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Smart Start:
How to Plan and Prepare for National Environmental Policy Act (NEPA) Compliance for BEAD

April 2024

NTIA

DEPARTMENT OF COMMERCE · UNITED STATES OF AMERICA

NEPA Joint Lead Agency Responsibility

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As primary administering agencies for the BEAD program, Eligible Entities will serve as joint lead agencies alongside NTIA to meet NEPA obligations.

> The National Environmental Policy Act (NEPA) requires all projects funded under the BEAD Program to be analyzed for the potential environmental impacts before infrastructure deployment can begin.

WHAT DOES IT MEAN TO BE A JOINT LEAD AGENCY?

Joint lead agency status will **allow states/territories to design a compliance program and plan for NEPA requirements** as they select and begin to collaborate with subgrantees, including the following responsibilities:

- Obtaining specialized environmental and historic preservation (EHP) expertise to hire, contract, or otherwise retain staff with relevant NEPA qualifications and experience to support state/territory office

- Developing a schedule for environmental review and permitting

- Supervising or preparing NEPA documents, reviewing all drafts, and verifying they meet the requirements of NEPA prior to transmittal to NTIA

- Ensuring that project implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other project implementation activities) does not begin prior to NEPA completion

- Monitoring subgrantees to ensure they understand and comply with relevant environmental laws, including but not limited to NEPA.

NTIA will provide additional NEPA guidance to Eligible Entities in the Initial Proposal Terms & Conditions after approving Initial Proposal Volume II, and through future Technical Assistance.

Obtaining NEPA Expertise

Eligible Entities (EEs) have a variety of options to build the expertise needed to prepare for NEPA responsibilities, and budget flexibility to fund NEPA obligations.

HOW CAN ELIGIBLE ENTITIES OBTAIN EXPERTISE?

To fulfill joint lead agency NEPA obligations, **Eligible Entities can use BEAD funds to hire, contract, or otherwise retain staff with NEPA qualifications and experience**. Eligible Entities can consider the following options:

Coordinate with State/Territory Agencies: EEs can **coordinate with other State/Territory agencies**, such as NEPA coordinators within the **State DOT,** whose environmental and cultural resources staff may be able to assist the EE in meeting NEPA obligations. EEs can consider a range of strategies such as funding subject matter expert (SME) positions and supporting flexible staffing models to leverage expertise that exists in other state/territorial governmental agencies.

Hire Additional Staff: EEs can **hire Environmental and Historic Preservation (EHP) experts directly** or **contract with qualified consultants**. Eligible Entities should consider whether to use traditional contract vehicles like a **Blanket Purchase Agreement (BPA) or Request for Proposal/Quotation (RFP/RFQ)** or to use more flexible options such as **Indefinite-Deliverables, Indefinite-Quantity (IDIQ)** if contracting with consultants.

Partner with Existing Resources: EEs can look to **establish public-private partnerships** with industry experts, private sector partners, or non-profit entities, **partner with state/territory educational institutions** such as community colleges or university systems, or **leverage extension services** to draw on relevant expertise and understand the implications of NEPA obligations for project applicants.

Considerations for weighing the expertise offered, time committed, and funds committed are outlined on the next page for each option highlighted above.

Eligible Entities for BEAD should start now to identify their expertise gaps and consider options to meet NEPA obligations ahead of planned BEAD deployment timelines, which may start as early as Q1 2025.

EHP Expertise | Considerations

Eligible Entities can consider the level of expertise offered, time commitment, and amount of funds committed across options to obtain NEPA expertise.

Expertise Offered   **Time Committed**   **Funds Committed**

Option	Expertise Offered	Time Committed	Funds Committed
Coordinate with State/Territory Agencies	State/Territory Broadband Offices can collaborate with other state/territory agencies that can offer expertise on environmental and historic preservation requirements.	Medium	Low - Medium
Cooperate with State DOT	State DOTs often have extensive EHP experience, and DOT ROWs and data may factor heavily into future NEPA approvals.	Low	Low - Medium
Hire EHP experts	EEs can plan and budget to hire EHP experts directly from the public and private sectors.	Medium	High
Contract with Consultants	Contract vehicles (such as a BPA or RFP/Q) can allow EE to obtain consistent EHP support from consulting firms with EHP expertise.	Medium	High
Use IDIQ- style Contracts	Indefinite-Deliverable, Indefinite-Quantity-style contracts are another option for consistent support that affords more flexible funding options.	Medium	Medium
Establish Public-Private Partnerships	EEs can create beneficial partnerships with industry experts, private sector personnel, and nonprofits to better understand NEPA obligations for project applicants.	High	Medium
Leverage Extension Services	Many states/territories already have extension service programs in a range of EHP-related fields that might close current gaps in knowledge.	Medium	Low
Partner with Educational Institutions	Universities and community college systems can offer robust resources and expertise to EEs on a range of EHP-related topics.	Low	Low

