



Permitting Needs Assessment

April 2023



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 Transportation (DOT)
- State University System
- County Department of Emergency Services
- State Department of the Environment (DoE)
- City Departments of Transportation
- County Community Development or Land Use Department
- City Department of Parks and Recreation
- State Historic Preservation Office
- States Parks/Forests
- 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 | |

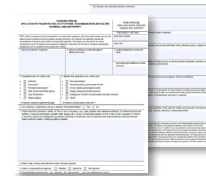
Engage early and schedule pre-meetings to obtain all your **documentation** and ensure application **completeness**.

**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.



Streamlining Permitting Case Studies



Many states have already implemented policies and regulations to streamline permitting, and these examples can be used to help other states develop efficient policies.

BROADBAND READY COMMUNITIES EXAMPLES

Multiple states have implemented “Broadband Ready Communities” that provide incentives and assistance to local governments to help streamline permitting.



State of Indiana

Created in 2015 as “a tool to encourage broadband deployment throughout Indiana” by focusing on reducing local regulatory and administrative barriers that may hinder broadband infrastructure deployment.



State of Tennessee

Tennessee allows political subdivisions to apply for designation as a “broadband ready community” pursuant to the department’s guidelines. The political subdivision must have adopted an efficient and streamlined ordinance or policy for reviewing applications and issuing permits related to broadband projects.



State of Wisconsin

The Public Service Commission of Wisconsin operates the “Broadband Forward!” program to certify that a local government has taken specific steps to reduce barriers for broadband investment.

E - PERMITTING EXAMPLES

States are encouraged to implement web portals and tracking to streamline the permitting process in their state. Illinois’s Environmental Protection Agency is a prime example of constructively employing e-permitting.



Illinois Environmental Protection Agency

Illinois developed a new web portal to accept state agency permit applications online, allow applicants to track pending applications, and consolidate information to make it more accessible for applicants. The state also created a “General Permit” application to address the inefficiency of forcing applicants to numerous different narrowly-drawn permit applications. These measures help the state ensure that applicants adhere to uniform standards for permitting applications.



City of Rancho Cordova, California

The City of Rancho Cordova in California was struggling with outdated software and paper-based processes for permitting, all which were confusing to applicants. The city adopted a new enterprise permitting, planning, code management, and licensing solution that allows citizens to easily connect and engage online. The city also provides a user-friendly digital guide that helps citizens navigate the online permitting and licensing process.



RIGHT OF WAY (ROW) REGULATION EXAMPLES

Several states have regulations in place to help facilitate Right of Way (ROW) access and the deployment of broadband where ROW is needed.



Use of Public Rights of Way

Some states have made clear in statute the rights of telecommunications and public utilities to construct, maintain and operate their systems along public rights of way.

State of Virginia



VA. Code Ann. § 56-458 (2002): Telecommunications companies have the right to build its system along public roads and railroads, on public lands, and along navigable waterways.

State of Missouri



Mo. Rev. Stat. § 67.1832 (2001): Municipalities shall permit telecommunication companies and other public utilities to construct, maintain and operate their systems on public rights-of-way.



Compensation

States may set guidelines for how local governments assess right of way fees to ensure some uniformity and reasonable costs across the state.

State of Arkansas



Ark. Code Ann. § 14-200101(a)(1)(A) & (D) (2002): Local franchise fees not to exceed 4.25% of gross receipts from local service or higher amount agreed to by affected provider OR the voters. Affected utilities may recover fee costs by charging customers an amount equal to the right-of-way fee.

State of Indiana



Ind. Code § 8-1-2-101(b) (2002): Compensation may not exceed the municipality's direct and actual costs of managing the right-of-way for the public utility. These costs shall be assigned individually to the public utility creating the costs.



Timelines

Multiple states have already established timelines for approving or denying the ROW application, with some flexibility depending on where the ROW is needed and what type of work will be performed.

State of Virginia



VA. Code Ann. § 56-458(D)(2002): Transportation Board has **45 days** to grant or deny approval for use of right-of-way, and if denied it must provide a written explanation of the reasons the permit was denied, and the actions required to cure the denial.

State of Ohio



Ohio Rev. Code Ann. § 4939.03(C) (Anderson 2002): Municipalities must approve or deny applications within **60 days** of receipt.

State and local agencies must look out for common red flags when dealing with the permitting process and are encouraged to make use of permitting green flags.

PERMITTING RED FLAGS

Avoid these red flags when working through the permitting process with your state and local agencies.

Exorbitant Fees |

Some state and local agencies assess costly fees for processing permits that can deter applicants from applying, increase timelines, and create unnecessary hurdles. To ensure efficiency, set fee rules or guidelines that **tie the fee to the actual cost of permit processing**.

Lack of Communication |

Failing to communicate across state agencies and other units of government **can result in unnecessarily duplicative permits**. Be sure to communicate with **all relevant stakeholders when developing policies** to make your permitting processes more efficient and less resource intensive.

PERMITTING GREEN FLAGS

Pay attention to these green flags when working through the permitting process with your state and local agencies.

Consolidate Permits |

States and local agencies that consolidate permits (for example, by addressing duplicative permits by creating a ‘**General**’ permit) increase the efficiency and speed of permitting review processes.

