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Frequently Asked Questions (FAQ) NEPA for BEAD Addendum

Broadband, Equity, Access, and Deployment
(BEAD) Program



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

Introduction

This resource addresses Frequently Asked Questions about roles and responsibilities supporting National Environmental Policy Act (NEPA) compliance for Eligible Entities in the BEAD program.

This document is intended solely to assist recipients in better understanding the Broadband Equity Access and Deployment (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, 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.

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1. General Questions

1.1 What NTIA programs are included in this guidance?

This guidance only applies to the Broadband Equity Access and Deployment (BEAD) program. It does not apply to NEPA reviews for any other NTIA programs.

2. Understanding the National Environmental Policy Act (NEPA)

2.1 What is the National Environmental Policy Act (NEPA)?

The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970. NEPA requires activities or decisions subject to federal control and responsibility, including federally funded actions, to be assessed for ecological, aesthetic, historic, cultural, economic, social or health effects, whether direct, indirect, or cumulative. Consequently, NTIA requires projects funded under the Broadband Equity Access and Deployment (BEAD) Program to be analyzed for potential environmental impacts before infrastructure deployment can begin. Other federal agencies may have NEPA obligations for BEAD projects that require resource permits, cross or impact federal lands or facilities, or propose construction in road or highway rights of way.

2.2 What are the levels of NEPA review and how are they determined?

NEPA can involve three different levels of analysis based on whether an action has the potential to cause significant environmental effects.

- **Categorical Exclusion (CATEX):** Actions that do not normally have individually or cumulatively significant effects on the human environment may be “categorically excluded” from a detailed environmental analysis. An analysis of environmental considerations of the proposed actions must be completed to determine whether a CATEX can apply.
- **Environmental Assessment (EA):** An EA will be prepared for projects that do not qualify for a CATEX, and when the significance of the project's environmental impact is not clearly established. If NTIA determines that a project will not have significant impacts on the quality of the environment based on the environmental analysis, a Finding of No Significant Impact (FONSI) is issued. If environmental analysis finds that actions could have significant impact, an Environmental Impact Statement (EIS) would be required.
- **Environmental Impact Statement (EIS):** An EIS is prepared for projects when the action is determined to significantly affect the quality of the human environment. The regulatory requirements for an EIS are more detailed and rigorous than an EA. NTIA will document the final decision in a Record of Decision (ROD) which identifies the considered alternatives, explains the decision, and summarizes any necessary mitigation measures.

3. Joint Lead Agency: Roles & Responsibilities

3.1 What does it mean to be a joint lead agency for NEPA?

As primary administering agencies for the BEAD program, Eligible Entities will serve as joint lead agencies alongside NTIA to meet NEPA obligations. NTIA has developed NEPA tools and efficiencies which it will make available to Eligible Entities to minimize potential NEPA delays in their state/territory while implementing the BEAD program in an environmentally sensitive manner.

For more information, reference 42 U.S.C. 4336a(a)(1)(B) and the duties described in 42 U.S.C. 4336a(a)(2).

3.2 What responsibilities does a joint lead agency have?

States/territories acting as a joint lead agency will assume the following responsibilities:

- Obtain specialized environmental and historic preservation (EHP) expertise to hire, contract, or otherwise retain staff with relevant NEPA qualifications and experience to support the state/territory office.
- Develop a schedule for environmental review and permitting.
- Prepare or supervise the preparation of NEPA documents, reviewing all drafts, and verifying they meet the requirements of NEPA prior to transmittal to NTIA.
- Ensure that project implementation (site preparation, demolition, construction, ground disturbance, fixed installation, or any other project implementation activities) does not begin prior to NEPA completion.
- Monitor subgrantees to ensure they understand and comply with relevant environmental laws, including but not limited to NEPA.

NTIA will provide additional guidance to Eligible Entities in the Initial Proposal Terms & Conditions and through technical assistance after Initial Proposal Volume II is approved.

3.3 What is the role of subgrantees?

Eligible Entities may have subgrantees complete environmental studies and prepare certain NEPA documents for their review. Eligible Entities will communicate NEPA requirements to subgrantees and review all drafts prior to transmittal to NTIA.

3.4 What is NTIA's role?

NTIA will establish NEPA qualifications and standards and ultimately approve decision documents prepared by sub-recipients and reviewed and certified by states/territories.

