BEAD Program: Environmental Permitting Requirements

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Aug. 6, 2025

NCDIT | NORTH CAROLINA DEPARTMENT OF INFORMATION TECHNOLOGY

Environmental & Historic Preservation Requirements

- BEAD Program *does* require Environmental and Historic Preservation (EHP) Review for all last-mile broadband deployment projects

- NCDIT receives BEAD funding from the National Telecommunications and Information Administration (NTIA) and in-turn is responsible for ensuring that subgrantees (broadband providers) do not initiate broadband deployment activities before completion of environmental reviews required under the National Environmental Policy Act (NEPA) and historic preservation review

- Reviews take place before initial deployment and during life of the project

- Today: focusing on federal environmental processes

- Historic Preservation requirements managed at the state level (SHPO)

- NCDIT required to serve as the "Joint Lead Agency" to ensure EHP processes are met

Remaining BEAD Timeline through September

July 30 by 11:59 p.m.	Applications due to NCDIT
July 31 – Aug. 26	Application review/scoring/direct negotiations
July 14 – Aug. 26	Drafting of Final Proposal
Aug. 27- Sept. 2	Final Proposal posted for public comment
Sept. 4	Final Proposal submitted to NTIA

Timing of NTIA Approval and Grant Agreements

- Tentative project awards require approval by the NTIA before contracting; NTIA will complete its review of the Final Proposal within 90 calendar days of submission by each state

- Upon approval by NTIA of preliminary awards submitted in the Final Proposal, NCDIT will work with approved applicants on collection of remaining materials conditional for contracting and subsequently enter into grant agreements with subgrantees

