

DATE: May 16, 2011

FOR: UC2B Policy Committee

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SUBJECT: Lead Agency Negotiations and Status

## **I. Introduction.**

As the intergovernmental agreement that established UC2B enters its second year, representatives of the three UC2B partners (the City of Champaign, City of Urbana, and the University of Illinois) have discussed whether UC2B's current administrative processes are sufficient to accomplish its goals. Unfortunately we have concluded that they are not. While we have accomplished much over the last year, many actions have not proceeding with sufficient speed or resources to produce the required results. This memo discusses this problem and provides recommendations to address it.

## **II. Issues.**

### **A. Policy Board Effectiveness.**

The Policy Board has not effectively provided direction to people who carry out UC2B activities. This is particular true with respect to planning for UC2B operations, including 1) outreach to the residents, businesses, and other organizations in the census blocks designated for retail services, and to anchor institutions throughout the community 2) determining how we will serve the retail customers once the system is operational, and 3) implementing methods to obtain revenues from users of the network in addition to fees paid by retail customers. Most members of the Policy Committee have expressed concern regarding the Committee's processes. Without describing the process issues in length, members do not feel that they can make good decisions when items come before the Committee without a clear statement of objectives, full research regarding applicable laws, grant requirements and limits, without a statement of options available to the Policy Committee, and often without clear recommendations.

The UC2B intergovernmental agreement (IGA) calls for the Policy Committee to appoint a Lead Agency to carry out grant activities. A Lead Agency should provide staff services to the Policy Committee to help it work effectively and would carry out the direction of the Policy Committee. This would allow the Policy Committee to serve as just that – a policy body. That model of operations would be different from the current mode, in which the Policy Committee, Technical Committee, and their various subcommittees try to carry out many of UC2B's activities. That is "management by committee" and it hasn't meted UC2B's needs well.

Unfortunately the Policy Committee has not designated a Lead Agency. Perhaps everyone assumed that the University should be the lead agency because the IGA designates the University as the Grant Administrator. However, the roles are different, and the IGA allows the Policy Committee to designate any of the three IGA partners as the Lead Agency.

Many people have devoted significant and meaningful efforts to UC2B. However, we have, as stated above, failed to address some key issues that are becoming critical. This situation results partly from the difficult timelines and other requirements and limitations of the Federal grant. The situation has also resulted from the organizational issues discussed above, which hopefully will be addressed by implementing the recommendations in this memo. However, it is also necessary for the Policy to set clear goals and use its time and resources to meet UC2B's needs moving forward. Section IV of this memo contains a list of issues to which UC2B must devote greater effort at once. This list is not meant as the final, all-encompassing list. It is intended as a start on identifying priorities.

#### B. Lack of Expertise.

While the members of the Policy Committee, Technical Committee, and their subcommittees have devoted much time and knowledge to UC2B, very few of the individuals have expertise in setting up and managing a fiber network and internet service provider (ISP). The parties to the intergovernmental discussion believe that a major reason for UC2B's limited progress in certain areas lies in the fact that we have sometimes asked people to provide guidance on issues beyond their expertise. This is not to say that broad input from the public and staff of the partner agencies is not helpful. It is to say that we should look to people with expertise and experience to educate decision-makers and provide workable options. This could mean hiring staff with the required experience and expertise or retaining a professional services firm (or firms).

C. Lack of a designated legal counsel. When legal issues have arisen, often individual Policy Board members have gone to their individual entity's legal counsel for guidance. This has not worked well for several reasons, including the fact that 1) no one attorney "takes ownership" of UC2B's needs, 2) the attorneys don't have a chance to understand UC2B and its needs holistically, and 3) the attorneys don't necessarily understand the tight deadlines under which UC2B operates.

#### D. Role of the University of Illinois

The University has come to perceive that while it supports the entire objectives of UC2B, provision of retail internet services is not in the University's core missions of teaching and research. The University wishes to continue as a full partner of UC2B during construction and the lead-up to operations, but wishes to take a less prominent role once UC2B becomes fully operational. Therefore, the two cities should take leadership in moving UC2B forward. The two cities and the University are working toward a Preliminary Memorandum of Understanding that would eventually lead to a revision to the IGA that would spell out a revised partnership arrangement including a new role for the University.

