

# BEAD Subgrantee vs. Subcontractor Guidance



The following checklist provides Broadband Equity, Access, and Deployment (BEAD)<sup>1</sup> Eligible Entities (EEs) with considerations to determine if a partnering entity should be considered a subgrantee or a subcontractor.<sup>2</sup> Note, for BEAD deployment projects, EEs must use competitively-awarded subgrants. EEs should refer to the BEAD Notice of Funding Opportunity (NOFO) and [2 CFR 200; Subpart D](#) for additional guidance.



## DEFINITIONS

Figure 1 provides the definitions for the terms subgrantee and subcontractor per 2 CFR 200.331 and BEAD program requirements.

A **subgrantee**, also known as a subrecipient, is either a for-profit entity or non-federal entity, such as a state government, local government, Indian tribe, Institution of Higher Education, or nonprofit organization, that receives a subgrant for the purpose of carrying out part of a federal award. The subgrant creates a federal assistance relationship with the subgrantee.

A **subcontractor** is a non-federal entity that receives a legal instrument (contract) to provide goods and services. The contract creates a procurement relationship with the contractor and the awarding non-federal entity.

*Figure 1: Definitions*



## SUBCONTRACTOR CHECKLIST



### Does the entity qualify as a subcontractor?

Does the entity provide goods and services within normal business operations?

Yes  No

Does the entity provide similar goods or services to many different purchasers?

Yes  No

Does the entity operate in competitive environments?

Yes  No

Does the entity provide goods or services that are ancillary to the operation of the federally awarded program?

Yes  No

*In accordance with [2 CFR 200.331\(c\)](#), if you selected “Yes” to ANY questions listed, this MAY be an indicator that the entity in question is a subcontractor; not a subgrantee.<sup>3</sup>*

### Determination

<sup>1</sup> This document is intended solely to assist recipients in better understanding the BEAD grant program and the requirements set forth in the NOFO for this program. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in this document.

<sup>2</sup> While 2 CFR 200 uses the term “contractor,” for the purposes of this document “contractor” and “subcontractor” will be used interchangeably to match terminology used by EEs.

<sup>3</sup> **2 CFR 200.331(c): Use of judgment in making determination.** In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.





## SUBGRANTEE CHECKLIST



### Does the entity qualify as a subgrantee?

Does the entity determine who is eligible to receive federal assistance under the program guidelines?

Yes  No

Does the entity measure its performance according to whether it achieved federal program objectives?

Yes  No

Is the entity responsible for making programmatic decisions?

Yes  No

Does the entity use federal funding to implement programs whose public purpose is specified in the Infrastructure Investment and Jobs Act, the authorizing statute for BEAD, as opposed to providing goods or services for the benefit of the award recipient?

Yes  No

Is the entity responsible for adherence to applicable Federal program requirements specified in the Federal award?

Yes  No

*In accordance with [2 CFR 200.331\(c\)](#), if you selected “Yes” to ANY questions listed, this MAY be an indicator that the entity in question is a subgrantee; not a subcontractor.*

**Determination**



## SUBGRANTEE REQUIREMENTS

The BEAD NOFO lists several general and specific qualifications that deployment subgrantees must meet to participate in the BEAD program. For general qualifications, each EE must ensure that any prospective subgrantee:

1. Is capable of carrying out activities funded by the subgrant in a competent manner in compliance with all applicable federal, Eligible Entity, and local laws;
2. Has the financial and managerial capacity to meet the commitments of the subgrantee under the subgrant, the requirements of the Program and such other requirements as have been prescribed by the Assistant Secretary or the Eligible Entity; and
3. Has the technical and operational capability to provide the services promised in the subgrant in the manner contemplated by the subgrant award.

Specific requirements related to financial capability, managerial capability, technical capability, compliance with laws, operational capability, ownership, and other public funding are available on pages 72-76 of the BEAD NOFO. Note that EEs are required to detail how they will ensure prospective subgrantees deploying network facilities meet these minimum requirements in their Initial Proposal.



## ADDITIONAL QUESTIONS

For additional questions on the difference between a subgrantee and a subcontractor, please contact your Federal Program Officer (FPO).