- Per the NTIA's NOFO: as required by IIJA, all subgrantees must deploy the planned broadband network, regardless of the technology utilized, and be able to perform a standard installation for each customer that desires broadband services within the project area **not later than four years** after the date on which the subgrantee receives the subgrant from NCDIT
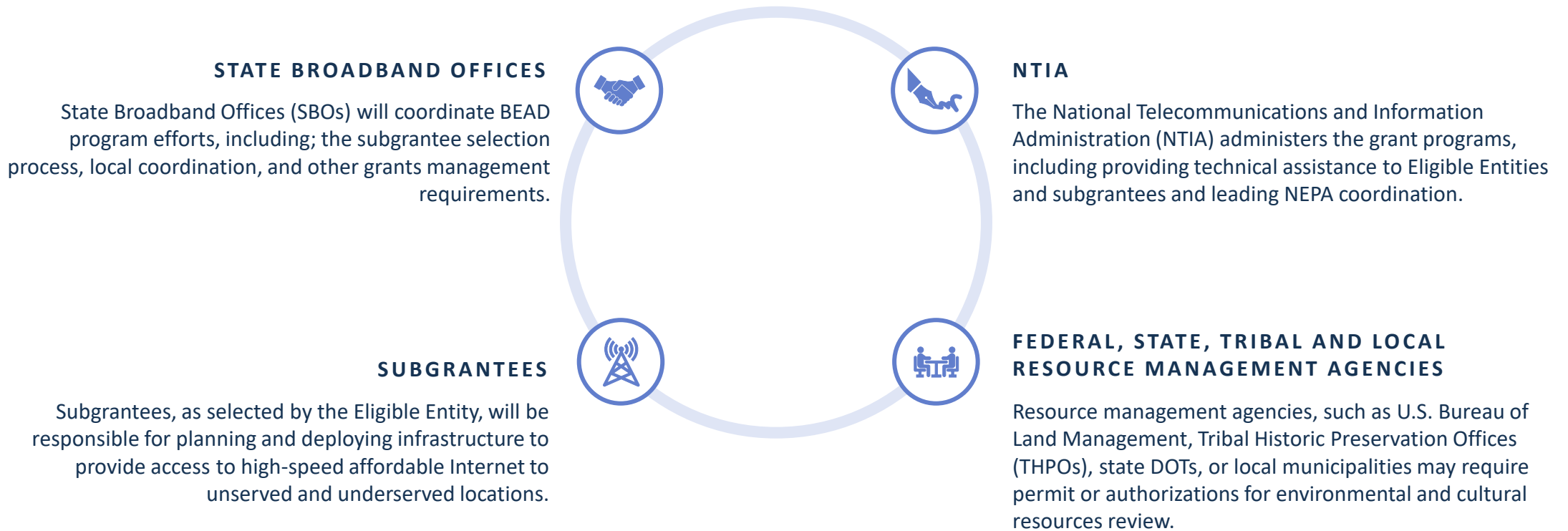
NC BEAD Program:
Streamlined Environmental Review and Permitting for Broadband
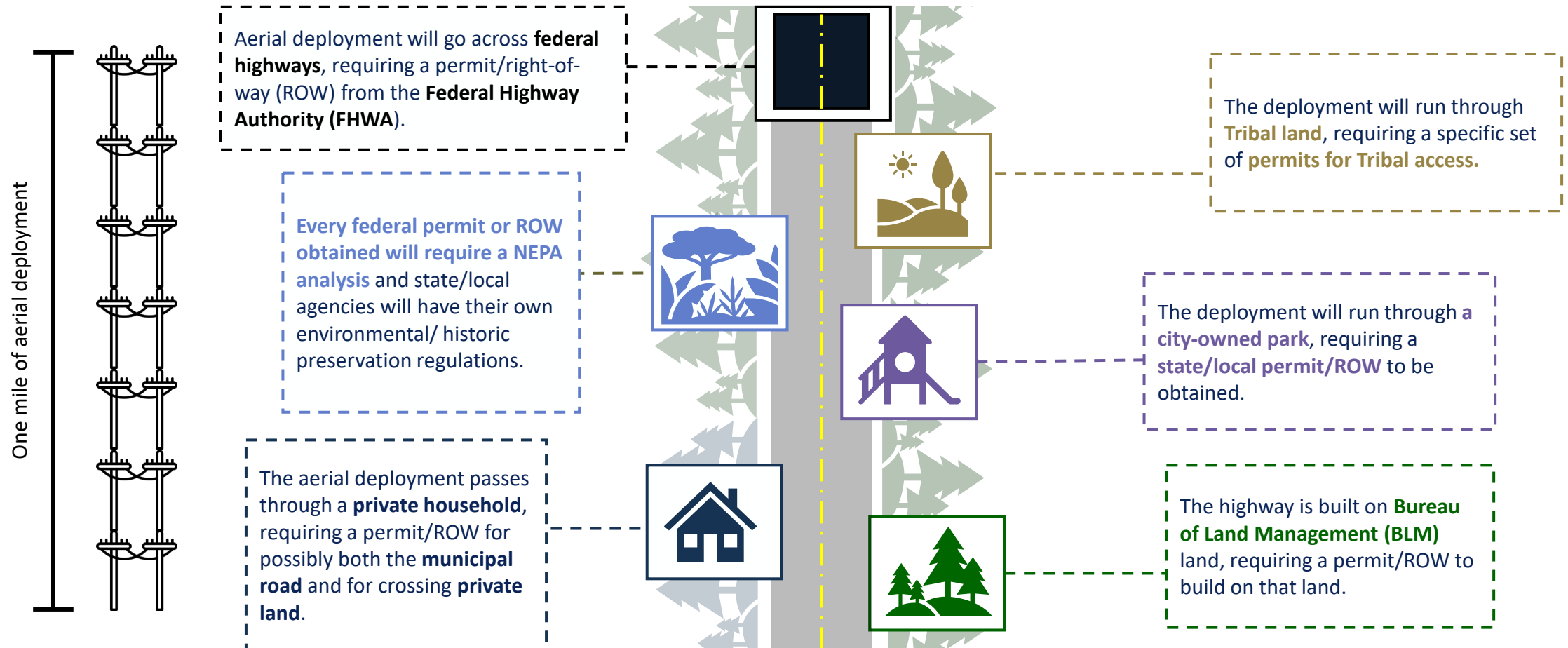
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BEAD Program Partnerships for Permitting

Federal and state governments will play key roles in supporting successful permitting for BEAD projects, working closely with partner agencies and BEAD subgrantees. Each state agency administering BEAD will serve as a "joint lead agency" to ensure the timely completion of environmental review prior to construction.

