

**CAPITAL DISTRICT REGIONAL PLANNING COMMISSION
REQUEST FOR PROPOSALS FOR AN OPEN ACCESS NETWORK
FEASIBILITY STUDY FOR THE CAPITAL DISTRICT REGIONAL
PLANNING COMMISSION**

RFP #01-2024

INTRODUCTION

The Capital District Regional Planning Commission (“CDRPC”) is seeking proposals from qualified communication and technology firms (“Consultant”) to provide a feasibility study for the development of an Open Access Network (OAN) in the Capital Region (Albany, Rensselaer, Saratoga, and Schenectady Counties).

The project is being funded by CDRPC with funds originating from the federal Northern Border Regional Commission, NYS Department of State and Empire State Development.

Access to high speed broadband internet is a necessity for the Region’s economy and quality of life. High speed broadband internet is a prerequisite to educating our children; growing our economy; and providing a quality of life which attracts and retains citizens. The goals of this project include:

- Developing a regional Open Access fiber backbone to interconnect and provide cost avoidance opportunities for municipal entities within the region.
- Facilitating access to high speed broadband internet for all residents of the Capital Region; and
- Increasing competition within the residential and commercial broadband industry.
- Supporting the development of proposals to expand the existing broadband network to unserved and underserved areas.

Section 1. Purpose:

The Capital District Regional Planning Commission (CDRPC) the federally designated Economic Development District for Albany, Rensselaer, Saratoga, and Schenectady Counties of New York State, is seeking proposals from qualified firms to provide a feasibility study for the development of an Open Access Network (OAN). **Work related to Albany County will be included as an alternate.**

1.1 Open Access Network Feasibility Study: The consultant(s) will be engaged exclusively by CDRPC and are required to provide scope of work, rates and budget.

Section 2. Receipt of Proposals:

Proposals may be submitted via email to cdrpc@cdprc.org later than **March 5,**

2024. Late proposals may not be considered. Proposals must be attached as a single PDF document with the subject line **“Proposal Enclosed – RFP – 01-24 Open Access Network Feasibility Study.”**

2.1 MWBE Requirement: NYS Certified Minority and Women Owned Business (MWBE) and/or Service-Disabled Veteran-Owned Businesses (SDVOB) are encouraged to apply. **Work conducted under this solicitation requires 30% MWBE participation in aggregate.**

2.2 Questions: Questions regarding these specifications shall be directed to Mark Castiglione, Executive Director, no later than 12:00 pm on February 20, 2024, by e-mailing to cdrpc@cdrpc.org. All questions must be submitted in writing. Responses to any questions will be provided by written addenda posted to the website at cdrpc.org on February 29, 2024. CDRPC shall not be bound by any verbal responses.

2.3 Conditions: CDRPC reserves the right to award the Contract under this RFP to the firm(s) whose proposal best serves the interest of CDRPC. CDRPC reserves the right to reject any and all proposals or part thereof, not considered to be in the best interest of CDRPC, and to waive any technical or formal defect in the proposals which is considered by CDRPC to be merely irregular, immaterial, or unsubstantial.

Section 3. Scope of Services:

The selected proposer will be the Open Access Network Feasibility Study provider to CDRPC whose duties shall include data collection and analysis, planning and, GIS assistance and business planning services to support the development of an Open Access Network (OAN) feasibility study.

3.2 Open Access Network Feasibility Study:

For the OAN feasibility study portion of the project, consultants will be engaged exclusively by CDRPC and are required to provide scope of work, rates and budget.

A. Project Initiation *(Tasks include, but are not limited to):*

1. The consultant shall meet with the Project Team (CDRPC staff, potentially others) to discuss project scope.
2. The consultant shall organize meetings with all involved parties (including the Project Team as well as other involved municipal, educational and private entities as needed to fully vet the fiber opportunity.
3. The consultant shall perform all work necessary to meet the project timeline as outlined in the Project Schedule.
4. The consultant must understand that in-person meetings with the Project Team (as often as monthly), in will be required.

