



# **Accelerating the Construction of BEAD Projects**

*Updated December 2024*

U.S. Department of Commerce  
National Telecommunications and Information Administration



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## Disclaimer

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This document is intended to solely to assist recipients in better understanding the BEAD Program and the requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, the terms and conditions of the award, or the specific application requirements set forth in the NOFO or subsequently issued guidance. In all cases, statutory and regulatory mandates, the terms and conditions of the award, the requirements set forth in the NOFO, and follow-on policies and guidance, shall prevail over any inconsistencies contained in this document.

# Accelerating the Construction of BEAD Projects

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The Broadband Equity, Access, and Deployment (BEAD) program is designed to provide affordable, reliable high-speed Internet access to all Americans. This guidance document lays out options to accelerate the construction of BEAD projects. By accelerating construction, Eligible Entities and subgrantees will more quickly serve millions of unserved and underserved households. NTIA encourages all Eligible Entities and subgrantees to take advantage of these flexibilities to accelerate broadband deployment projects.

## *Actions by Eligible Entities*

### **Negotiation of Subgrantee Agreements**

Upon completion of Subgrantee Selection and NTIA approval of the Final Proposal, Eligible Entities must enter into agreements with subgrantees to deploy broadband service to awarded locations. NTIA has previously encouraged Eligible Entities to publicly post draft subgrantee agreements prior to the initiation of Subgrantee Selection in order for potential subgrantees to better understand their contractual obligations.

**In addition, Eligible Entities may begin negotiating subgrantee agreements with provisional subgrantees immediately upon selection.** Based on experience in other broadband infrastructure programs, negotiation of subgrantee agreements can take several months. Eligible Entities are encouraged to begin negotiations prior to NTIA approval of the Final Proposal.

Eligible Entities may not sign subgrantee agreements with provisional subgrantees until after NTIA approval of the Final Proposal. However, Eligible Entities may take every other step in that process, including collecting subgrantee agreements signed by provisional subgrantees. (These subgrantee agreements should specify that the subgrant agreement is conditioned upon NTIA's approval of the Eligible Entity's Final Proposal). Once NTIA approves an Eligible Entity's Final Proposal, the Eligible Entity may sign the collected agreements, assuming that the collected agreement is consistent with what NTIA approved in the Final Proposal. In the case where NTIA requires modifications or disallows a particular subgrant, the Eligible Entity may need to reconsider the negotiated agreement for that subgrant.

### **Environmental Review**

Pursuant to the National Environmental Policy Act (NEPA), all BEAD projects must be analyzed for potential environmental impacts before infrastructure deployment may begin. To speed this review, NTIA has developed NEPA tools and efficiencies and has designated Eligible Entities as joint lead agencies with NTIA for NEPA review.

As joint lead agencies under NEPA, Eligible Entities may have subgrantees complete environmental studies and prepare NEPA documents. **Eligible Entities are encouraged to create capacity to meet their NEPA joint lead agency responsibilities, communicate NEPA requirements to subgrantees, and begin environmental analyses immediately**

**upon completion of Subgrantee Selection.** Eligible Entities are not required to wait for NTIA approval of the Final Proposal before beginning NEPA analyses, although NTIA must approve NEPA decisions prior to construction.

## *Actions by Subgrantees*

Eligible Entities may allow subgrantees to claim reimbursement for pre-subgrant costs in certain circumstances in accordance with 2 CFR 200.458. Pre-subgrant costs are those incurred before the start date of the subgrant directly pursuant to the negotiation and in anticipation of the subgrant. Eligible Entities may allow subgrantees to charge these costs by providing its written approval, and only if the costs would have been allowed if incurred after the start date of the subgrant and are necessary for efficient and timely performance of the project. Importantly, provisionally selected subgrantees should understand that any pre-subgrant costs are incurred at the risk of the subgrantee and subject to NTIA approval of the relevant Final Proposal. While NTIA expects to approve Final Proposals that are implemented consistent with the Eligible Entity's approved Initial Proposal, NTIA will not authorize payment for any costs for any provisional subgrants not approved in a Final Proposal.

Provisionally selected subgrantees should consult 2 C.F.R. § 200.458 if they plan to incur pre-subgrant costs, including pre-subgrant costs associated with equipment and materials, right of way and pole attachments, and environmental review, as further addressed below.

## *Ordering Equipment and Materials*

**Provisional subgrantees may place orders for equipment and materials necessary to deploy broadband infrastructure.** Placing orders will speed construction by ensuring subgrantees have the necessary items to begin deployment once NTIA approves the Eligible Entity's Final Proposal. NTIA expects BEAD to represent a significant surge in broadband deployment, potentially leading to delays for subgrantees who have not reserved capacity.

Provisional subgrantees may want to discuss agreements with vendors that allow cancellation without charge in the event of NTIA disapproval of the subgrant.

## *Negotiation for Rights of Way and Pole Attachment*

**Provisional subgrantees may negotiate and sign agreements for rights of way and for pole attachments.** Rights of way and pole attachment agreements may take months from initiation to completion, so provisional subgrantees may shorten construction timelines significantly by beginning these processes early. Provisional subgrantees may negotiate with entities on project routes, payment structures, timelines, or any other necessary elements of these agreements. If agreement is reached, provisional subgrantees may sign agreements to obtain rights of way and for pole attachments.

## Environmental Review

**Subgrantees may apply for permits from federal, state, and local agencies and may initiate environmental analyses and prepare documentation for NEPA review.**

Permitting processes for deployment projects are likely to take at least several months. By beginning these processes upon provisional selection as a subgrantee, provisional subgrantees may accelerate the construction timeline by several months. subgrantees will receive information from Eligible Entities on the necessary documentation for NEPA review.