Allow E-Permitting |

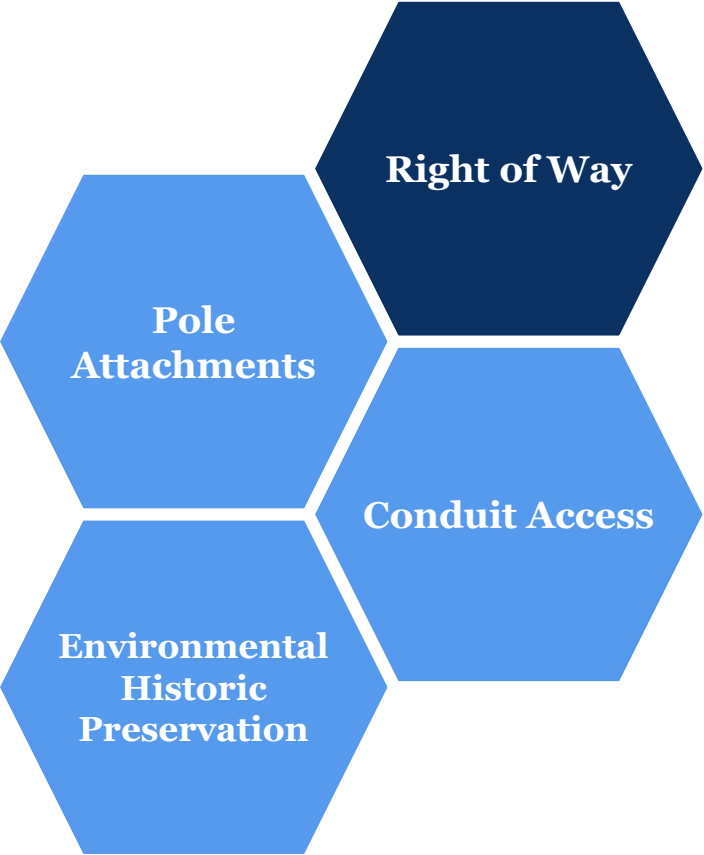
Some states, such as Illinois, have already **implemented online/e-permitting to streamline the process** by allowing applicants to fill out applications online, track them, and correct them if necessary. E-permitting can reduce applicant confusion by helping them understand all requirements up front.

Assess Capacity |

State and local governments must be prepared for the upcoming permitting application increase. Assessing your **current capacity** and making adjustments (such as hiring consultants) before the permits come in will ensure a well-resourced and timely process.

Checklist: Right-of-Way (ROW)

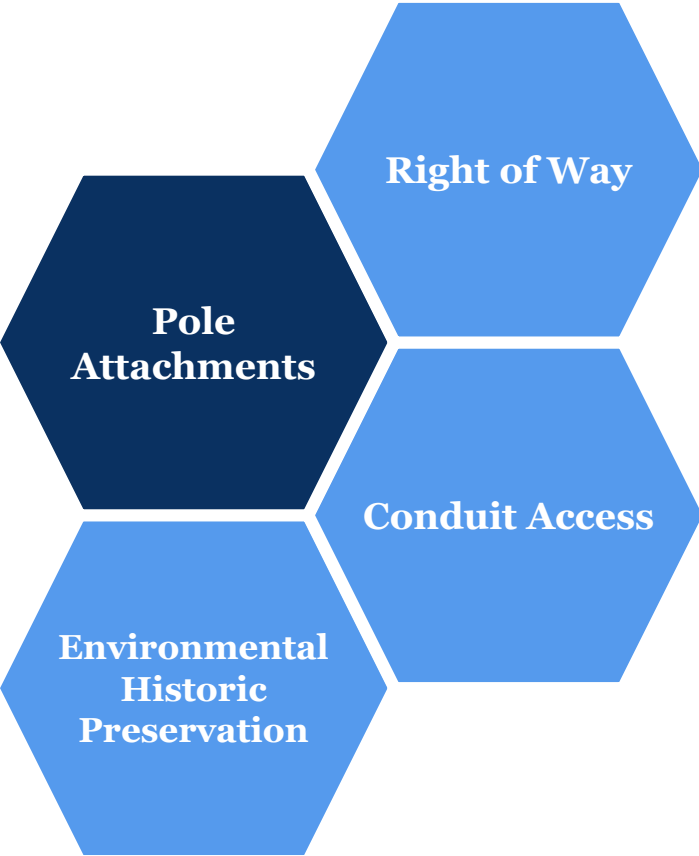
There are four main categories related to permitting that state and local governments must prepare to address, including accessing rights-of-way.



- Policy**
 - What are the relevant state and local ROW policies?
 - Where are there ROW considerations in my area?
 - Who are the experts to contact to learn more about ROW policies?
- Stakeholder Engagement**
 - Which stakeholders should be engaged to review ROW regulations?
 - Which state and federal agencies do I need to contact regarding ROW?
- Streamlining Permitting**
 - Have there been any attempts in the past to streamline permitting in my state – if so, what were the outcomes?
 - What have other states done that should be replicated?
 - How am I planning to coordinate with state and local permitting agencies to offer expedited permitting for minimally invasive construction practices?
- Safety & Service Continuity**
 - What measures should be enforced during broadband deployments to ensure worker safety and avoid service disruptions?
 - How should project owners be engaged to take corrective or restorative actions to ensure worker safety and continuous service?

Checklist: Pole Attachments

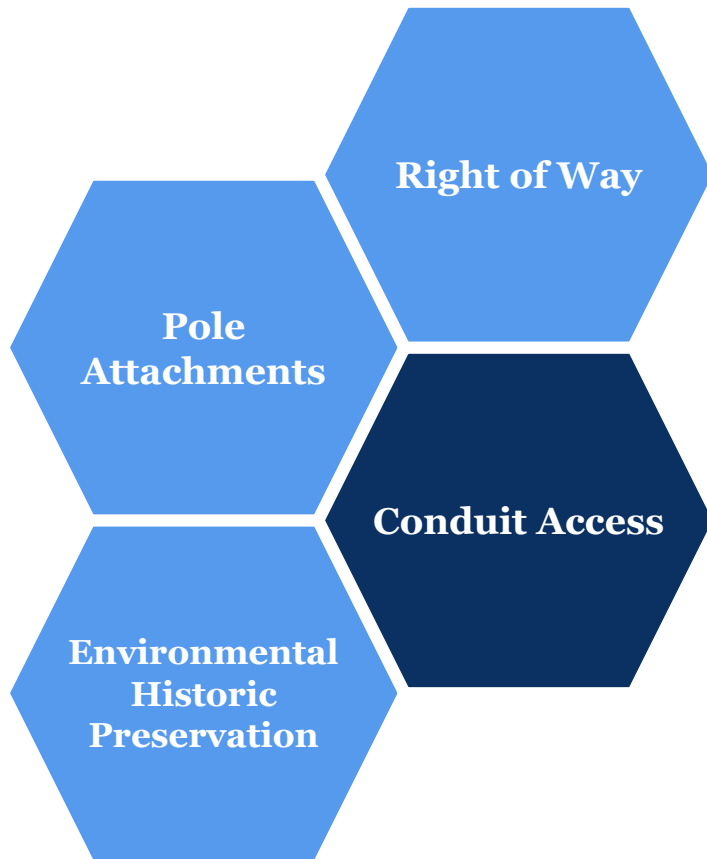
There are four main categories related to permitting that state and local governments must prepare to address, including pole attachments.