Review and Assessment of any relevant plan identified in the 2023

State Digital Equity Plan, and the 2023 [Broadband Deployment Initial Proposal Volumes 1 and 2.](#)

Review and Assessment of the 2022 “Connect Albany” Albany County Broadband Assessment & Feasibility Study; and the Saratoga County Broadband Feasibility Study.

Review and assessment of the City of Albany’s 2017 [Broadband Assessment and Feasibility Study](#)

Review and assessment of the City of Albany’s 2022 [Preliminary Report on the Feasibility of Municipal Broadband Internet Service for the City of Albany, NY](#)

Tasks are expected to include but are not limited to: Review the studies mentioned above and

1. Review the assumptions, recommendations, and findings for applicability and relevance as a foundation for the Open Access fiber network project.
2. Assess changes since 2023 for impact on proposed the Open Access fiber network project, this is expected to include competitive, technological, legal, market changes, trends in the industry, price fluctuation, etc. which may impact the proposed project.
3. Develop model options that address the recommendations, including a partnership model to lease to own scenario.
4. Conduct a desktop analysis of Rensselaer, Saratoga and Schenectady Counties to derive appropriate information to inform the feasibility and routing of an Open Access fiber network.

B. Market Outreach:

1. Conduct a demand analysis, including primary markets research and identifying demand generators or potential users of the facility.
2. Assessment of routing preferences which may be advantageous to reduce cost/ roll out time (County railroad, roads, sewer, or utility corridors which may be utilized and impact routing).
3. Assessment of routing preferences which may be advantageous to provide service to Community Anchor Institutions (CAIs) as defined by the NYS ConnectAll Office.
4. Determine pricing parameters which will be utilized in customer outreach.
5. Interview/conduct outreach to potential anchor customers and potential new users, including government, education, and medical industry users to assess interest in utilizing the Open Access fiber network .
6. Obtain commitments from key customers in an amount sufficient

to sustain the initial buildout of the network. Outreach shall include but is not limited to BOCES, School Districts, Towns/Cities/Villages/Counties, Libraries, Businesses, Hospitals, Public Safety agencies and other relevant institutions.

7. Interview/conduct outreach to Internet Service Providers (ISP) to gauge interest and obtain commitments from Internet Service Providers (ISP) in an amount sufficient to justify buildout.
8. Estimate demand for the proposed Open Access fiber network.

C. Business Plan for Broadband Utility based on preferred alternative (*Tasks include, but are not limited to*):

Potential business plan components are listed in Appendix A, the intent of the business plan is to

- Advance the goals of CDRPC to:
 - Identify opportunities to provide cost reductions and increased security for Community Anchor Institutions as defined by the NYS ConnectAll Office-providing at minimum symmetrical gigabit service.
 - Increase the availability of high-speed broadband internet to unserved or underserved residents.
 - Increase local competition within the residential and commercial broadband industry.
- Assess the overall feasibility of the Open Access fiber network proposal from a variety of viewpoints (financing, operations, sustainability etc.) to aid in decision making.
- Funding – it will be utilized for pursuing funding which may include BEAD, capital bonding, private investment, and grant sources. The business plan should be in a format and contain the components necessary to meet private borrowing standards.
- Phasing Plan – divide project phases. Phases should be independent and not contingent upon additional phases.
- Potential business plan components are provided in appendix A.

3.2a Ad Alternate for OAN Feasibility Study Work in Albany County:

Given certain constraints related to the funding sources for this project, costs related to work for or within Albany County must be tracked separately.

3.3 Time for or Duration of Services:

The duration of the contract will be for a term of two (2) years with an optional renew clause for two, (2) year terms. These projects are state and federally funded and will be subject to the certifications and conditions thereby required.

At all times CDRPC reserves the right to terminate the agreement upon thirty (30) days written notice to the Consultant, or in the event of non-performance, immediately terminate.

3.4 Responses to this RFP:

- A. Proposals must be received no later than March 5, 2024. All parties interested in responding, must send one electronic (single PDF) version delivered by electronic mail to cdrpc@cdrpc.org.