EHP Expertise | Sample Job Profile

NTIA will make available federal job descriptions and qualifications for Eligible Entities to consider using to support their EHP recruitment efforts.

EHP EXPERT JOB PROFILE: FEDERAL SAMPLE[1]

Duties:

- Coordinate and lead a team in reviewing environmental impact statements, environmental assessments and other NEPA required documents;

- Serve as a technical advisor on the identification and disclosure of environmental impacts on public health, and the natural and built environment;

- Review, analyze, and recommend policy or program modifications to implement provisions of federal environmental standards and ensure compliance.

Qualifications:

To qualify for the GS-13 level (*insert state equivalent*), you need to have at least one year of full-time experience equivalent to the GS-12 level defined as reviewing program compliance with the National Environmental Policy Act (NEPA); advising on environmental impacts on wetland, air, or land cleanup; and developing environmental protection policies, plans, or programs.

Evaluation Criteria:

Applicants will be evaluated based on competencies in the following areas:

1. Knowledge of environmental laws, regulations and practices
2. Familiarity with the NEPA environmental review process and ability to advise on associated environmental issues
3. Skill in environmental impact analysis
4. Skill in written communication
5. Skill in oral communication
6. Skill in program management
7. Skill in conflict resolution.

Disclaimer: Individual states may have different qualification considerations for applicants.

EHP Expertise | Budget Considerations

Eligible Entities should consider the requirements of the BEAD program and their role as a joint lead agency while considering options for EHP experts.

BUDGETING CONSIDERATIONS FOR BEAD PROGRAM

Eligible Entities for the BEAD program are **strongly encouraged to proactively hire EHP experts and/or contract with qualified consultants** with relevant, preferably local, experience.

As Eligible Entities consider how to fund expertise to fulfil their joint lead agency NEPA obligations, the following budget requirements for the BEAD program apply:

- Funds used to comply with NEPA requirements are **not** subject to the statutory two percent cap for BEAD budgeting purposes.

- Depending on how the EHP support will be added, it is likely these efforts would fall under one of these three budget cost categories:

  1. Administrative other than the administration of the grant

  2. Personnel

  3. Contractual cost categories

- If there is a need to modify your Initial Proposal Funding Request (IPFR) to accommodate this change, please reach out to your respective Federal Program Officer (FPO) for assistance.

For further guidance, please see the **BEAD FAQs on Funding and Allocation Process** (Section 7) and the **BEAD Initial Proposal Funding Request Guidance**.

Programmatic Efficiencies for NEPA

NTIA is adopting five regional First Responder Network Authority **Programmatic Environmental Impact Statements (PEISs)** to help streamline NEPA compliance. Evaluating and updating the chapter analyzing broadband deployments in your state now can reduce the burden of future NEPA review for your BEAD projects.

EVALUATING YOUR STATE'S PEIS CHAPTERS

EEs can maximize the benefits of NTIA's programmatic NEPA approach by reviewing and updating the content for their state or territory in the applicable FirstNet PEIS in preparation for the Final Proposal. Programmatic NEPA review evaluates routine action types that are likely to have similar impacts at a broad scale. This can create efficiency by reducing the need for repetitive analysis for individual projects.

Where to Start

1. Visit the FirstNet Authority [Regional PEIS Page](#)
2. Identify your PEIS Region by state/territory
3. Review your chapter and assess the sufficiency of the analysis, using the questions below
4. Contact your NTIA FPO for guidance if a Supplemental Environmental Assessment may be needed to address deficiencies

Aspects to Consider in Evaluation

- **Regulatory changes**: E.g., Have there been any changes to environmental and historic preservation laws and regulations in your state or territory?