- | | |
|---|--|
| <p>Policy</p> | <ul style="list-style-type: none"> <input type="checkbox"/> Does the FCC or a regional, state, or local authority regulate pole attachments in my state? <input type="checkbox"/> What are the pole attachment and make-ready policies in my state? <input type="checkbox"/> What are the unique pole attachment considerations in my area? |
| <p>Stakeholder Engagement</p> | <ul style="list-style-type: none"> <input type="checkbox"/> Which stakeholders should be engaged to review permitting regulations and proposed reforms? <input type="checkbox"/> What are the industry perspectives on pole attachments? |
| <p>Streamlining Permitting</p> | <ul style="list-style-type: none"> <input type="checkbox"/> How will I promote constructive pole attachment policies ? <input type="checkbox"/> Does my state need rules or reforms that address the cost of pole replacements? |
| <p>Safety & Service Continuity</p> | <ul style="list-style-type: none"> <input type="checkbox"/> What measures should be enforced during broadband deployments to ensure worker safety and avoid service disruptions? <input type="checkbox"/> How should project owners be engaged to take corrective or restorative actions to ensure worker safety and continuous service? |

Checklist: Conduit Access

There are four main categories related to permitting that state and local governments must prepare to address, including conduit access.



- Policy**
 - What are the relevant state and local conduit access policies?
 - What are the specific conduit access policies related to railroads, bridges, and overpasses?

- Stakeholder Engagement**
 - Which stakeholders should be engaged to review permitting regulations and proposed reforms?
 - Which entity has regulatory authority for conduit access?
 - What are the industry perspectives on conduit access?

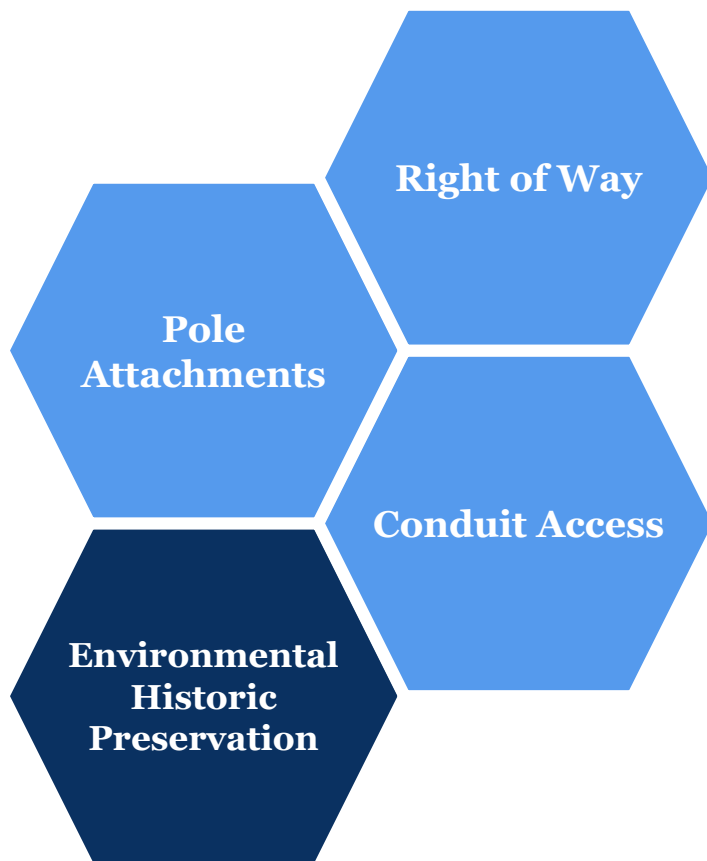
- Streamlining Permitting**
 - How will I promote dig once policies and encourage/require project owners to install multiple conduits or micro-ducts for future use?
 - What other measures are in place to reduce constructions costs?

- Safety & Service Continuity**
 - What measures should be enforced during broadband deployments to ensure worker safety and avoid service disruptions?
 - How should project owners be engaged to take corrective or restorative actions to ensure worker safety and continuous service?

Checklist: Environmental Planning/Historic Preservation



There are four main categories related to permitting that state and local governments must prepare to address, including environmental planning and historic preservation.



Policy

- Where does the federal government own land in my state and what are the EHP requirements and policies used by those federal agencies?
- What are the state and local requirements regarding environment planning and historic preservation?

Stakeholder Engagement

- Which stakeholders should be engaged to review state EHP regulations?
- Which other state agencies are involved in EHP permitting?
- Which federal agencies own land in my state?

Streamlining Permitting

- How to engage state historic preservation officers (SHPOs) on guiding the streamlining of environmental/historic preservation permitting?

Safety & Service Continuity

- How to tackle the potentially lengthy timeline for securing both state and federal environmental/historic preservation permits ?
- Will state agencies cross-coordinate to reduce application processing time?



BROADBAND POLICIES & MECHANISMS

A GUIDE FOR STATES AND LOCALITIES

Overview

To maximize the historic broadband investment in the Infrastructure Investment & Jobs Act (IIJA), states and localities should consider policies to reduce construction cost and accelerate project deployment: 1) **right-of-way (ROW) access**; 2) dig once for **buried deployments**; 3) pole attachment policies and one-touch make-ready (OTMR) for **aerial deployments**.

RIGHT-OF-WAY ACCESS

Broadband networks are built along either public land that runs alongside roads and railways or private land and facilities, known as the ROW. For new broadband deployment, providers need to access the ROW, a process that can be slow and costly. Jurisdictions should consider policies that **streamline the ROW**.

Streamlined ROW

Jurisdictions and private owners **grant providers easements** to access the ROW. In addition, they **provide permits to providers or reach lease agreements with them** to build broadband infrastructure via conduits, paths, utility poles, and other structures along the ROW. Jurisdictions looking to streamline ROW access can identify and alleviate bottlenecks in these processes while still ensuring safe construction practices.

BENEFITS

They can significantly reduce deployment time and capital expenditure (CapEx). Policies to ease ROW access can look to simplify complicated permitting processes and increase local capacity, which would speed up providers' planning and construction time and reduce their costs. ROW access policies can also promote newer methods, such as micro-trenching and rapid small cell wireless facility deployment via public infrastructure, that, when installed correctly, can be faster and more affordable for providers.