Key Dates:

Date	Action
February 6, 2024	RFP Release Date
February 20, 2024	Question Submission Deadline
February 29, 2024	Addenda available on website
March 5, 2024	Proposals Due by 12 PM

CDRPC may reject proposals, or any portions thereof, which are materially incomplete and/or which do not conform to the proposal content or submission requirements. CDRPC also reserves the right, to the extent permitted by law, to waive any irregularity, variance, or informality in a proposal in keeping with the best interests of CDRPC and to accept proposals which do not significantly alter the proposal's scope.

Submissions received by electronic mail must have the proposal attached as a single PDF document attached with the subject line "**Proposal Enclosed – RFP – 01-24 Open Access Network Feasibility Study.**"

Proposals received after March 5, 2024 may not be considered.

- B. When responding to this request, please send appropriate information, such as resumes, description of your company and experience which must include the following information:
1. Description of firm/staff qualifications, experience, and availability. At least one primary staff contact should be identified that would serve as a project manager for assigned work. Proposed project managers should be experienced with public presentations.
 2. List of at least three references and description of related work completed.
 3. Itemized cost proposals must include the Title and Hourly Rate for any proposed staff.
 4. Applicants are encouraged to emphasize their relative areas of expertise within their respective proposals. Specifically, CDRPC is looking for a firm that is knowledgeable in the status of and need for broadband in this region of New York State, methods to engage local governments in broadband mapping and

planning activities, methods to engage the federal and New York State government on behalf of the region, ability to provide GIS assistance to county and local governments, ability to conduct feasibility studies, thorough knowledge of publicly owned fiber networks, and ability to plan for and engineer broadband buildouts within the region.

5. CDRPC staff will be looking for unique or diverse skills as part of the selection process.
6. Proposing firms should submit information that describes the background and experience of staff to be available for assignment.
7. Demonstration of 30% DBE/MBE/WBE participation in both components of the project.
8. Cost and past performance will be considered, along with any other qualifications as determined by CDRPC.

Section 4: RFP Evaluation Criteria:

4.1 CDRPC will evaluate all proposals on the basis of the criteria specified below. These criteria are not necessarily listed in order of importance. CDRPC reserves the right to weigh its evaluation criteria in any manner it deems appropriate. While price will be a factor in consideration of the proposals, it is not the sole criterion. Considerable weight will be given to experience in the areas required and the track record of the proposers(s).

1. Experience of the firm(s) with similar type or work/projects.
2. Quality and relevant experience of staff proposed to work on the contract.
3. Cost
4. Logistics and familiarity with the project area/type
5. Demonstration of DBE/MBE/WBE participation.
6. Unique or diverse skills which are reflected in the response narrative.
7. Any other qualifications as determined by CDRPC to be appropriate considerations.

Section 5: General Terms and Conditions:

- 5.1 The Consultant selected shall be required to furnish an engagement letter and/or execute an agreement. The terms of such engagement letter or agreement is subject to discussion and agreement but is anticipated to include the following:
 - a. Inclusion of a scope of services similar to that set forth in this Request for Proposals unless modified upon agreement by CDRPC.

- b. A provision shall be included, which allows CDRPC to terminate services at any time upon thirty (30) days written notice.
- c. To the extent allowed under law or not prohibited by the contract, a credit of the fee payable shall be provided in the event that services are terminated and/or deleted.
- d. Insurance coverage satisfactory to CDRPC. In order to be considered for selection to provide the services requested by this RFP, the Contractor submitting the proposal must agree to not limit professional, general or other liability to an amount less than the limits of the required insurance coverage.
- e. A provision that requires all services performed under a contract awarded to the successful Contractor shall conform to prevailing professional or provider standards and to the requirements of the contract. Upon written notice of any defect from CDRPC, the Contractor will be expected to correct or re-perform any defective or nonconforming services at no cost to CDRPC. If the Contractor fails or refuses to correct or re-perform, CDRPC shall be entitled to any remedy that may be provided for under the contract, and in any event, that may be authorized by law.
- f. A provision requiring the Contractor to defend, indemnify and hold harmless CDRPC with regard to any negligent acts or omissions or malfeasance with regard to the services performed or to be performed.