- **Affected Environment**: E.g., Does the chapter adequately identify and describe the affected environment for your state or territory? Pay special attention to specific relevant resource areas.

- **Infrastructure**: E.g., Does the chapter include all types of facilities and infrastructure deployment scenarios anticipated in your state or territory?

- **Biological Resources**: E.g., Are there newly listed threatened or endangered species in your state or territory? Do these listings have the potential to impact broadband deployment activities?

- **Environmental Consequences**: E.g., Does the chapter fully describe and analyze potential environmental consequences?

Next Steps

Eligible Entities can begin expanding internal capacity for EHP review and permitting requirements ahead of the Final Proposal submissions and finalized subgrantee contracts, including planning for key milestones and budget needs.

WHERE CAN YOU START TODAY?

1 Explore NTIA's suite of tools to assist in streamlining permitting and EHP review processes and requirements here, including;

- Learn how recently amended Advisory Council on Historic Preservation's *Program Comment for Federal Communications Projects* streamlines Section 106 Reviews for broadband

- Identify permits and avoid sensitive resources with the publicly available NTIA Permitting/Environmental Information Application

- Identify the NTIA Categorical Exclusions that may apply to projects

- Begin evaluating the applicable PEIS chapter and updating or supplementing the analysis as needed **(see page 7)**

2 Learn about the state/territory role as a joint lead agency and explore options for expanding EHP expertise and capacity in your agency

- Compare options for expanding EHP capacity and expertise **(see pages 4-5)**.

3 Plan for any necessary expertise or capacity needs in your budget **(see page 6)**

State and Territory Broadband Offices are encouraged to reach out to their respective BEAD Federal Program Officer with any questions.

Appendix:
Third Party Environmental Contractor Request for Proposal Template

Sample Document

Request for Proposal for Third-Party Environmental Contractor Firm

==X== State Broadband Office

TO: (*name of potential contractor*)

FROM: <mark>X</mark> State Broadband Office

DATE: (*issuance date*)

SUBJECT: Request for Proposals (RFP) to Support <mark>X</mark> State Broadband Office by Providing
Technical Support for Environmental and Historic Preservation Compliance

Proposal Due Date: (*due date & time*)

BACKGROUND

Funded by the Bipartisan Infrastructure Law, the Broadband Equity Access and Deployment (BEAD) is a federal grant program that aims online access for all Americans by funding partnerships between states or territories, communities, and stakeholders to build infrastructure where it is needed and increase adoption of high-speed internet. BEAD prioritizes unserved locations that have no internet access or that only have access under 25/3 Mbps and underserved locations only have access under 100/20 Mbps.

The State Broadband Office (SBO) of <mark>X state</mark>, with funding from the National Telecommunications Information Association's (NTIA) BEAD program, aims to promote broadband deployment and adoption in the State. To assist this program, the SBO is seeking a third-party environmental contractor firm or company (herein after, third-party contractor) to provide Environmental Support Services (ESS) for NTIA's BEAD projects and grant recipients. The third-party contractor will be responsible for providing technical support and analysis to the environmental aspects of SBO projects by providing high-quality environmental and cultural resources support services to SBO grant recipients. The third-party contractor will work closely with the SBO team to review documentation, surveys, studies, and other analyses that may be required for compliance with environmental laws and regulations. Thereby, the <mark>X</mark> State Broadband Office is soliciting proposals for environmental support services.

The technical and cost proposals will be reviewed and evaluated by the SBO. The final selection of the third-party contractor will be based on its independent review of the technical, managerial, personnel, and Organizational Conflict of Interest (OCI) aspects of each proposal. Upon selection, the third-party contractor and the SBO will finalize a contract for the preparation of ESS activities.