POLICY STRUCTURE & IMPLEMENTATION



Permitting: Jurisdictions should streamline the permitting process. Options include simplifying the number and complexity of permit applications (the "one-stop shop"), offering expedited permitting for minimally invasive construction practices, and putting in place e-permitting.



Parameters: Jurisdictions should define the appropriate sizing and installation locations of conduit, small cells, and other broadband infrastructure to ensure safety and durability. Less involved practices can significantly reduce costs and minimize disruptions when installed correctly.

RISKS & OTHER CONSIDERATIONS

Safety & durability: Poor construction practices pose a safety risk to workers, pedestrians, roadways, vehicles, and public services. Moreover, natural phenomena (e.g., earthquakes, icy weather) and other construction can damage poorly installed conduit and especially aerial facilities. Streamlined ROW policies should include safety measures and require project owners to take corrective or restorative actions to ensure safety and durability.

Staff resourcing: Lack of staff is a common barrier, particularly for permitting. Jurisdictions should think through realistic staffing needs to prepare for IIJA funding. Permit offices can be self-sustaining with reasonable fees.

BURIED DEPLOYMENT

Buried deployment involves running cable underground for terrestrial broadband and fixed or mobile wireless fiber backhaul along the ROW. Historically, project owners dug trenches each time they installed infrastructure or did maintenance. **Dig once** policies can reduce the substantial CapEx and length of traditional buried deployment, as well as provide additional societal benefits.

Dig Once

Dig once is a broad term that encompasses a range of policies. At their core, **dig once policies encourage or require project owners to install multiple conduits or micro-ducts (or both)** for future use during any construction (e.g., telecoms, transportation, utilities) along the public ROW, especially highways and roads.

BENEFITS

It can reduce future costs. Installing conduit as part of any planned construction minimizes the need for future broadband construction.

It can minimize disruption to services. A dig once policy reduces future construction along the public ROW, thus reducing service disruptions for citizens.

It can take advantage of IIJA spending. In conjunction with the IIJA, the Federal Highway Administration (FHWA) has issued rules that encourage states to promote dig once along the state ROW.¹ With a dig once policy in place, state broadband offices and Departments of Transportation (DOT) can coordinate to maximize the impact of IIJA transportation investments.

CONTEXT IS KEY

While the policies in this guide have had success in many locations, they are not universally applicable. States and localities should take their specific context into account when weighing benefits and costs.

POLICY STRUCTURE & IMPLEMENTATION



Implementation mechanism: Jurisdictions must consider which implementation mechanism to use, as it influences the policy's stringency and several key structural questions.

Legislation or ordinance: Typically, this is a mandate that applies to all construction along the public ROW. Legislation is more likely to ensure that conduit gets installed but provides less flexibility to project owners.

Executive order: Typically, this is a coordinating or advisory function. The jurisdiction promotes public notice for upcoming work. Providers can choose to add conduit but are not required to, potentially lessening impact.



Cost and ownership of conduit: Jurisdictions must decide which entity owns the conduit and can benefit from it (e.g., through public services or leasing to others), as well as how to pay for it.

Jurisdiction: The jurisdiction often reimburses the project owner for a percentage of total costs. Owning the conduit requires more involvement but also allows the jurisdiction to use it or lease it to providers.

Private entity: The project owner or another provider install and own the conduit. The jurisdiction's role is more hands-off, allowing the private sector to function, but does not provide the benefits of conduit ownership.

RISKS & OTHER CONSIDERATIONS

Engineering design: The permitting agency can ensure that the conduit is accessible (e.g., in pull boxes, manholes). It should also allow access to other installed infrastructure (e.g., power lines, sanitation pipes).

Marginal cost increase: The conduit is a small part of the full construction cost. Even so, for a non-broadband project, it will increase CapEx and installation time, which may impact project viability on the margins.

1. Federal Highway Administration, *Broadband Infrastructure Deployment*, Doc. Citation 86 FR 68553, 2021 ([link](#))

AERIAL DEPLOYMENT

Aerial deployment involves attaching cables to utility poles along the ROW. Utility poles with multiple existing services (e.g., telephone, electricity, cable) require policies to regulate pole attachments so that they do not inhibit new broadband deployment. **Pole attachment policies** and **OTMR** are two areas where jurisdictions can reduce costs for project owners and promote more rapid aerial deployment.

Pole Attachment Policies

Pole attachment policies address rates, access requests, timelines, procedures to mediate disputes, and other terms and conditions. For incumbent providers, they influence operational expenses. For new attachers, they are a potential barrier to entry if they make a proposed project economically nonviable, particularly in unserved rural areas. Jurisdictions should ensure that **pole attachment policies are fair and streamlined.**

BENEFITS

They can reduce costs for new broadband deployment. Working with all interested parties, jurisdictions can determine streamlined attachment processes and reasonable rates that accelerate broadband deployment.

They can provide certainty. Jurisdictions that ensure consistent pole attachment policies provide clarity to the market, with all relevant entities able to incorporate the process into their long-term planning.

POLICY STRUCTURE & IMPLEMENTATION



Regulatory authority: Jurisdictions should identify which entity has regulatory authority for pole attachments. In some cases, legislators can re-assign regulatory authority within their jurisdictions.

FCC or quasi-public agencies: The FCC regulates pole attachments in 30 states. Quasi-public agencies, such as TVA², can also regulate pole attachments.

Local authority: Several states grant authority to localities to regulate pole attachments. The state may set requirements, such as fair and nondiscriminatory rates.

State agency: Many states give regulatory authority to an agency (e.g., public utility commission), which gives the state control of the process but requires oversight.

Pole owners: Some states designate pole owners to set their own policies and rates. The jurisdiction has minimal involvement but may mediate disputes.



Applicability: Most pole attachment policies exempt municipal and cooperative utilities. Wherever possible, jurisdictions should align policies for all pole owners and work with these groups to address their specific circumstances and needs.

RISKS & OTHER CONSIDERATIONS

Economic impacts: Jurisdictions should be aware of the economic impacts of pole attachment policies on pole owners, particularly in rural areas. Typically, they install more poles per customer and have smaller customer bases on average, so rely more on revenue from pole attachment fees to support the electric system as a whole.

