



What is Permitting?

Broadband Equity, Access, and Deployment Program

December 2022



Introduction to Permitting

The BEAD Program emphasizes building infrastructure for unserved and underserved communities, which may require permits from federal, state, Tribal and local governments. It is imperative that all applicants and Eligible Entities fully understand permitting requirements and procedures to ensure a streamlined process.



WHAT IS A PERMIT?

A permit, in the context of broadband, entails obtaining permission for a broadband project to be deployed. Broadband networks are often built along public land that runs alongside roads and railways or private land and facilities. Networks are either buried, aerial, or both. These deployments **require many kinds of permits** from owners and authorities. An applicant that will be **deploying or expanding a wireline or wireless network** in states may have to work with several government agencies to **secure permits needed to deploy broadband infrastructure**. Note that all projects funded through a federal grant will also **need to comply with the National Environmental Policy Act (NEPA)**, and relevant toolkits are provided.



WHAT TYPES OF PERMITS MIGHT A DEPLOYMENT REQUIRE?

Easements to Access Government or Private Assets



*Applicants and subgrantees will need permission – such as a right-of-way or other easement – from a range of owners/authorities when their deployment crosses: **government or privately owned land, bridges, overpasses, railroads, buried deployment** (running cables underground), **aerial deployment** (attaching cables to utility poles and tower builds), etc. The federal government alone owns about 28% of U.S. land, and this land is managed by many different federal agencies.*

Environmental and Historic Preservation (EHP) Considerations



*Broadband projects **must** perform a **National Environmental Policy Act (NEPA) analysis** and meet applicable state, local, and/or Tribal government environmental and historic preservation permitting requirements as well. All permit applications will involve a NEPA review, so be aware of all the steps that require a NEPA review. A NEPA/EHP toolkit will be provided to assist with environmental permits.*



Note that this document's main purpose is to provide a guide on **securing easements for accessing government land.**

Securing an Easement or Right of Way Access

The process of securing an easement or right of way access for broadband deployment requires multiple steps and documents. It is important to appropriately follow each required permitting step for the relevant infrastructure or property owner to be used in deployment.



NAVIGATING THE PROCESS

- 1 Identify the **owner** of the infrastructure or property to be used in deployment.
- 2 If government owned, identify the **federal, state, or local agency**.
- 3 Identify the **type of permit to be obtained** and understand its process.
- 4 **Engage early** and schedule pre-meetings to obtain all your **documentation** and ensure application **completeness**.
- 5 **Submit** required documentation.
- 6 **Follow up** and **track** your application.



Identify the owner of the infrastructure or property to be used in deployment.



*If **state/locally-owned land**, coordinate with your relevant state or local agencies.*



*If **privately-owned land**, coordinate with the appropriate individual or corporation.*



*If **Federally-owned land**, identify the correct Federal agencies to coordinate with.*



*If **Tribal-owned land**, coordinate with the Bureau of Indian Affairs (BIA) and the Tribal Entity.*



*If **railway access** is necessary, coordinate with your relevant railroad owner to obtain a **Right of Way**.*



*If **bridge/overpass access** is necessary, coordinate with your relevant state, local, or federal office to obtain a **Right of Way**.*



*If access to **poles or towers** are needed (aerial deployment), coordinate with the relevant pole/tower owners to obtain a **Right of Way**.*



*If access to **ducts or conduit access** is needed (burial deployment), coordinate with the relevant duct/conduit owners to obtain a **Right of Way**.*



*If **federal road/highway access** is necessary, coordinate the Federal Highway Authority (DoT) to obtain a **Right of Way**.*



Consider all possible infrastructure or property owners.

- Internet Service Provider
- Federal Government
- Telecommunication Company
- State, Local, or Tribal Government
- Utility Company
- Private/Personal Ownership

! Note that if you cannot identify the owner of the land or property, contact your **state or local government to locate the property records to identify the owner.**

Permission to Access Federal Land

As the federal government owns about 28% of U.S. land, obtaining federal permits will be crucial as applicants begin their broadband deployment projects. Identifying the proper federal agency and understanding its permitting process is vital to ensuring a timely and efficient permitting process.



If the land is Federally-owned...

Identify the appropriate Federal agency.

- Department of Energy
- Department of Agriculture
- Department of Defense
- Department of Commerce
- Department of Interior
- Any other relevant federal agency
- U.S. Army Corps of Engineers
- Department of Transportation
- General Services Administration



Identify the type of Federal permit(s) to be obtained and understand its process.

Be sure to contact federal agencies early in the planning process to address coordination needs. Improper applications or incomplete applications will delay the permitting timeline significantly, so early-stage planning and coordination is crucial.



