service Providers and other vendors. Assistance will include representing individual Communications Union Districts and potentially groups of Communications Union Districts engaged in contract negotiations for the provision of services, operating agreements, and the purchase of materials. Types of assistance will include research, contract drafting and review, and potentially participation in negotiations.

Proposals are due by 4:30 p.m., February 10, 2022

Scope of Services

Provide expert legal and negotiating advice and research assistance to Communications Union Districts engaged in activities such as negotiating for the provisioning of goods and services, operating or other partnership agreements, mergers and acquisitions, municipal bonding and private investment agreements, and other types of public-private partnerships. The Vermont Community Broadband Board will hold the master contract, but the consultant will have proprietary relationships and separate agreements with Communications Union Districts making use of this shared service.

Deliverables

The final deliverable is certification that all Communications Union Districts planning to operate a fiber-optic network have successfully submitted all necessary regulatory filings as outlined in the scope of services.

Work products of the respondent chosen through this RFP will consist of the following:

1. Develop a process for Communications Union Districts to access your services in a timely and efficient manner. This process must ensure the appropriate level of confidentiality with each CUD that engages in your services.
2. Engage with Communication Union Districts that require the assistance in negotiating for provisioning of goods and services, operating or other partnership agreements, mergers and acquisitions, municipal bonding and private investment agreements, and other types of public-private partnerships.
3. Provide the Vermont Community Broadband Board with expert advice upon request.
4. Provide monthly updates on time and expenses billed for services.

Schedule

Respondent selected for this work must be able to begin work within 10 days upon awarding of the contract and to prepare for meeting the timeline established above for the completion of work.

Setting

Most work can be completed remotely. Depending on the nature of the negotiation and associated meetings so in-person meetings may be necessary.

Oversight

The contract will be managed jointly by Stan Macel, General Counsel and Rob Fish, Deputy Director. Other staff and Board resources will be available to provide guidance, contact information for individual Communications Union Districts, and connections as need to Vermont agencies and boards that may require filings.

Proposal Format

All responses to this RFP must include the following information:

1. A brief description of the firm, which includes its history, organizational structure, and qualifications of relevant professional staff, including names and resumes with detailed qualifications and levels of competence of all individuals proposed to perform services. Subcontractors, if any, must be listed, including the firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning the subcontractor's organization and abilities.
2. A list with the names, phones numbers, and email addresses of personnel authorized to

negotiate the proposed contract with the Board. All proposals must be signed by a duly authorized representative of the party (or parties) submitting the proposal.

3. A list of recent work performed related to telecom, public private partnerships, and the structuring of potentially complete deals.

4. A discussion of the respondent staff's expertise and experience relevant to the subject matter of this RFP.

6. A description of any experience working with municipal entities on ensuring regulatory compliance. Please note any experience working with volunteer boards.

5. A description of all known or probable scheduling constraints or limitations on staff availability within the timeframe of the contract.

6. Respondent selected will be compensated on a time and material basis. Please indicate the following:

- a. Fees for staff time, showing the level of staff to be assigned, titles, and hourly rates;
- b. Description of all overhead and other costs that may be billed.

7. A declaratory statement regarding respondent's past, current and anticipated relationships, obligations and commitments with any entity engaged in developing, constructing, operating, maintaining, and/or monitoring any telecommunications facilities in Vermont

Performance Measures

All contracts with the State of Vermont are required to have some form of performance measures. In the contract resulting from this RFP. The Board expects that such measures will consist of (1) the timing related to the consultant's submittal of deliverables, (2) the timing related to the consultant's response to any Board requests for updates, and (3) the successful completion of the scope of work; and (4) feedback from the Communications Union Districts.

Requirements

All proposals must be received no later than 4:30 p.m., February 10, 2022, in electronic format. Electronic copies should be sent to: stan.macel@vermont.gov and Robert.fish@vermont.gov. The Department reserves the right to accept or reject any or all bids. If a respondent is selected, it will be invited to negotiate a contract.

Selection Criteria

The Board will evaluate all proposal received based on the reasonableness of costs, completeness and quality of the proposal, qualifications of the individuals proposed to perform the work, relevance of previous experience, the proposed methodology for accomplishing the work, and any other criteria determined by the exercise of the Board's sole discretion.

The board reserves the right (but is not obligated) to interview the top prospective candidates to aid in the selection process.