OVERVIEW OF THE BEAD PROGRAM AND NTIA ENVIRONMENTAL AND HISTORIC PRESERVATION REQUIREMENTS

Summarize the BEAD program and provide a narrative understanding of the National Environmental Policy Act (NEPA) and NTIA environmental and historic preservation (EHP) requirements for broadband infrastructure projects. Discuss any sources of pertinent environmental data including, but not limited to the following items:

- *work required to comply with the Endangered Species Act, including agency scoping, field surveys and preparation of a Biological Assessment and Mitigation Plans;*

- *work required to comply with the National Historic Preservation Act, including field surveys, and all associated reports and mitigation plans;*

- *work required to delineate waters of the U.S. and wetlands that will be subject to the Federal and state permitting requirements; and*

- *work required to comply with the Coastal Zone Management Act and the Magnuson-Stevens Fishery Conservation and Management Act.*

Proposals submitted in response to this RFP should clearly demonstrate an understanding of NEPA, NHPA, and other Federal, state and local environmental and cultural resources laws and regulations, as well as the consultation process required under those laws and regulations. Explain the contractor's understanding and a summary of the contractor's qualifications for this project in one or two pages. Because the projects are located in X state, qualifications for assessing impacts to the environment of this region of the country should be highlighted.

SCHEDULE

The State Broadband Office expects to be able to select a third-party contractor within X days of the RFP issuance date.

A Contractors' Conference will be held by the State Broadband Office on (*conference date*), beginning at (*conference time*). At the conference, questions will be answered by the State Broadband Office representatives. Contractors who submit a Letter of Intent and who do not attend the conference will be notified of any modifications and receive a copy of the minutes of the meeting within two (2) days of the meeting if an e-mail address is provided. Otherwise, minutes of the meeting will be sent via regular mail.

The purpose of this conference will be to:

- answer contractors' questions about the RFP;
- provide copies of any other information to be used in the submission of a proposal; and
- entertain requests for other background documents, which may be available for use during the preparation of the proposal but were not sent to contractors.

All third-party contractors are strongly encouraged to attend this conference since this is the only opportunity to receive responses to questions. Telephone calls are not permitted; no questions related to this RFP will be answered in any forum other than at the contractors' conference. All questions must be answered at the conference so that all participants have equal access to the responses.

THIRD-PARTY CONTRACTOR SELECTION

- RFP is publicly posted (*ensure RFP is posted in several locations via website(s) or email listserv(s) to allow for wide dissemination and equal access/opportunities for ESS contractors)*: (day 1)

- Hold contractors' conference: (day X)

- Submit proposals to the State Broadband Office by 5:00 p.m. on X DATE: (day X)

- Oral presentations by contractors: (day X)

- State Broadband Office selects contractor and completes contract negotiations: (day X)

SERVICES REQUIRED

The selected third-party contractor will be responsible for assisting the State Broadband Office staff in reviewing environmental documentation prepared by grant recipients and completing related work within the agreed-upon schedule and approved budget. It will be the contractor's responsibility to notify the State Broadband Office if the work effort ultimately required exceeds the work effort on which the bid was based or the approved budget.

The third-party contractor will be required to manage multiple projects simultaneously and work closely with federal, state, and local agencies, as well as other stakeholders, to ensure timely completion of environmental reviews and permitting approvals. The third-party contractor will also be responsible for developing and implementing environmental management plans for broadband projects and monitoring compliance with environmental laws and regulations throughout the project lifecycle.

The third-party contractor will be responsible for satisfactory completion of the following tasks:

- Conducting reviews of draft Environmental Assessment (EA), Environmental Impact Statement (EIS), and Categorical Exclusion (CatEx) documentation for NTIA BEAD funded projects for technical and legal sufficiency and to identify potential environmental impacts in compliance with the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA) and other relevant federal, state, and local regulations.
- Reviewing BEAD grant recipients' project plans and designs to identify potential resources of concern and environmental and cultural resources impacts, and ultimately provide recommendations for minimizing or mitigating those impacts.
- Developing and implementing policies including best management practices related to environmental compliance as it applies to federal financial assistance programs to expand broadband access and adoption.
- Coordinating with broadband stakeholders, including grant recipients, federal, state, and local government officials and industry representatives to provide guidance and technical assistance on environmental and cultural resource issues related to broadband infrastructure deployment and adoption and ensure timely completion of environmental reviews and approvals.
- Providing guidance and technical assistance to grant recipients regarding federal, state or local consultation and coordination requirements or permitting approval processes.
- Providing subject matter expertise and technical assistance on environmental and cultural resources issues related to broadband infrastructure deployment and adoption to the SBO team and BEAD grant recipients.
- Synchronizing environmental review and permitting processes, to the extent practicable.
- Developing and implementing environmental and cultural resources management plans for broadband projects and monitoring compliance with EHP laws and regulations throughout the project lifecycle.
- Providing support to the SBO's environmental and cultural resources policy and operations team by participating in project meetings and providing regular updates on environmental reviews and approvals, including maintaining accurate records of all environmental assessments, reviews, and approvals.
- Participate in necessary escalation procedures to resolve environmental review and/or permitting disputes and delays.

