

# 2020 Virginia Telecommunication Initiative Program Guidelines and Criteria



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# Program Guidelines

## Background

The issue of rural telecommunications is not only one of technology; it is essential infrastructure for modern community and economic development. Many rural communities in Virginia evolved around industry sectors that have dramatically declined—rail, textile, manufacturing, resource extraction to name a few. Broadband availability promotes sustainability and competitive advantages of communities by providing access to health care, particularly through the introduction of telemedicine, improving the local workforce, providing increased educational opportunities through distance learning, and encouraging an entrepreneurial economy where new and existing home-based and small businesses are able to compete globally.

Rural communities increasingly struggle to retain existing businesses due to slow, sporadic, or limited broadband services. Since the vast majority of businesses rely on the internet to perform business functions such as online banking, e-commerce transactions (i.e. sales and on-line payment processing), market development (i.e. on-line ads, websites, bulk-email, etc.), customer service through on-line chat or emails and internal/external communication, broadband connectivity is vital to the performance of microenterprise, small, and large businesses. Broadband has gone from being a luxury to a necessity for full participation in the twenty-first century economy.

Questions regarding Competitive Grant proposal development or about the application guidelines should be directed to:

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**The main VATI email**

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Please refer questions regarding your application submittal through CAMS to Tammy L. Breski.

## **Program Description**

The Virginia Department of Housing and Community Development (DHCD) will implement the Virginia Telecommunications Initiative (VATI). The goal of VATI is to enhance sustainability and competitive advantages of communities throughout the Commonwealth by preparing those communities to build, utilize, and capitalize on telecommunications infrastructure. Consistent with the enabling legislation, DHCD will award the \$19 million FY 2020 appropriation to eligible applicants to provide last-mile services to unserved areas of the State. DHCD reserves the flexibility to award any amount to eligible grantees, depending entirely on the quality and quantity of applications received.

The primary objective of VATI is to provide financial assistance to supplement construction costs by private sector broadband service providers, in partnership with local units of government to extend service to areas that presently are unserved by any broadband provider.

### **Freedom of Information Act (FOIA)**

Effective July 1, 2019, “information related to a grant application, or accompanying a grant application, submitted to the Department of Housing and Community Development that would (i) reveal (a) trade secrets, (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant. “

In order to receive this FOIA protection, the applicant must request and follow DHCD’s written FOIA policy.

### **Eligible Applicant**

Applications must be submitted by a unit of government (Towns, Cities, Counties, Economic Development Authorities/Industrial Development Authorities, Broadband/Wireless Authorities, Planning District Commissions, School Districts, etc.) with a private sector provider(s) as a co-applicant. Eligible projects will be owned and operated by the private sector co-applicant.

## **Program Requirements**

- A. Unserved Areas
- B. Multiple Applications
- C. Project Financing
- D. Internet Speeds
- E. Existing Funding
- F. Public Comment Period
- G. Challenge Process
- H. Project Implementation Deadline
- I. Suitable Organizational and Management Capabilities

### **Projects Must Only Address Unserved Areas**

DHCD will award funding to applicants to provide last-mile services, including middle-mile networks, equipment, or other investments required to deliver last-mile service to unserved areas of the State. Unserved serviceable units are defined as having broadband speeds of 10 Mbps download and 1 Mbps upload or less. In addition, a proposed project area is considered eligible if 10% or less of serviceable units have access to service with no additional special construction costs from any provider as of the date of the application for the proposed project areas.

Applicants are discouraged from overbuilding existing service areas in the proposed project area as this will lower the applicants' evaluation score.

### **Multiple Applications**

An applicant must submit one application per service provider. This does not limit a service provider from submitting an application with more than one unit of local government. This also does not limit units of local governments from submitting applications with multiple service providers, or from including project areas that cross jurisdictional boundaries.

An applicant may designate separate Service Areas through a single application where:

- The applicant proposes to serve project area(s) that may or may not share contiguous boundary.
- The co-applicant (service provider) is the same for all the service area(s)
- The applicant can propose the use of different technology solutions in the single application
- If designating more than one service area in a single application, each service area must be clearly delineated and the required data and budget information must be provided.

## **Project Financing**

Governor Northam has set a goal of providing financial assistance (gap financing) to supplement construction costs by private sector broadband service providers to extend service to areas that presently are unserved by any broadband provider. Consistent with that goal, applicants are encouraged to provide a co-investment. DHCD funding shall not exceed eighty-percent (80%) of the total project cost.

## **Internet Speed**

VATI is designed to ensure that unserved areas of the Commonwealth have access to broadband speeds of at least 25 Mbps download and 3 Mbps upload. Projects proposing higher speeds in the most cost efficient manner will receive funding priority. In each case, the co-applicant will be required to demonstrate how their proposed technology solution will deliver the promised speeds in the proposed area once operational and how capacity will be aggregated in the network design.

## **Public Comment**

All applicants are required to have solicited public comment fora fifteen (15) day period before submitting applications to DHCD. If an application is received that has not undergone a fifteen (15) day public comment period, it will not be considered for review. **Advertisement seeking Public Comment must be made in a non-legal, locally-circulated newspaper with the largest general circulation, as well as posted on the locality website and in public buildings.** The notices must provide the address, phone number, TDD, and times for submitting comments and grievances to the applicant locality. All comments must be provided to DHCD with the application.

## **Challenge Process**

DHCD will post electronic copies of all submitted applications to the agency website after the deadline for application submissions has passed and before project approval. Any private sector service provider wishing to request that DHCD deem a proposed project area as ineligible for VATI must submit a challenge with the information required in this section no later than 5:00 p.m. on October 9, 2019. DHCD will have 30 business days to validate a challenge.