Questions Concerning RFP

Stan Macel

Phone: 802-636-7321

Email: stan.macel@vermont.gov

Rob Fish

Phone: 802-522-2617

Email: Robert.fish@vermont.gov

General Terms and Conditions

1. The consultants awarded this contract shall, upon notification of award, apply for registration with the Vermont Secretary of State's Office to do business in the State of Vermont, if not already so registered. Registration instructions may be found at: <https://www.sec.state.vt.us/corporationsbusiness-services/start-or-register-abusiness.aspx> or by contacting the Corporations Division at 128 State Street, Montpelier, VT 05633-1104 or by telephone at (802) 828-2386. The Department will not execute the contract until the consultants are registered with the Secretary of State's Office.
2. Respondents' technical proposals become public records and may become available for public review and inspection upon execution of a contract. The contents of the successful respondent's proposal, as accepted by the Board, may become part of the contract awarded as a result of this process. If any bidding party wishes to submit confidential information, all such information must be clearly designated and include an explanation for the designation.
3. The Board reserves the right to reject any and all proposals received as a result of this solicitation, to negotiate with any qualified source, to waive any formality and technicalities, or to cancel this RFP in part or in its entirety if it is in the best interests of the State.
4. The Board shall not be responsible for any costs incurred by any party in preparation of any proposal submitted in response to this RFP.
5. News releases pertaining to this RFP, contract award, or the project shall not be made without prior written approval from the Board.
6. All parties submitting proposals shall be Equal Opportunity Employers. During the duration of the performance of the contract, the consultants will be expected to comply with all federal, state, and local laws respecting non-discrimination in employment.
7. All proposals and deliverables become the property of the Board upon submission. Unselected proposals may be destroyed or returned to the bidder at the Board's discretion. This solicitation for proposals in no way obligates the Board to award a contract.
8. The Board assumes no liability in any fashion with respect to this RFP or any matters related thereto. All prospective consultants and their subcontractors or 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, damages, losses and expenses or whatsoever kind of law or equity known or unknown, foreseen or unforeseen, arising from or out of this RFP and/or any subsequent acts related thereto, including but not limited to the recommendation of a consultant and any action brought by an unsuccessful respondent.
9. The selected respondent shall furnish any available information in their possession to the Board upon request, if relevant to the project.

10. The selected respondent will be required to enter into a standard Vermont State Contract, which will include all conditions included the standard "Attachment C" form, which is attached to this RFP. Attachments

- i. Attachment C: Standard State Contract Provisions (Revised December 15, 2017)
- ii. Federal Terms Supplement for all Contracts and Purchases of Products and Services Connected with 2020 Pandemic

DRAFT



REQUEST FOR PROPOSAL

For

Regulatory Assistance for Municipal Telecoms

Issue Date: January 26, 2022
Response Due Date: February 15, 2022

Department Contact: Stan Macel, General Counsel
Rob Fish, Deputy Director
Vermont Community Broadband Board
112 State Street
Montpelier, VT 05620

Phone: 802-636-7321
Email: stan.macel@vermont.gov

Vermont Community Broadband Board REQUEST FOR PROPOSALS

The Vermont Community Broadband Board (VCCB) “Board” provides funding, oversight, and support for the State of Vermont in its efforts to get every address connected to high-speed Broadband. As defined in [Act 71](#), passed by the legislature and signed into law on June 8, 2021, Communication Union Districts (CUDs) have been established to construct and operate fiber optic networks to carry out Broadband goals.

The State’s strategy for broadband deployment focuses on public entities called Communications Union Districts. A Communications Union District is an organization of two or more towns that join together as a municipal entity to build communication infrastructure together. 207 Vermont towns are actively involved in CUDs with over 404 volunteer board members and alternates supporting Vermont’s effort to get everyone connected. Over 90 percent of the unserved and underserved addresses are covered by CUDs

Most Communications Union Districts are volunteer-run or dependent on a small staff. Only one Communications Union District is serving customers. Over the next year, the eight other Districts will begin providing broadband internet service, as well as Voice Over Internet Protocol (VOIP) phone service. Some may also provide other over-the-top services. The organizations are not in competition and service territories do not overlap.

The purpose of this RFP is to identify a consultant or consultants that can provide hands on assistance to each of these organizations. Assistance will include identifying necessary state and federal filings, soliciting the necessary information from each organization, and then drafting and filing the required information with state and federal regulators.

The VCBB is seeking an experienced legal consultant (Consultant) to help the VCBB and the CUDs understand and comply with federal and state telecommunications laws and regulations, including FCC requirements. Such requirements may include practical instructions regarding registration in the appropriate capacity with the FCC, USAC, and other federal agencies, assistance complying with federal and state telecommunications programs (e.g., Lifeline, E911, carrier of last resort, filing customer privacy network information forms), helping to develop internal policies (e.g. CPNI, digital copyright, open internet transparency policy, security), guidance regarding compliance with federal grant programs (e.g., those in RDOF, ARPA, IJJA and CPF), and compliance with state-specific requirements (e.g., registering as a municipality, making state filings with appropriate regulators, and complying with the Vermont universal Service Fee). The Consultant will work on an as needed basis with the CUDs and the VCBB.