QUALIFICATIONS AND EXPERIENCE

Describe qualifications and prior experience in completing similar NEPA project work, particularly any broadband infrastructure or other linear facility projects. Emphasize prior work experience with broadband infrastructure projects, state agencies, major relevant construction projects, and the geographical areas of study. Discuss the contractor's familiarity with the specialized issues and requirements of broadband infrastructure or other linear deployment. Describe the contractor's past record in meeting performance and delivery requirements for similar contracts.

Statements of education, qualifications, and prior experience should be provided not only for the contractor, but also for the key personnel and subcontractors that will be assigned to the project, along with their specific experience with the type of projects under consideration, including, but not limited to the following:

- Expert knowledge of environmental laws and regulations related to broadband infrastructure deployment and adoption, including direct experience with NEPA and other relevant federal, state, and local regulations.
- Extensive experience throughout the NEPA lifecycle for EAs and EISs, including development of Findings of No Significant Impact (FONSI) or Records of Decision (ROD), and implementation and monitoring of mitigation actions.
- Ability to work effectively in a team environment and manage multiple projects simultaneously.
- Strong analytical and problem-solving skills.
- Excellent written and verbal communication skills, including the ability to prepare clear and concise environmental documents and reports.

TECHNICAL APPROACH

Present both an overall technical approach for review of environmental project materials and the approach proposed for individual technical areas and tasks. Include any recommendations to improve the scope (including rationale) and reflect those recommendations in the cost estimate.

PROJECT ORGANIZATION AND MANAGEMENT APPROACH

Describe the proposed project organization, with an organization chart including positions, responsibilities, and reporting relationships. The project manager, deputy project manager, environmental resource specialists with responsibility for each resource area, administrative support personnel, and any subcontractor(s) must be identified, and their location specified. These key personnel shall not be reassigned within the project or to other projects without prior consultation with the State Broadband Office staff.

Describe the proposed management scheme for the project, with a discussion of where the work will be done and where each key person and subcontractor presently resides. Provide the proposed mechanisms for communication, reporting, technical direction and control, cost control, schedule control, quality control, quality assurance and control of subcontractors.

REFERENCES

List and describe three successfully completed or in-progress projects of a similar nature with the name and phone number of the client's project manager.

Additionally, list three client references specifically for the proposed project manager.

ORGANIZATIONAL CONFLICTS OF INTEREST

Insert any information required by the SBO regarding OCI information

RESUMES

Resumes may be submitted as an attachment to the proposal or as a separate volume. All resumes should be limited to two pages and must include the institution and date of graduation for all academic degrees, as well as a summary of relevant work experience and the specific dates of performance.

COST ESTIMATE

(The contractor should identify the type of contract, such as time and materials, cost plus, etc., and provide additional guidance on how the cost of the contract is to be estimated.)

(The State Broadband Office anticipates awarding and signing a (identify type) contract. Since the specific dates and number of field teams required are strictly estimates, each contractor shall submit a daily crew billing rate and expense rate sheet.)

(The State Broadband Office will compensate the contractor based upon the actual crews and hours worked. All preparation and processing of documents, NEPA reviews, and any other costs not associated with the daily crew rate shall be submitted as a fixed-price proposal with an attached cost breakdown. The State Broadband Office understands that there may be out-of-scope requirements for the completion of this project and any resultant costs will be handled between the contractor and the applicant under the provisions of the contract.)

(Any limiting assumptions used to prepare the cost estimate should be clearly specified in the proposal. Also include a rate schedule that will apply to the project for any work beyond the scope stated in this RFP.)

ADDRESSES

Submit Letters of Intent via e-mail or facsimile to:
(*contact name, e-mail/facsimile address, etc*.)

Submit Technical Proposals and Cost Estimates to:
(contact name, mailing address, phone number, etc.)

Technical Proposals and Cost Estimates should be submitted to the State Broadband Office by (*time and date*).