Applicants will be notified if their proposed project area is being challenged. Applicants will have 15 business days from notification of a challenge to provide any additional information to DHCD. Providers choosing to challenge a submitted application must provide a signed and notarized Affidavit including the following:

1. Submit their current FCC Form 477 or equivalent

2. The incumbent provider is required to provide minimum/max speeds provided by their company in the proposed project area.
3. Number of serviceable units that they provide the speed within peak interval.
4. Provide street level data of actual customers receiving service within the proposed project area. Provide the speeds those customers are able to receive. Proposed or planned service to the VATI project area will not demonstrate service for the purpose of a challenge to a proposed project unless State or Federal funds have been committed. Must provide proof of funding commitment.
5. The Department must receive all of the information referenced above or the challenge will be deemed invalid. The Department shall evaluate challenges that submit all of the information referenced above and determine if the challenger demonstrated that more than 10% of serviceable units in a proposed project area serviceable at speeds above 10/1 Mbps as of the date of the application. Multiple providers may challenge a proposed project and challenges will be aggregated by the Department to determine percentage of serviceable units served by current providers in a proposed project area.
6. Challenges can be made to portions of the proposed project areas without invalidating the entire project.

The Department shall notify the applicant and challenger in writing if a challenge is deemed valid or invalid. All applications will remain in consideration until the received challenge evaluation has been completed.

3rd party verified speed tests of challenged project areas are required for the technologies that can have variable speeds.

### **Implementation Deadline**

In accordance with the goals of VATI, the applicants must demonstrate that their projects will be completed within twelve months after contract execution with DHCD, and must detail major benchmarks and timing of anticipated achievement of each benchmark.

### **Applicants Must Demonstrate Organizational and Management Capabilities**

To participate in VATI, applicant and co-applicant must demonstrate suitable organizational and management capabilities. To determine whether applicants meet this criterion, applicants and private sector partner(s), must submit the following documents and/or attest to each of the following:

1. Documentation that proposed project area is unserved based on VATI criteria;
2. Private Service Provider must provide proof that they have filed an FCC Form 477 for two years prior to submission of application. If provider has not been required to submit an FCC Form 477 in previous years, equivalent data must be provided.

3. Projects must be fully-financed, through a combination of the total requested VATI funds, committed funds from the Applicant or Co-Applicant, and in-kind resources;
4. Co-applicants must document current assets, (i.e. total amount of available cash and equivalents, callable capital, in an amount no less than the proposed committed funding, or a commitment letter for financing) in the amount of match funds committed for the project at the time of application;
5. Applicants must be in good standing in performance of any and all existing Commonwealth of Virginia contracts, and compliance with all federal, state, and local laws.

### **Proposal Due Date**

Proposals are to be submitted on September 3, 2019 by **11:59 p.m.** Please note that DHCD offices close at 5:00 p.m. Staff will not be available to provide CAMS technical assistance after 5:00 p.m.

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## Proposal Evaluation Criteria

- Demonstrate Need — Unserved areas are defined as having broadband speeds 10 Mbps download and 1 Mbps upload or less.
  - Applicant must include the number of proposed serviceable units passed that are unserved at the time of application including residential, business and community anchors
  - Take Rate, Adoption and Affordability- Demonstrate commitment to ensuring customers take the service through best practices in broadband adoption plan and commitment to plan implementation and reporting if awarded.
  - Meeting VATI Implementation Speeds—Project must meet minimum implementation speed 25Mbps/3 Mbps and will receive additional points for higher speeds.
- Project Readiness — The applicant and co-applicant must demonstrate readiness and capacity to successfully implement the VATI grant.
  - Leverage must be supportable and consistent with program guidelines. Local government co-applicants should demonstrate assistance to project that will lower overall cost and further assist in the timely completion of construction, including assistance with permits, rights of way, easements and other issues that may hinder or delay timely construction and increase cost.
- Budget and Cost-Appropriateness — Proposed construction costs must supportable and consistent with program guidelines.
- Commonwealth Priorities - Additional points will be awarded to proposed projects that reflect Commonwealth priorities; these include regional/statewide significance, economic impact, and if the project fits into a larger broadband plan.

## Definitions

**Anchor Institutions** – Enterprises (i.e hospitals, libraries, etc.) that are rooted in their local communities by mission, invested capital, or relationships to customers, employees or vendors.

**Business** – An organization or entity that provides goods or services in order to generate profit.

**Digital Subscriber Line (DSL)** – A technology for bringing high-bandwidth information to homes and small businesses over ordinary copper telephone lines

**Eligible Project Costs** – Expenses eligible for reimbursement under the VATI grant

**Fiber-to-the-Home (FTTH)** – A network that delivers internet service over optical fiber directly to an end-user home, business, or other Unit

**Fixed Wireless** – Wireless devices or systems that are situated in fixed locations

**Hybrid Fiber Coaxial (HFC)** – A broadband network combining optical fiber and coaxial cable

**Last-Mile** – Components of a network that provide broadband service to end-user premises or devices through an intermediate point of aggregation (*e.g.*, remote terminal, fiber node, wireless tower, or other equivalent access point)

**Middle Mile** – Network components that provide broadband service from one or more centralized facilities (*e.g.*, the central office, the cable head-end, the wireless switching station, or other equivalent centralized facilities) to an Internet point of presence

Peak Interval- Weekdays from 7:00 pm – 11:00 pm local time.

Served - Properties that currently have access to internet speeds from a wireline or wireless facilities-based provider at higher than 10/1 Mbps

**Service Area** – Refers to the geographic territory in which an applicant has proposed to provide service

**Serviceable Units** – Properties that are eligible for broadband service without additional special construction costs from the property owner/subscriber

**Unserved** – Properties that currently have access to internet speeds at 10/1 Mbps or less.