Federal Communications Commission (FCC) regulations

Section 224 gives the FCC authority to regulate pole attachments, though states can exempt themselves—20 states and the District of Columbia have done so. In addition, FCC rules do not apply to cooperatives or municipalities.³ In 2019, the FCC adopted an OTMR policy that “permit[s] new attachers to elect an OTMR process for simple make-ready for wireline attachments in the ‘communications space’ on a pole.”⁴

Pole attachment policies and OTMR cited in this guide apply to states that set their own pole attachment regulations, as well as any regulations outside of FCC authority (e.g., municipalities, cooperatives).

2. The Tennessee Valley Authority (TVA) is a federally-owned electric utility in the southeast; 3. FCC, U.S. Code Title 47 – Telecommunications, 2020 ([link](#)); 4. FCC, DA 19-445, 2019 ([link](#))

One-Touch Make-Ready

Make-ready is the logistical, technical, and regulatory tasks needed to prepare utility poles for new cables. It can be an arduous, time-consuming process that slows deployment, particularly in underserved areas. **An OTMR policy designates one or more contractors to complete all make-ready tasks at the same time** rather than have the pole owner and each incumbent provider conduct their own make-ready sequentially.

BENEFITS

It can reduce make-ready costs for new attachers. OTMR allows the designated contractor to conduct all planning and carry out all adjustments simultaneously, which reduces make-ready costs for the new attacher.

It can avoid potential complications. OTMR reduces the number of parties involved in make-ready, which empowers the contractor to streamline planning, as well as make choices in the community's best interests.

It can support new market entrants. Reorganizing utility poles can be a barrier to entry for new attachers. Pole owners and incumbent providers can deny or delay new attachers, citing logistical challenges and safety concerns. By reassigning decision-making, OTMR empowers new attachers to enter the market.

POLICY STRUCTURE & IMPLEMENTATION



OTMR contractors: Jurisdictions or pole owners must determine the appropriate designated entity or entities to conduct the OTMR work.

New attacher: Under FCC rules, the new attacher can choose to request OTMR. They are responsible for all make-ready work and would typically hire a contractor.

Designated contractor(s): The jurisdiction can work with pole owners and incumbent providers to develop a reasonable selection criteria for safety and competence.



Additional costs: New attachers typically pay make-ready and negotiate additional costs with the relevant parties. The FCC ruled that new attachers do not have to pay for preexisting safety violations.⁵ Moreover, in early 2022, the FCC sought input on its rules for how to allocate pole replacement costs among relevant parties.⁶ Jurisdictions should be aware that additional cost issues will likely arise.

RISKS & OTHER CONSIDERATIONS

Safety & access: For utility poles with multiple existing services, concerns over worker safety and the risk of service disruption often delay projects. Though there is no silver bullet, OTMR can help to avoid long delays.

Grid resilience: The IIJA allocates funding for electric grid resiliency. A streamlined OTMR process can maximize the impact of resiliency funding, as the designated contractor can more efficiently incorporate pole upgrades.

Upcoming technical assistance: NTIA recognizes that this guide is not a comprehensive overview of relevant policies and mechanisms. Following the Notices of Funding Opportunity (NOFO) for IIJA broadband programs, NTIA will provide technical assistance to states to support grant application submissions.

5. FCC, "Third Report and Order and Declaratory Ruling", 2018 ([link](#)); 6. FCC, "Second Further Notice of Proposed Rulemaking", 2022 ([link](#))

Want to learn more?

To stay up to date on the latest available information, including Notices of Funding Opportunity when released, visit our website.



ntia.gov
broadbandusa.ntia.gov



BroadbandForAll@ntia.gov



Digital Equity: Community Outreach & Engagement

Version 1.0



Three Key Components of Stakeholder Engagement



Plan your engagement strategy

1



Tailor your approach by stakeholder

2



Set-up initial engagement

3



Who will you engage?

- How should states and localities work together on engagement?
- What engagement processes and relationships currently exist?
- Who will be responsible for engagement and how will you manage capacity?
- How will you track the impact of engagement?
- How will you support engagement?

















Digital inequity disproportionately impacts our stakeholders



DE & BEAD

Covered Populations and Underrepresented Communities

Identity groups and communities disproportionately impacted by digital inequity

-  Low-income households
-  Indigenous and Native American persons
-  People with language barriers
-  Aging individuals
-  Members of ethnic and religious minorities
-  Racial and ethnic minorities
-  Incarcerated individuals
-  Women
-  Rural inhabitants
-  Veterans
-  LGBTQI+ persons
-  Persons adversely affected by persistent poverty or inequality
-  Persons of Color
-  Persons with disabilities

