

BEAD Subgrantees: Protect Your Rights



Required Contract Terms States Must Include

Under NTIA's rules, states are required to include specific contract language mandated by the [BEAD General Terms and Conditions](#) and may not omit, alter, or otherwise attempt to contract around such language in their subgrantee agreements. Subgrantees should confirm the required language is included, unaltered. Subgrantees should not sign agreements that omit or modify these provisions.

If a state omits or alters required language, it is out of compliance with BEAD requirements. That puts the subgrant—as well as the state's award—at risk. If a state attempts to contractually alter a subgrantee's rights or fails to include required language, a subgrantee should notify their Federal Program Officer.

PROHIBITION ON UTILITY-STYLE RATE REGULATION

This condition ([BEAD General Terms and Conditions](#), Section 50, "Ensuring Timely and Effective Deployment of Bead Projects"), which protects the financial viability of BEAD projects and the diversion of resources away from BEAD areas, creates an enforceable contractual right. In signing the [BEAD General Terms and Conditions](#), each state has committed that it **will not enforce any law, regulation, order, contracting requirement, or other enforceable obligation** against a subgrantee that:

- directly or indirectly **regulates the rates, terms, and conditions** of broadband internet service (whether on a retail, wholesale, or network basis); or
- **imposes net neutrality, open access, or other utility-style rules** on broadband internet service.

The italicized language below is **mandatory**. States must include it verbatim in every subgrant agreement. Failure to do so is a breach of BEAD program rules. Subgrantees should ensure such language is present and notify their Federal Program Officer if it is not:

The Grantee, and any agency, instrumentality, or subdivision thereof, agrees not to enforce any law, regulation, executive order, contracting requirement, or other enforceable obligation that directly or indirectly regulates in any way the rates, terms, and conditions of broadband internet service, whether on a retail, wholesale, or network basis, or imposes net neutrality rules, open access, or other utility style rules on broadband internet service, against the Subgrantee or its affiliates anywhere it provides service within the Grantee's jurisdiction, while that Subgrantee has any subgrant that is still within its period of performance, extended period of performance, or federal interest period. For purposes of this provision, a "net neutrality rule" is any law, order, contracting requirement, or other enforceable obligation by the Grantee that prohibits internet service providers from, among other things, blocking content, throttling speeds, imposing data caps, or engaging in paid prioritization, or that imposes a general conduct or similar standard upon internet service providers.

PERMITTING COMMITMENTS STATES MUST INCLUDE

This condition establishes enforceable rights for BEAD subgrantees to streamlined, timely, and cost-effective state and local permitting processes. States are required to include these commitments ([BEAD General Terms and Conditions](#), Section 13.D, “Grantee Permitting Obligations”) in all subgrant agreements. States may not contract around or omit these requirements. Failure to include them puts the state out of compliance and the subgrant at risk.

1. *Timely permitting decisions.* Each state will establish procedures to ensure that broadband-related permit applications are promptly accepted, and requests are **approved or denied within 90 days**. This condition gives the subgrantee the right to:

- A single, dedicated point of contact for broadband-related permits;
- Deference on the construction techniques chosen by BEAD subgrantee;
- Streamlined processing through permitting by rule, batch processing of substantially similar permit requests; and protection from unnecessarily duplicative or burdensome permitting requirements; and
- The application of FCC rules governing access to municipally owned poles and conduit for broadband projects and poles owned by BEAD subgrantees (including cooperatives) that are not otherwise subject to state or FCC pole attachment regulation.

2. *Limits on permitting costs.* Each state will **minimize state and local permitting-related costs** for broadband deployments and ensure that:

- Permitting fees are a reasonable approximation of the state or local government’s costs;
- Only objectively reasonable costs are factored into those fees; and
- Fees are no higher than the fees charged to similarly situated competitors in similar situations.

3. *Permitting roundtables.* Each state will establish **Permitting Roundtables** of relevant federal, state, local, and tribal authorities and representatives of impacted industries, including BEAD subgrantees, that will:

- Meet regularly to identify and facilitate resolution of delays or disputes related to deploying BEAD-funded facilities; and
- Escalate complaints from BEAD subgrantees that are not resolved through this process.

4. *Tracking, transparency, and escalation to NTIA.* Each state **will track, publicly post, and submit data regarding unresolved subgrantee complaints** to NTIA in its Semi-Annual Report, including:

- Issues escalated through the Permitting Roundtable or working group;
- Delays in broadband projects attributed to state or local prohibition on subgrantee use of preferred construction techniques; and
- Delays in broadband projects attributed to state or local authorities failing to follow FCC rules on pole attachment timelines, rates, terms, and conditions for access to municipally owned poles and conduit.