STATE BROADBAND OFFICES

State Broadband Offices (SBOs) will coordinate BEAD program efforts, including; the subgrantee selection process, local coordination, and other grants management requirements.

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The National Telecommunications and Information Administration (NTIA) administers the grant programs, including providing technical assistance to Eligible Entities and subgrantees and leading NEPA coordination.

SUBGRANTEES

Subgrantees, as selected by the Eligible Entity, will be responsible for planning and deploying infrastructure to provide access to high-speed affordable Internet to unserved and underserved locations.

FEDERAL, STATE, TRIBAL AND LOCAL RESOURCE MANAGEMENT AGENCIES

Resource management agencies, such as U.S. Bureau of Land Management, Tribal Historic Preservation Offices (THPOs), state DOTs, or local municipalities may require permit or authorizations for environmental and cultural resources review.

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Permitting Landscape

Construction of a simple one-mile broadband deployment can require various local, state, and/or federal permits.

One mile of aerial deployment

Aerial deployment will go across **federal highways**, requiring a permit/right-of-way (ROW) from the **Federal Highway Authority (FHWA)**.

Every federal permit or ROW obtained will require a NEPA analysis and state/local agencies will have their own environmental/ historic preservation regulations.

The aerial deployment passes through a **private household**, requiring a permit/ROW for possibly both the **municipal road** and for crossing **private land**.

The deployment will run through **Tribal land**, requiring a specific set of **permits for Tribal access.**

The deployment will run through a **city-owned park**, requiring a **state/local permit/ROW** to be obtained.

The highway is built on **Bureau of Land Management (BLM)** land, requiring a permit/ROW to build on that land.

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NEPA and Subgrantees

Eligible Entities must condition subgrantee awards on completion of environmental review, timely preparation of NEPA documents, obtaining required permits, and providing a milestone schedule for completing NEPA and Section 106 NHPA reviews.

PREAWARD SUBRECIPIENT NEPA CONSIDERATIONS FOR BEAD

Steps to set your BEAD projects up for NEPA success early.

»»	NTIA has **established new categorical exclusions that will expedite NEPA reviews** for funded projects.	**Plan projects that qualify for categorical exclusions.**
	NTIA's Permitting and Environmental Information application is a **publicly available tool that allows anyone to screen a project to identify permit requirements and environmentally sensitive areas** that may trigger an environmental assessment.	**Pre-screen projects to identify permits and potential NEPA issues.** **NTIA's Best Management Practices guide can assist subrecipients in avoiding, minimizing or mitigating environmental impacts**
	Learn the environmental and historic preservation responsibilities that the state expects a subrecipient to assume for BEAD and plan and budget accordingly.	**These may include:** • **Any review required under NEPA** • **Section 106 of the NHPA** • **Section 7 consultation with the USFWS or NOAA** • **All required ROW and resource permits**

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Subgrantee Award Conditions

NTIA's General Terms & Conditions for BEAD establish the subgrantee award conditions for environmental review.

INCLUDE IN ALL AWARDS TO SUBGRANTEES CONDITIONS STATING THAT:

The Subgrantee will not commence implementation and funds will not be disbursed until any necessary environmental review is complete and NTIA has approved any necessary NEPA decision document, except for the listed limited permissible activities.

The Subgrantee must timely prepare any required NEPA documents and obtain any required permits and must adhere to any applicable statutory deadlines as described in 42 U.S.C. 4336a(g).

The Subgrantee must provide a milestone schedule identifying specific deadlines and describing how the Subgrantee proposes to meet these timing requirements including, as required, the completion of consultations, the completion of NEPA and Section 106 reviews, and the submission of EAs or EISs.

States and territories will certify the sufficiency of Subgrantee NEPA documentation and verify that documentation meet NEPA requirements prior to submitting for NTIA approval.