The successful Contractor shall indemnify and hold harmless CDRPC, their officers, directors, agents and employees from, and against any and all claims, notices of claim, demands or causes of action for injury or death to any person, including Contractor's employees or damage to property (including all costs and reasonable attorney's fees incurred in defending any claim, demand or cause of action), arising, directly or indirectly, out of or resulting from, the performance of the Contractor's work or any negligent or wrongful acts, errors, omissions, negligence, incompetence, malfeasance and misfeasance by the Contractor, its employees, agents, materialmen, suppliers and/or subcontractors in the performance of its obligations under the agreement. CDRPC and the Contractor shall notify each other in writing within thirty (30) days of any such claims or demands and shall cooperate in the defense of any such actions. If this indemnity, or any part thereof, is made void or otherwise impaired by any law controlling construction thereof, such indemnity shall be deemed to conform to the indemnity permitted by law, so as to require indemnification in whole or in part to the fullest extent permitted by law.

- g. A provision requiring the Contractor to assume sole responsibility for completing services as requested and the Contractor may not assign the work to be performed without the consent of CDRPC, which consent shall rest in the sole discretion of CDRPC.
- h. A provision providing that the Contractor shall not be deemed an agent of CDRPC for any purpose whatsoever.
- i. Inclusion of such other terms and conditions that may be required pursuant to Federal or State Law, Regulation and/or by CDRPC Attorney.

5.2 Please note that retention of services by reason of this RFP is not certain. The right to reject any and all proposals, solicit new or additional proposals or perform some or all of the services in-house or by using services available from professionals currently under contract are retained at all times, even after proposals have been reviewed and considered.

5.4 Additional information, interviews and/or presentations may be required at the option of CDRPC. In no event shall CDRPC, its Boards, Officers and employees be liable for any costs incurred for the preparation of and participation in the submission of responses to this request or subsequent interviews of persons or companies.

5.5 It is the Contractor's sole responsibility to be familiar with and understand all terms and conditions regarding the RFP before the opening. Any questions should be submitted in writing to the contact person listed above and, if relevant, should cite the section and page number of the RFP document relating to the question raised by the Contractor. Answers to all questions of a substantive nature will be given to all Contractors as a formal addendum which will be annexed to and become part of the RFP. Please be advised that CDRPC shall not be bound by any verbal response by any CDRPC employee which is not confirmed in writing.

5.6 CDRPC reserves the right to waive or modify minor irregularities in proposals received, utilize any and all ideas submitted in the proposals unless those ideas are covered by legal patent or proprietary rights and generally adapt any or all of the proposal in developing contract language. With regard to legal patent or proprietary rights, it shall be incumbent upon the party furnishing the proposal to notify CDRPC of such.

5.7 Nothing contained herein shall be deemed an offer by CDRPC or be interpreted as making a representation or giving any assurances that a contract may be entered into or that CDRPC is in some fashion obligated. Should CDRPC be unsuccessful in negotiating a contract with the Contractor within the time frame

acceptable to CDRPC, CDRPC may begin contract negotiations with another Contractor responding to the RFP, reject all RFPs, re-advertise, or take such other action as may be deemed appropriate.

5.8 Proposals will not be returned once submitted, and CDRPC may dispose of the same in any manner allowed under law.

5.9 Submission of the proposal to CDRPC shall be deemed consent for the proposals to be publicly identified, and information contained therein shall be deemed a matter of public record unless such information is designated by the party submitting the proposal as trade secrets, as affecting present or imminent contract awards, or other information allowed to be kept confidential pursuant to the Section 87 of the Public Officer's Law of the State of New York. In order to designate information as confidential, the Contractor submitting the proposal must highlight the information and inform CDRPC of its desire to keep that information confidential in a letter transmitting the proposal. Whether the information designated by the Contractor is allowed to be kept confidential pursuant to New York State Laws shall be determined by the Director upon consultation with CDRPC Attorney and notice of such determination shall be made to the Provider prior to the release of the information to afford the service provider an opportunity to appeal the decision.