 DE NOFO

 BEAD NOFO



Community Subject
Matter Experts

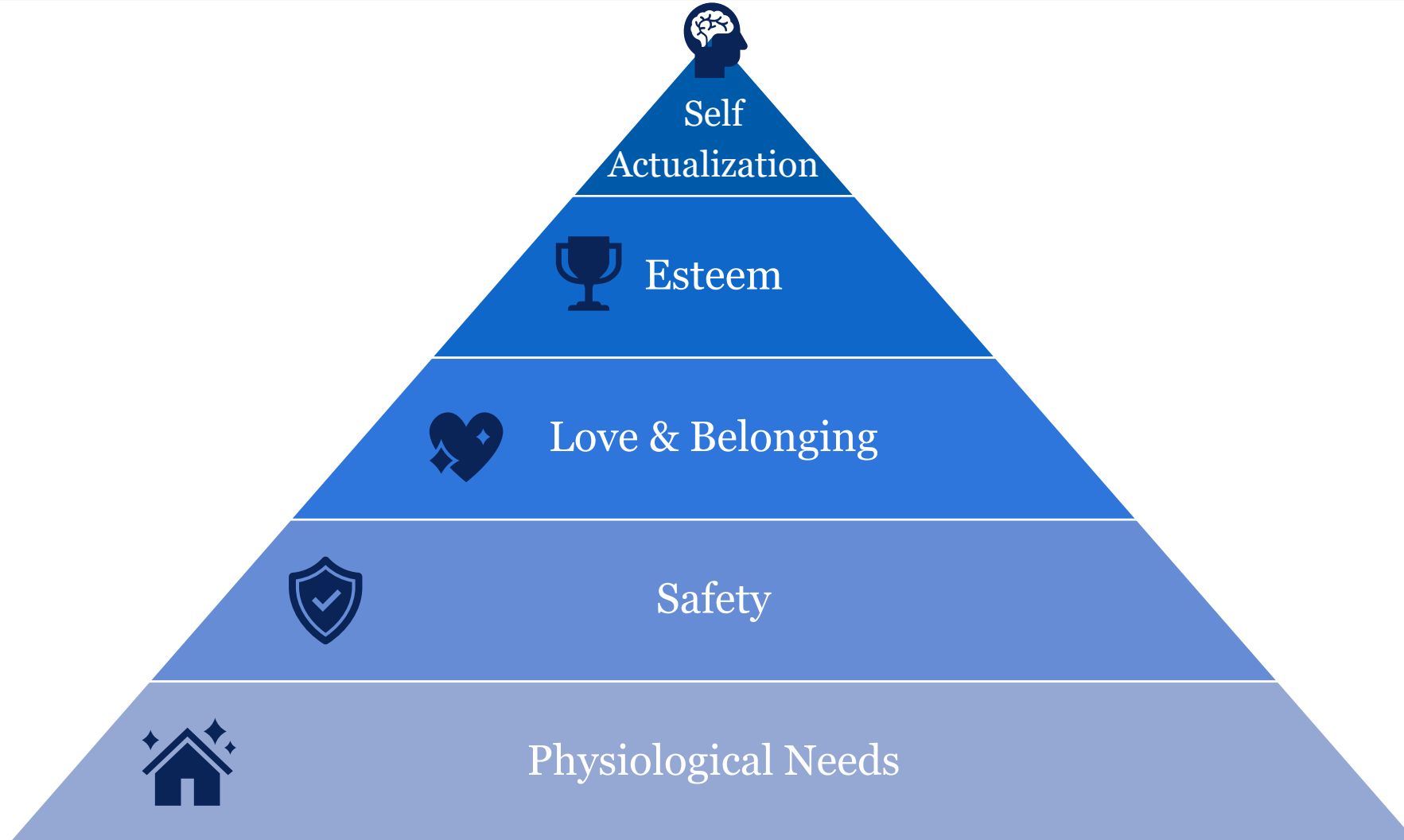


Don't always lead with technology

- What are some of barriers and challenges stakeholders are experiencing?
- What are some of the solutions that are being developed and implemented?
- Is there an opportunity for awareness/outreach/engagement?



Lead with a “people first” perspective



Set up initial engagement



How will you approach each engagement?

- What are your objectives for engaging each stakeholder?
- What will you discuss with stakeholders? (e.g., topics)
- How will your engagement support real solutions and programs that speak to stakeholder challenges?
- What can you learn from the community?



Effective Practices for Stakeholder Engagement



Remember:

- Stakeholder engagement is ongoing during the life cycle of the project!
- To build trust and collaboration with stakeholders, engagement can't be episodic.
- As broadband plans mature, the objectives of your stakeholder engagement may change—but you should continue to thoughtfully include stakeholders throughout your broadband efforts.

Award recipients are required to engage with key stakeholders as a part of developing digital equity plans



Key stakeholder groups may include:

- Community anchor institutions
- County and municipal governments
- Local educational agencies
- Indian Tribes, Alaska Native entities, or Native Hawaiian organizations, where applicable
- Nonprofit organizations
- Organizations that represent covered populations
- Civil rights organizations
- Entities that carry out workforce development programs
- State agencies that administer or supervise adult education or literacy activities
- Public housing authorities





ACP Resources and Best Practice



Affordable Connectivity Program Resources

A guide for State Broadband Offices (SBOs) and local digital equity programs



OVERVIEW

The Affordable Connectivity Program (ACP) is a program created by the Bipartisan Infrastructure Law (BIL) to **lower Internet costs**. ACP provides eligible households **up to \$30/month** (or \$75/month on Tribal lands) off their Internet bills, as well as a **one-time \$100 discount** off a laptop, tablet, or computer.

To further lower costs, the Biden-Harris Administration worked with Internet service providers across the country to offer **high-speed plans that are fully covered by ACP**. As a result, **millions** of eligible families can now get high-speed Internet without paying a dime.

LEARN ABOUT ACP

The ACP was created by the FCC. The materials below are available for public use within the [ACP Consumer Outreach Toolkit](#), and you can download and customize them to meet your needs when planning an outreach campaign to increase ACP enrollment in your community or state.



About ACP

[Learn more](#) about the program & how to become a partner. If you have questions about any of the ACP Consumer Outreach Toolkit materials, contact ACPinfo@fcc.gov.



Consumer FAQ

[Questions and answers](#) on eligibility, how to apply, participating service providers, connected device benefits, Tribal benefits, and more.

FCC CONSUMER OUTREACH TOOLKIT



Consumer Awareness Content for Households on Qualifying Tribal Lands:
[Flyer](#) | [Consumer Handout](#)



Consumer Awareness Content
[10 Tips for Outreach Partners](#)
[10 Ways to Spread the Word](#)
Consumer Handout: [English](#) | [Español](#)
Fact Sheet: [English](#) | [Español](#)



School Lunch Flyer: [English](#) | [Tribal](#)
Pell Grant Flyer: [English](#) | [Tribal](#)
Bookmarks: [English](#) | [Español](#) | [Tribal](#)
Backpack Handouts: [English](#) | [Español](#) | [Tribal](#)



ACP Pre-Screening Widget

The widget is available in English and Spanish and includes questions to determine if a consumer may qualify for the ACP. To add an ACP pre-screening widget to your website, email ACPprogram@usac.org with the subject line "ACP Widget" for technical support. In the email, please include the web address where you plan to add the widget.

FCC RESOURCES IN ADDITIONAL LANGUAGES

FCC Consumer handouts and the fact sheets are also available in [Arabic](#) | [French](#) | [Haitian Creole](#) | [Korean](#) | [Portuguese](#) | [Russian](#) | [Spanish](#) | [Tagalog](#) | [Vietnamese](#)



Affordable Connectivity Program Resources

A guide for State Broadband Offices (SBOs) and local digital equity programs



HOW STATES CAN SUPPORT ACP ENROLLMENT



- Enter data-matching agreements
- Perform outreach to eligible or likely eligible populations, especially via text message
- Use Broadband, Equity, Access, and Deployment (BEAD) Program planning funds for ACP promotion
- Host in-person enrollment drives and capitalize on pre-existing events by promoting and/or providing navigators at community events in partnership with state agencies, schools, libraries, and other organizations

INFORMATION FOR CONSUMERS



Application Instructions

[Instructions](#) on how to apply for ACP, including on how to re-certify a consumer's eligibility for the Program.