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# NEPA for BEAD Environmental Screening

Eligible Entities will fulfill their responsibilities as joint lead agencies for NEPA review via the Environmental Screening and Permitting Tracking Tool (ESAPTT).

NTIA has partnered with States and Territories as joint lead agencies to maximize NEPA review efficiency.

States and Territories are building NEPA capacity within their organizations to support environmental compliance and permitting oversight for BEAD projects.
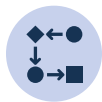
NTIA has developed ESAPTT to support Eligible Entities in applying categorical exclusions, considering extraordinary circumstances, and generating NEPA decision documents for BEAD.
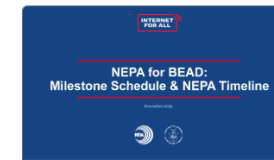

NEPA Resources

NEPA for BEAD

BEAD NEPA OBLIGATIONS are detailed in Section 13 Environmental and Historic Preservation (EHP) Review on page 7

2024 BEAD Program General Terms and Conditions (GTCs)

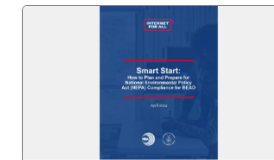NEPA for BEAD: Milestone Schedule & NEPA Timeline

Download Guidance

NEPA for BEAD: Programmatic Environmental Impact Statement Evaluation Sample Memo & Recommendations

Download Now

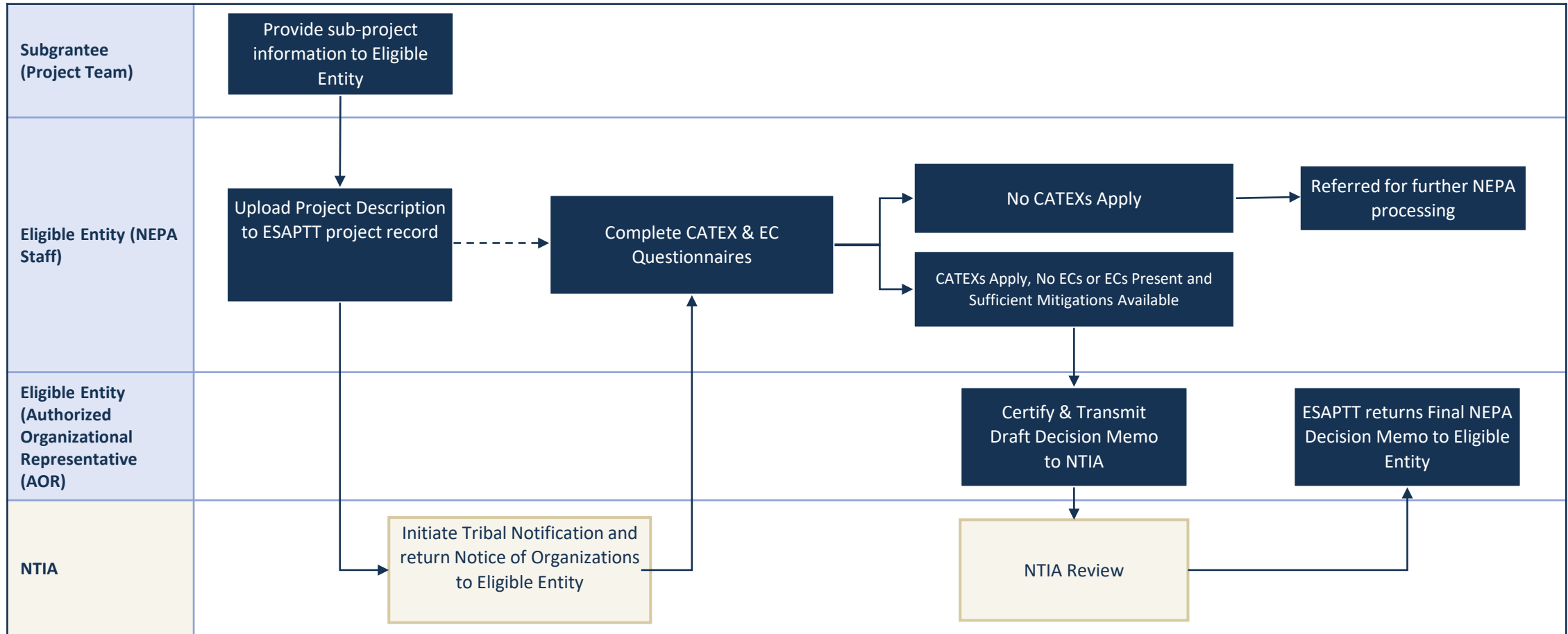Evaluating FirstNet PEIS Statement Sections for States/Territories