CDRPC reserves the right to make any investigation deemed necessary to determine Contractor qualifications and responsibility. The Contractor shall furnish to CDRPC, upon request, all data pertinent thereto.

5.09 Submission of a proposal constitutes agreement to all terms and conditions set forth herein. By submitting a signed proposal, the Contractor a) warrants that the contents of its proposal are accurate and binding upon the Contractor; b) represents that its staff is knowledgeable about the services to be provided as identified in this RFP; and c) warrants that it will use reasonable and appropriate efforts to provide such services in a professional and timely manner. In addition, the Contractor further warrants that it has become sufficiently acquainted with the conditions, facts, and circumstances relating to providing the requested services. Failure or omission of the Contractor to adequately acquaint itself with existing conditions, facts and circumstances shall not in any way relieve it of any obligations with respect to this RFP.

5.10 To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of an individual's age, race, creed, color, national origin, gender identity or expression, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of

materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

5.11 CDRPC reserves the right to allow all municipal and not-for-profit organizations authorized under the General Municipal Laws of the State of New York, to purchase any goods and/or services awarded as a result of this bid in accordance with the latest amendments to NYS GML 100 through 104. However, it is understood that the extension of such contracts are at the discretion of the vendor and the vendor is only bound to any contract between CDRPC and the vendor.

SECTION 6: INDEMNIFICATION

6.1 The successful Proposer shall defend, indemnify and save harmless CDRPC, its employees and agents, from and against all claims, damages, losses and expenses (including without limitations, reasonable attorneys' fees) arising out of, or in consequence of, any negligent or intentional act or omission of the successful Proposer, its employees or agents, to the extent of its or their responsibility for such claims, damages, losses and expenses.

SECTION 7: INSURANCE AND SECURITY REQUIREMENTS

7.1 The successful Proposer will be required to procure and maintain at its own expense, the following insurance coverage:

- a. **Worker's Compensation and Employer's Liability Insurance:** A policy or policies providing protection for Employees in the event of job related injuries.
- b. **Automobile Liability Insurance:** A policy or policies of insurance with the limits of not less than \$500,000 combined for each accident because of bodily injury sickness or disease, sustained by any person, caused by accident, and arising out of the ownership, maintenance or use of any automobile for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident

and arising out of the ownership, maintenance or use of any automobile.

- c. **General Liability Insurance:** A policy or policies or comprehensive all-risk insurance with limits of not less than:

Liability For:	Combined Single Limit
Property Damage	\$1,000,000
Bodily Injury	\$1,000,000
Personal Injury	\$1,000,000

- d. **Professional Liability:** A policy or policies with limits not less than \$2,000,000.00.

7.2 Each policy of insurance required shall be of form and content satisfactory to CDRPC.

- a. CDRPC of Albany shall be named as an additional insured on all liability policies. **Proposal number must appear on insurance certificate.**
- b. The policy shall not be changed or canceled until the expiration of thirty (30) days after written notice to CDRPC. It shall be automatically renewed upon expiration and continued in force unless CDRPC is given at least thirty (30) days written notice to the contrary.

7.3 No services shall be commenced under the agreement until the successful Proposer has delivered to CDRPC or its designee proof of issuance of all policies of insurance required by the agreement to be procured by the successful Proposer. If at any time, any of said policies shall expire or become unsatisfactory to CDRPC, the successful Proposer shall promptly obtain a new policy and submit proof of insurance of the same to CDRPC for approval. Upon failure of the successful Proposer to furnish, deliver and maintain such insurance as above provided, the agreement may, at the election of CDRPC, be forthwith declared suspended, discontinued or terminated. Failure of the successful Proposer to procure and maintain any required insurance shall not relieve the successful Proposer from any liability under the agreement, nor shall the insurance requirements be construed to conflict with the obligations of the successful Proposer concerning indemnification.