Proposals are due by 4:30 p.m., February 15, 2022

Scope of Services

The VCBB is seeking an experienced legal consultant (Consultant) to help the VCBB and the CUDs understand and comply with federal and state telecommunications laws and regulations, including FCC requirements. Such requirements may include practical instructions regarding registration in the appropriate capacity with the FCC, USAC, and other federal agencies, assistance complying with federal and state telecommunications programs (e.g., Lifeline, E911, carrier of last resort, filing customer privacy network information forms), helping to develop internal policies (e.g. CPNI, digital copyright, open internet transparency policy, security), guidance regarding compliance with federal grant programs (e.g., those in RDOF, ARPA, IIJA and CPF), and compliance with state-specific requirements (e.g., registering as a municipality, making state filings with appropriate regulators, and complying with the Vermont universal Service Fee). The Consultant will work on an as needed basis with the CUDs and the VCBB.

Deliverables

The final deliverable is certification that all Communications Union Districts planning to operate a fiber-optic network have successfully submitted all necessary regulatory filings as outlined in the scope of services.

Work products of the respondent chosen through this RFP will consist of the following:

1. Provide the Vermont Community Board with the following within 60 days of the execution of the contract:
 - a. An overview of the state and regulatory filings required for each CUD and the timeline for necessary filings based on the status of the CUD.
 - b. Status for each CUD. Some CUDs may already have filed the necessary paperwork to be in compliance.
 - c. Plan for each CUD to achieve full regulatory compliance
2. Copies of each filing should be shared with the Vermont Community Broadband Board. All CUDs that will be directly serving customers should be in compliance and enrolled in necessary programs within nine (9) months.
3. Final report updating the status of each CUD and a providing a calendar of due dates for future filings.

Schedule

Respondent selected for this work must be able to begin work within 30 days upon awarding of the contract and to prepare for meeting the timeline established above for the completion of work.

Setting

All work, including presentations to the Board, can be completed remotely.

Oversight

The contract will be managed jointly by Stan Macel, General Counsel and Rob Fish, Deputy Director. Other staff and Board resources will be available to provide guidance, contact information for individual Communications Union Districts, and connections as need to Vermont agencies and boards that may require filings.

Proposal Format

All responses to this RFP must include the following information:

1. A brief description of the firm, which includes its history, organizational structure, and qualifications of relevant professional staff, including names and resumes with detailed qualifications and levels of competence of all individuals proposed to perform services. Subcontractors, if any, must be listed, including the firm name and address, contact person, complete description of work to be subcontracted, and descriptive information concerning the subcontractor's organization and abilities.
2. A list with the names, phones numbers, and email addresses of personnel authorized to negotiate the proposed contract with the Board. All proposals must be signed by a duly authorized representative of the party (or parties) submitting the proposal.
3. A list of recent work performed related to telecom and/or regulatory assistance.
4. A discussion of the respondent staff's expertise and experience relevant to the subject matter of this RFP.
6. A description of any experience working with municipal entities on ensuring regulatory compliance. Please note any experience working with volunteer boards.
5. A description of all known or probable scheduling constraints or limitations on staff availability within the timeframe of the contract.
6. Respondent selected will be compensated on a time and material basis. Please indicate the following:
 - a. Fees for staff time, showing the level of staff to be assigned, titles, hourly rates;
 - b. Description of all overhead and other costs that may be billed.
7. A declaratory statement regarding respondent's past, current and anticipated relationships, obligations and commitments with any entity engaged in developing, constructing, operating, maintaining, and/or monitoring any telecommunications facilities in Vermont

Performance Measures

All contracts with the State of Vermont is required to have some form of performance measures. In the contract resulting from this RFP, the Board expects that such measures will consist of (1) the timing related to the consultant's submittal of deliverables, (2) the timing related to the consultant's response to any Board requests for updates, and (3) the successful completion of the scope of work; and (4) feedback from the Communications Union Districts.

Requirements

All proposals must be received no later than 4:30 p.m., February 15, 2022, in electronic format. Electronic copies should be sent to: stan.macel@vermont.gov and Robert.fish@vermont.gov. The Department reserves the right to accept or reject any or all bids. If a respondent is selected, it will be invited to negotiate a contract.

Selection Criteria

The Board will evaluate all proposal received based on the reasonableness of costs, completeness and quality of the proposal, qualifications of the individuals proposed to perform the work, relevance of previous experience, the proposed methodology for accomplishing the work, and any other criteria determined by the exercise of the Board's sole discretion.

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