Download Now

Smart Start - How to Plan and Prepare for National Environmental Policy Act (NEPA) Compliance for BEAD

Frequently Asked Questions (FAQ) NEPA for BEAD Addendum

Environmental Screening Process Flow

ESAPTT will help automate and expedite portions of the environmental screening review and expedite NTIA NEPA approvals for BEAD projects.

Subgrantee (Project Team)	Provide sub-project information to Eligible Entity		
Eligible Entity (NEPA Staff)	Upload Project Description to ESAPTT project record → Complete CATEX & EC Questionnaires →	No CATEXs Apply → Referred for further NEPA processing	
		CATEXs Apply, No ECs or ECs Present and Sufficient Mitigations Available	
Eligible Entity (Authorized Organizational Representative (AOR)		Certify & Transmit Draft Decision Memo to NTIA	ESAPTT returns Final NEPA Decision Memo to Eligible Entity
NTIA	Initiate Tribal Notification and return Notice of Organizations to Eligible Entity	NTIA Review	

This is a notional and simplified flowchart, representing the external ESAPTT user experience.

Project Description and Map

A good project description is essential to all aspects of NEPA and permitting.

Describe **what** the project is (e.g., construction of a 150' monopole communication tower).

Describe **where** the project is proposed (e.g., 123 Main Street, Anytown, USA) and/or provide a detailed outline of the route the project will use.

Provide a physical description of the site and surrounding area (e.g., developed land vs. open space; adjacent natural resources, such as rivers, wetlands, or forests; and any protected lands), and provide **maps and photographs**.

Describe **how** the project will be implemented (e.g., requiring 1-acre of ground disturbance at an approximate depth of 5 feet, and the installation of a concrete pad, an equipment shed, and an emergency generator with a 1,000-gallon above-ground fuel storage tank).

Environmental Screening: Supporting Documentation

In addition to a **detailed project description and mapping** that describes and includes all elements of a BEAD project, subgrantees will need to supply the following documentation:
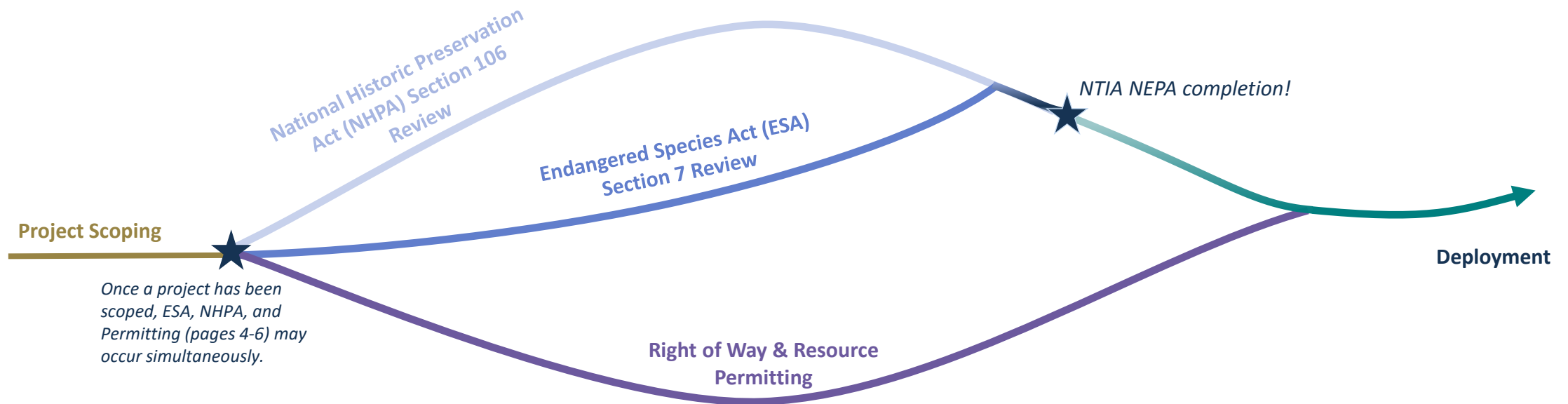
❑ Consultation supporting **Endangered Species Act** reviews, including **USFWS Information and Planning Consultation (IPaC) output, identifying** if there are **threatened or endangered species or critical habitat** in the vicinity of your project,