Application Form

ACP Application form in both [English](#) and [Spanish](#) that can be submitted by mail; online applications can be submitted at [GetInternet.gov](#).



Guidelines for Acceptable Documentation

Identifies the documents consumers can submit to show that qualification for ACP. The guide is available in both [English](#) and [Spanish](#).



Participating Providers Look Up Tool

The FCC maintains a list of service providers offering the ACP discount across the United States and its territories.



Contact Information for Consumers

Email: ACPSupport@usac.org
Phone: (877) 384-2575
FCC Email: ACPinfo@fcc.gov | [File a Complaint](#)

ACP EXTERNAL RESOURCES *

[USDA Eligibility for ACP through School Meals](#)

The United States Department of Agriculture's Food and Nutrition Service letter on ACP through the National School Lunch Program and School Breakfast Program.

[Office of Education Technology: ACP](#)

The Department of Education Office of Education Technology developed resources for schools and districts to assist with ACP signups.

[NACo Outreach Toolkit for Counties: The FCC's ACP](#)

The National Association of Counties' toolkit offers insights into effective outreach and details for how counties can get involved.

*Please note: These links lead to external resources that were not developed by NTIA or the FCC.



Affordable Connectivity Program Resources

A guide for State Broadband Offices (SBOs) and local digital equity programs



EXAMPLES OF STATE AND LOCAL ACP ENROLLMENT CAMPAIGNS *



State of Alabama

Alabama's Department of Economic and Community Affairs displays USAC's ACP Pre-Screening Widget on their web page to make it easy for consumers to determine if they qualify for ACP.



State of Arizona

Arizona utilizes [Connect Arizona Digital Navigators](#) to provide virtual assistance walking through the application process or troubleshoot ACP issues.



State of New York

New York launched a broadband outreach initiative called ConnectALL to increase awareness of ACP through their Department of Motor Vehicles, and Offices of Aging, Office of Temporary and Disability Assistance, and the Office of Children and Family Services.



Chatham County, NC

Chatham County released a press release on how ACP will reduce barriers to accessing high-speed and reliable Internet access.



Fulton County, GA

Fulton County has partnered with several Internet service providers, nonprofits and faith organizations to launch the FulCo Digital Ambassador program, which seeks to enroll at least 20,000 qualifying households in ACP. The county also held an in-person event to help residents enroll in ACP.



Rhea County, TN

Rhea County School District has information on its website about ACP enrollment. Since every student at these schools are eligible to receive benefits under the free and reduced-price school lunch or the school breakfast program, every household with a student attending these schools qualifies through their child/dependent.



City of Boston, MA

The City of Boston provides ACP enrollment information in 13 different languages to ensure that language doesn't serve as a barrier to ACP enrollment for Boston residents.



City of Seattle, WA

The City of Seattle provides a website that includes information on ACP, as well as the list of providers in Seattle and King County who participate in ACP. The website lists organizations in the Seattle area that offer help with Internet and ACP signups.



Affordable Connectivity Program Resources

A guide for State Broadband Offices (SBOs) and local digital equity programs



EXAMPLES OF EFFECTIVE STRATEGIES FOR INCREASING ACP ENROLLMENT IN SELECT COVERED POPULATIONS



[Aging Individuals](#)

This Community Tech Network (CTN) blog post outlines a success story of enrolling a senior in ACP and the intentionality required in getting someone with limited digital literacy connected.



[Veterans](#)

My HealtheVet outlines different resources veterans can utilize to get connected, including ACP.



[Individuals with Disabilities](#)

The Disability Rights Center of Kansas is a protection and advocacy organization for individuals with disabilities that includes information about ACP on its website.



[Individuals with a Language Barrier \(incl. English learners & those with low levels of literacy\)](#)

ACP Para Mi is a nationwide partnership of local and national Latino organizations that launched Para Mi to increase Internet access & improve health & economic outcomes for the Latino community.



[Individuals who are members of a racial or ethnic minority group](#)

Black Churches for Digital Equity works to educate members of their community about broadband Internet assistance programs and to train and organize leaders as advocates to get their communities connected. This resource is an example of targeted outreach to a specific racial group to reach people where they are.



[Individuals who primarily reside in a rural area](#)

Loveland Pulse, a local public utilities commission in Loveland, Colorado, provides information on enrolling in ACP on its website.

While examples for covered households and incarcerated individuals are not included in this resource, they are still covered populations; ACP is still important to and applicable to these groups.





TIPS FOR SUBMITTING EFFECTIVE COMMENTS

A Reminder



Overview



The Biden-Harris Administration is committed to ensuring that all Americans have access to affordable, reliable, high-speed Internet service.

As part of this goal, NTIA has published a Request for Comment on Regulations.gov to help inform how the Bipartisan Infrastructure Law (BIL) Digital Equity Act programs can work to achieve this national and community driven opportunity for change.

This Request for Comment is part of NTIA’s wider strategy to engage with partners, stakeholders, and most importantly, individuals with lived experiences who are impacted by the digital divide.

These tips are meant to help you submit effective comments that have an impact and help us improve our programs.



Background

The Digital Equity Act - Three Programs to Promote Digital Equity and Inclusion



Funding pool
\$2.75B

Three programs that provide funding to promote digital inclusion and advance equity for all. They aim to ensure that all communities can access and use affordable, reliable high-speed Internet service to meet their needs and improve their lives.