If you are operating along **public land that runs alongside roads, railways, or private land and facilities**, prepare to obtain a **Right of Way**. Railroads and bridges/overpasses have their own specific permits. These can be obtained using the universal **SF-299 Form for most federal agencies**.



If you are running **cables underground** for broadband, prepare to obtain a permit related to **buried development**. This is also obtained using the **SF-299 for most agencies**.



If you are **attaching cables to utility poles** along the Right of Way, prepare to obtain a permit related to **aerial development**. This is also obtained using the **SF-299 for most agencies**.



Note that not *all* federal agencies accept the SF-299. **Common permitting agencies** that utilize the SF-299 are:

- Department of Interior (DoI)
 - Bureau of Land Management (BLM)
 - National Park Service (NPS)
 - U.S. Fish and Wildlife Service (FWS)
- Department of Transportation (DoT)
- General Services Administration (GSA)
- U.S. Department of Agriculture (USDA)

Permission to Access State/Local Land

Along with obtaining federal permits, applicants will need to obtain multiple state/local permits, all under the rules and regulations of their individual state and local community. Be sure to follow all applicable timelines and identify what permits are needed to satisfy local permitting requirements.



If the land is State/Locally-owned...

Identify the appropriate state or local agency.

- State Department of Natural Resources (DNR)
- State Department of the Environment (DoE)
- City Department of Parks and Recreation
- State Department of Transportation (DOT)
- City Departments of Transportation
- State Historic Preservation Office
- State University System
- County Community Development or Land Use Department
- States Parks/Forests
- County Department of Emergency Services
- Any other relevant state or local agency

Identify the type of State/Local permit(s) to be obtained and understand its process.

Be sure to contact State/Local agencies early in the planning process to address coordination needs. Improper applications or incomplete applications will delay the permitting timeline significantly, so early-stage planning and coordination is crucial.



If access to state-owned lands or infrastructure is needed, coordinate with your State Department of Transportation or any other relevant state agencies to identify the landowners and required **Rights of Way (ROW)**.



If the land has any **regulated environmental, historic, or cultural resources impacted**, be sure to coordinate with your State Department of Environment, Department of Natural Resources, or any other relevant state agencies. **Environmental permits will almost always be required.**



Forms vary county-by-county, city-by-city, and across state agencies, so be sure to start identifying the documentation needed early in the process, along with tracking and following relevant timelines.



Eligible Entities and localities are encouraged to **examine and streamline their permitting processes**. Finding possible overlaps and duplication is key to ensuring a timely process.



Accessing private land in a state/county requires **contacting the direct property owner for permission**, and these owners may have their own forms, rules, and regulations to follow for the land.

Navigating the Permitting Application Process

To help streamline and ensure a proper and timely permitting application, it is imperative that applications obtain all required documents, ensure that their applications are correct and complete, and submit everything on time.



Obtain all required documentation and ensure application completeness.

Potential documents may include:

- Application
- Bonding/Insurance
- Traffic Control Plan
- Legal Description
- Fees/Appraisals
- Information of Contractor Performing Work
- Owner Consent*
- Period of Construction
- Engineering/Design
- Environmental/Cultural Study

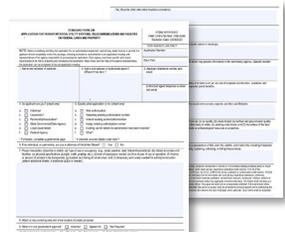
Engage early and schedule pre-meetings to obtain all your **documentation** and ensure application **completeness**.

**Note that for most federal agencies, owner consent is not needed as the federal government is the owner of the land. Owner consent is typically needed for Tribal lands and privately-owned lands.*



Submit all required documentation.

Most major federal property-managing agencies will use the **SF-299** as the common application form to authorize easements for wireline or wireless communications uses or facilities on federal lands. Access the SF-299 form at <https://www.gsa.gov/forms-library/application-transportation-utility-systems-telecommunications-and-facilities-federal>. The SF-299 form can be submitted by mail, fax- or in-person. Applications for communications sites can be filed online.



All **state and local agencies, pole/tower owners, railroad owners, etc.** will have their **own specific forms** as well, so be sure to check the **permitting website of the agency** to check. Follow all **relevant timelines** and be sure to appropriately fill out and submit all needed forms and documentation. Most forms can be accessed on the State's dedicated permitting site.



Follow up and track your permit applications.

- ✓ **Follow up** with all relevant federal, state, and local agencies to ensure all documentation was **properly submitted**.
- ✓ **Ensure no additional documentation** is needed.
- ✓ **Track the timeline** of permit applications to ensure all permits will be completed in a timely fashion for proper post-award deployment.

Remember that a **NEPA analysis** is required for **all** federally-funded projects. Please reference the EHP Toolkit for information and best practices this.