### **III. Recommendations.**

A. The Policy Committee should designate one of the cities as the Lead Agency for UC2B in accordance with the UC2B intergovernmental agreement. The City of Urbana has stated that it does not wish to fill that role at this time due to certain workload and staffing issues. Therefore, Champaign has agreed to serve that role. To do so, Champaign would do the following:

1. Appoint a UC2B Coordinator to serve as staff to the Policy Committee and to manage UC2B activities, and to serve as liaison between the Policy and Technical Committee, anchor institutions, and the public. The Coordinator would be charged with carrying out the goals of UC2B under the direction of the Policy Board. The Coordinator would also ensure that UC2B fulfills standard administrative responsibilities in an efficient and effective manner, including providing complete and timely information to the Policy Committee, Technical Committee, and the public.
2. Retain the services of an individual or firm with expertise in setting up and operating a fiber network with retail customers, including expertise in developing and implementing sustainable business models for such networks. Employing a consulting firm seems the quickest way to gain expertise without a long-term commitment. The Policy Board may look to this firm or person to also provide expert advice on marketing UC2B services, or may seek the services of a local public communications firm.
3. Provide legal counsel to the UC2B Policy Committee, Technical Committee, and Coordinator. The legal counsel would view as a high priority client. The legal counsel would be an attorney of the lead agency but, as with METCAD, the Policy Board and Coordinator would expect that legal counsel would consult with the attorneys of the other member entities on significant, unusual issues. In addition, the services of a private law firm would be retained when a) other workload prevents the UC2B counsel from responding to UC2B needs in a timely manner and/or b) it is more efficient to retain a firm with expertise in issues pertaining to UC2B, rather than having a municipal attorney develop such knowledge.

The UC2B partner entities agree that the designating a lead agency at this time should be considered a limited-term action because the long-term legal structure for UC2B has not yet been decided. Also, the UC2B Policy Committee and some members of the public have expressed interest in the decision regarding long-term governance, so the three UC2B partners should not make a long-term decision without considering all options and providing public input regarding them. Even if UC2B continues with the lead agency model, another entity may wish to assume that role once UC2B construction is completed and the organization is in full operational mode.

A corollary to the limited-term designation of the lead agency is that the UC2B Coordinator appointed by the Lead Agency will not be viewed as a long-term position. The goal of the Coordinator is to carry out grant activities and bring UC2B to successful operations. Following that, the partner entities and the Policy committee should reconsider the organizational structure and staffing that best meet the goals of UC2B once it is in operation.

## **IV. Recommended Near-term Process and Management Goals for UC2B**

### **A. Process Goals:**

1. Determine the issues that the UC2B Policy Committee should be aware of in sufficient time to act on them, and provide sufficient information to the Policy Committee, in advance of its meetings, to allow it to make informed decisions.
2. Determine the type of matters that the UC2B Policy Committee should vote on before the matter is brought before any employee, body, or contractor of the Lead Agency or the University for approval.
3. Establish a means of regular, timely flow of information between UC2B, the University, cities, anchor institutions, and public.

### **B. Management Goals**

1. Develop a Business Model that addresses the following questions:
  - What services can UC2B provide that will bring in sufficient revenues to pay the costs of operations and equipment replacement (i.e., be self-sufficient) while also meeting the terms of the grant?
  - What business model best meets the interests of the community regarding bridging the digital divide, stimulating economic development (including employment), and meeting other community needs?
  - How should UC2B services be marketed to various clients, with fiber-to-the-premise customers as the first priority?
  - As a longer term priority, examine whether UC2B can expand while remaining financially self-sufficient.
2. Develop an Operations Plan that addresses the following questions:
  - What functions does UC2B need to perform to keep the network and related services functioning?
  - What functions does UC2B need to perform to successfully carry out the business model discussed above?
  - What is the best means of performing those functions?
3. Promote Opportunities for Minorities and Women in UC2B Employment and Contracting Opportunities
  - Promote opportunities for employment on UC2B-funded projects among minorities, residents of the designated census blocks, and local residents in general
  - Promote opportunities for contracts of UC2B funds to minority and women-owned business enterprises and local businesses
4. Develop a Governance Model that addresses the following questions:
  - What governance model will best allow UC2B to meet the goals of the Operations Plan and Business Model?
  - What model will provide the intergovernmental partners and acceptable balance between financial risk and achieving the goals above?

C. Establish a Timeline

1. Define the dates by which UC2B needs to meet the goals above.
2. Determine the actions needed to accomplish the goals, and deadlines for each action, and the critical path for meeting each goal.
3. Establish and implement a plan to accomplish the actions identified above.