PROGRAMS HIGHLIGHTS

The Digital Equity Act created three programs:

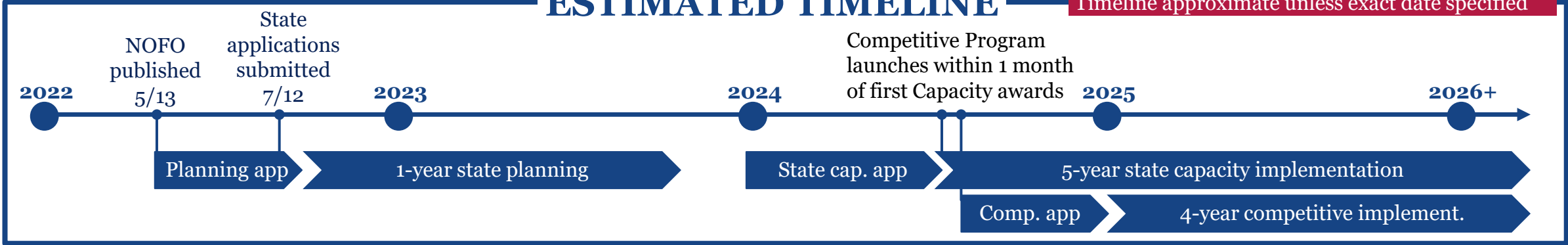
- | | | |
|--|---|--|
| <p>State Planning</p> <ul style="list-style-type: none"> \$60M formula funding program to develop digital equity plans | <p>State Capacity</p> <ul style="list-style-type: none"> \$1.44B formula funding program to implement plans & promote digital inclusion | <p>Competitive</p> <ul style="list-style-type: none"> \$1.25B to implement digital equity and inclusion activities |
|--|---|--|

Example eligible uses of funds across three programs include:

- | | | |
|--|---|---|
| <ul style="list-style-type: none"> Developing digital equity plans; states must develop a plan to be eligible for state capacity grants | <ul style="list-style-type: none"> Making awards to other entities to help make digital equity plans | <ul style="list-style-type: none"> Improving accessibility and inclusivity of public resources |
| <ul style="list-style-type: none"> Implementing plans related and activities | <ul style="list-style-type: none"> Providing digital literacy and digital skills education | <ul style="list-style-type: none"> Facilitating the adoption of high-speed Internet service |

ESTIMATED TIMELINE

Timeline approximate unless exact date specified



Request For Comment

NTIA's Request for Comment
on the Digital Equity Act
programs is **currently open**.

The Notice and RFC is available
[here](#). Comments can be
submitted at [regulations.gov](https://www.regulations.gov)
under Docket **NTIA-2023-
0002**.

The deadline for all comments
is: **May 1st, 2023, 5:00 PM
EST**

How to Submit Comments



1. The Digital Equity Act comment period will close **60 days after date of publication on the Federal Register (March 2 to May 1)** - begin work well before the deadline.
2. If you are uploading more than one attachment to the comment web form, it is recommended that you use the following file titles:

Attachment1_<title>; Attachment2_<title>; Attachment3_<title>; etc.

3. Keep a copy of your comment in a separate file - this practice helps ensure that you will not lose your comment if you have a problem submitting it using the [Regulations.gov](https://www.regulations.gov) web form.
4. Additionally, NTIA will accept comments via email. Please include the docket number **NTIA-2023-0002** in the subject line of the message, and direct your comments to digitalequity@ntia.gov
5. You may also mail a printed submission to
National Telecommunications and Information Administration, U.S. Department of Commerce,
1401 Constitution Avenue NW, Room 4878, Washington, DC 20230, Attn: Digital Equity RFC.



Regulations.gov

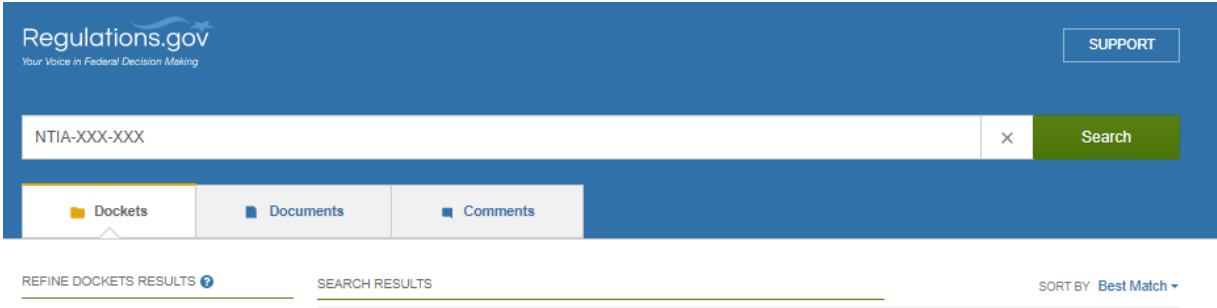


To submit a comment via [regulations.gov](https://www.regulations.gov) enter the Docket “NTIA- 2023-0002 in the search bar, then click on the ‘Dockets’ tab (as shown below).

For further questions, please refer to the [regulations.gov FAQs](#).



- General FAQs
- Site FAQs
- General Information +
Understand what to find and browse for on Regulations.gov
- Find Dockets, Documents, and Comments FAQs +
Learn how to find rules and dockets
- Rulemaking Process +
Get the basics on Regulations.gov's role in the rulemaking process
- Unified Agenda +
Find information about regulations agencies plan to issue or have recently completed
- Privacy +
Know what information will be collected and publicly disclosed on Regulations.gov
- Commenting +
Submit comments, understand how they are reviewed and make a difference
- Media Instructions +
Connect your organization's stakeholders to Regulations.gov
- Regulations.gov API (v4) +
Information about Regulations.gov API Version 4
- Subscriptions +
Sign up for email notifications about a specific regulation on Regulations.gov
- Downloading Data +
Create a custom download of document metadata from Regulations.gov by Agency, Docket or Document



How to Write an Effective Comment

Tips on Crafting Effective Comments



1. While NTIA encourages you to support your comment with substantive data, facts, and opinions, **you do not need to be an expert or professional to provide a comment.** You are encouraged to provide your lived experience in your comment.
2. Clearly identify the question(s) that you are commenting on and include the question number. There is no minimum or maximum length for an effective comment, and you are encouraged to reply to any or all questions posed.
3. If you disagree with an aspect of our programs, suggest an alternative and include an explanation and/or analysis of how the alternative might meet the same objective or be more effective.
4. Include pros and cons and trade-offs in your comment. Consider other points of view and respond to them with your views. Include examples of how our programs would impact your life and work positively or negatively.
5. Please reach out to NTIA via digitalequity@ntia.gov if you have any questions about the Request for Comment, and stay up to date on NTIA information by visiting broadbandusa.ntia.doc.gov and www.internetforall.gov





Next public event online May 18, 2023

THANK YOU

bdeprey@ntia.gov

240.328.5171