SECTION 8: REMEDY FOR BREACH

8.1 In the event of a breach by the Successful Proposer/Consultant, the Successful Proposer/Consultant shall pay to CDRPC all direct and consequential damages caused by such breach, including, but not limited to, all sums expended by CDRPC to procure a substitute consultant to satisfactorily complete the services, together with CDRPC's own costs incurred in procuring a substitute consultant.

Appendix A

Business Plan for Broadband Utility based on preferred alternative (*Tasks include, but are not limited to*):

Potential business plan components are listed below, the intent of the business plan is to

- Advance the goals of CDRPC to:
 - Identify opportunities to provide cost reductions and increased security for municipal entities using the Middle Mile fiber network .
 - Increase the availability of high-speed broadband internet to serve more regional residents
 - Increase local competition within the residential and commercial broadband industry
- Assess the overall feasibility of the Middle Mile fiber network proposal from a variety of viewpoints (financing, operations, sustainability etc.) to aid in decision making.
- Funding – it will be utilized for pursuing funding which may include capital bonding, private investment, and grant sources. The business plan should be in a format and contain the components necessary to meet private borrowing standards.
- Phasing Plan – divide project phases. Phases should be independent and not contingent upon additional phases.
- Potential Business Plan Components:
 - Mission
 - Executive Summary
 - Business/Industry Overview
 - Community Overview & Existing Infrastructure
 - Location and Population Characteristics
 - Current Infrastructure - *Broadband Feasibility Study*
 - Market and Competitive Analysis
 - Potential Strategies
 - Recommended Strategy
 - Legal Authority & Issues
 - Ownership, Partnerships, and Management
 - Ordinances Related to New Project
 - Special Permits, Licenses, and Regulations
 - Phasing Plan
 - Conceptual Design of Network as it pertains to the business plan portion
 - Financial Plan
 - Startup
 - Initial Capital Requirements
 - Design
 - Costs/financing – with sources
 - Timeline
 - Construction
 - Costs/financing – with sources
 - Timeline

Appendix A

- Costing Analysis
 - Lease rates
 - Purchase rates
- Operations
 - Personnel
 - Sales and Marketing Plan
 - Brand and marketing
 - Services and subscriptions
 - Pricing assumptions
 - Non-residential
 - Business
 - Government – Libraries, School Districts, Emergency Services
 - Academia
 - Healthcare
 - Residential
 - Potential Future Services
 - Maintenance
 - Facilities
- Estimated Annual Income
- Estimated Annual Expenses
- Net Operating Income
- Key Assumptions
- Risk Factors and Mitigation Tools
 - Inadequate Capital
 - Time and Cost Overruns
 - Take Rate not Met
 - ISPs terminate leases
 - Competition
 - Open Access Services
 - Technological Developments
 - Business Cycles
 - Economic, Social, or Political Developments
 - Recessions and Economic Downturn
- Financial Model
 - Current Financial Position
 - Scenarios
 - Sales and Profitability Objectives
 - Break-Even Analysis
 - Growth Analysis
 - Delayed Project
 - Funding and Expenses

Appendix A

- Bonding
 - Capital Spending Timeline
 - Cash flow assessment
 - Financial Metrics
 - Cash Liquidity levels
 - Pro Forma
 - Stress Test
 - Capital market strategy – Development of an Investment-ready funding request – reviewed by an investment banker with expertise in this area.
 - Operating Plan
 - Legal Organizational structure-
 - Operations
 - Governance
 - Personnel
 - Organizational Chart
 - Position description and purpose
 - Leadership - directors and staff
 - Marketing / Sales
 - Technical staff
 - Other staffing and training
 - ISP, Contractors, Partnerships, etc.
 - Facilities
 - Locations
 - Equipment
 - etc.
 - Maintenance
 - Facilities
 - ROW, land, etc.
 - Equipment and/or ISP, Contractors, Partnerships, etc.
 - Permitting, fees, etc.
 - Personnel
 - Staffing and training and/or ISP, Contractors, Partnerships, etc.
- Exit Strategy
- Recommendations

This Scope of Work has been prepared as a proposal guideline. It is the respondent's responsibility to propose a scope that the Consultant feels would be necessary to complete the project.