3.5 What is NTIA's role in notifying potentially affected Tribes of BEAD projects?

NTIA will notify Tribes of projects that may affect Tribal historic properties or other sites of religious and cultural significance to Tribes and conduct government-to-government consultation for projects of Tribal interest or concern. To assist NTIA with notifications, Eligible Entities will provide the NTIA environmental program officer (EPO) for their state or territory with any necessary information to notify Tribes of projects. Once the NTIA EPO has notified relevant Tribes of a project, the EPO will assist Eligible Entities and subrecipients with complying with Tribal outreach requirements.

4. Obtaining EHP and NEPA Expertise

4.1 Why should Eligible Entities recruit, obtain, and/or otherwise add NEPA/EHP expertise to their team?

To fulfill their responsibilities as joint lead agencies under 42 U.S.C. 4336a(a)(2), Eligible Entities will need environmental expertise on their team, including to prepare or supervise the preparation of environmental documents. Eligible Entities may use their BEAD funds to support this capacity without regard to the 2% cap. See question 4.4 for additional information.

To ensure environmental review proceed expeditiously, NTIA recommends Eligible Entities engage qualified EHP experts. Qualified staff will also help Eligible Entities maximize the benefits of the permitting tools and efficiencies established by NTIA with the newly established categorical exclusions, historic preservation review “program comment,” and mapping tools. Qualified staff may also help an Eligible Entity find ways to reduce or eliminate duplicative environmental review obligations.

4.2 What qualifications and/or experience is necessary to support the environmental review process?

Various types of expertise are relevant to environmental review. To assist Eligible Entities, NTIA has created a technical assistance guide. For additional information, please see [Smart Start: How to Plan and Prepare for National Environmental Policy Act \(NEPA\) Compliance for BEAD](#). Please note that some states and territories may have additional environmental regulations and qualifications for these roles.

4.3 What are some options for building NEPA/EHP capacity in an organization?

Eligible Entities have a variety of options to build necessary NEPA/EHP capacity to efficiently implement the BEAD program. For example, Eligible Entities can consider the following options:

- Eligible Entities can coordinate with other state/territory agencies, such as the state Department of Transportation (DOT), who may have environmental and cultural resources divisions with staff that can assist the Eligible Entity in meeting NEPA obligations.
- Eligible Entities can leverage expertise that exists in other state/territorial governmental agencies by funding subject matter expert (SME) positions, supporting flexible staffing models, or investigating opportunities for temporary detail assignment.
- Eligible Entities can hire EHP experts directly.
- Eligible Entities can contract with qualified consultants. Eligible Entities should consider whether to use traditional contract vehicles like a Blanket Purchase Agreements (BPAs) and Request for Proposal/Quotation (RFP/RFQ) or to use more flexible options such as Indefinite-Deliverables, Indefinite-Quantity (IDIQ) if contracting with consultants.
- Eligible Entities can look to establish public-private partnerships with industry experts, private sector partners, or non-profit entities, or partner with state/territory educational institutions such as community colleges or university systems.
- Eligible Entities can leverage partnerships between academic, nonprofit, and for-profit organizations such as cooperative or university extension services to draw on relevant expertise and understand the implications of NEPA obligations for project applicants.

Eligible Entities should evaluate how the expertise offered, time committed, and funds committed for each option supports the volume and scale of deployments triggering NEPA. For additional information, please see [Smart Start: How to Plan and Prepare for National Environmental Policy Act \(NEPA\) Compliance for BEAD](#).

4.4 How can I fund NEPA/EHP support?

Eligible Entities may use BEAD awards to fund expertise to fulfill 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 an Initial Proposal Funding Request (IPFR) to accommodate this change, Eligible Entities should reach out to the respective Federal Program Officer (FPO) for assistance.

5. Next Steps and Additional Resources

5.1 What can Eligible Entities start doing today to streamline permitting and environmental review processes in their state/territory, in accordance with BEAD program requirements of the Final Proposal?

NTIA encourages Eligible Entities to 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.

5.2 Where can I go for more information?

General permitting and EHP information is available now at BroadbandUSA.gov and specific questions can be directed to BEAD FPOs. Additional guidance will be provided to Eligible Entities after Initial Proposal Volume II is approved by NTIA via the Initial Proposal Terms & Conditions and through future technical assistance.