❑ Consultation supporting **National Historic Preservation Act** reviews, including State Historic Preservation Office (SHPO) **letter or other evidence of Section 106 completion**,

❑ **Wetlands map** from the US Fish and Wildlife Service's (USFWS) National Wetlands Inventory with your project overlain to show the project's relationship to wetlands or waterways,

❑ **Other relevant environmental screening information, which may include:**

   ❑ **Floodplain map** from the Federal Emergency Management Agency (FEMA) Map Service Center with your project overlain to show if an where your project falls in the flood zone, if applicable

   ❑ Information from screenings necessary to identify other Extraordinary Circumstances, as identified in ESAPTT.

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NTIA's [Streamlining Tools Roadmap](#)

NTIA grant recipients can leverage NTIA's streamlining tools to navigate National Environmental Policy Act (NEPA) and permitting review and approval processes for broadband projects.

RESOURCE OVERVIEW

This resource highlights key programmatic tools, efficiencies, and technical assistance (TA) documents provided across NTIA programs.

National Historic Preservation Act (NHPA) Section 106 Review

Endangered Species Act (ESA) Section 7 Review

NTIA NEPA completion!

Project Scoping

Once a project has been scoped, ESA, NHPA, and Permitting (pages 4-6) may occur simultaneously.

Deployment

Right of Way & Resource Permitting

NTIA

Streamlined ESA Compliance

NTIA has provided tools to assist grant recipients with ESA Section 7 reviews for broadband.

Step 1: Review NTIA's Non-Federal Designation Memo and "No Effect" List

This Memo explains Section 7 requirements and provides a list of broadband activities exempt from ESA consultation due to no potential to affect protected species and/or designated critical habitats.

Step 2: Conduct an Online IPaC Review

If a project does not fall on the "no-effect" list, grant recipients should consult USFWS's Information for Planning & Consultation (IPaC) to request a species list.* If no species are present, Section 7 obligations are complete.

Step 3: Access and Apply Determination Keys (DKeys) if available within IPaC

Even when species are present, broadband DKeys may support online effect determinations that can eliminate the need for USFWS staff consultation.*

Step 4: Provide NTIA with Section 7 Documentation

Grant recipients will provide NTIA with documentation of whether the project met ESA obligations through:
- The "no effect" list;
- No species identified through IPaC;
- A DKey determination. (See requirements in the Non-Federal Designation Memo)

Note: IPaC is only used for USFWS listed species and does not cover species under the jurisdiction of the National Marine Fisheries Service (NMFS).

Consult NMFS for deployments that may impact marine species, including submarine and subsea cables.

Contact an Environmental Program Officer (EPO) on the consultation process for projects with potential to adversely affect protected species.

In limited instances, broadband projects may require formal Section 7 consultation.

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NHPA: Section 106 Program Comment

As a result of the amended Program Comment, NTIA funded projects may not require standard Section 106 review if a proposed project area:

- Has been previously surveyed and found not to contain historic properties;

- Has been previously disturbed to the extent and depth where the probability of finding intact historic properties is low;

- Is not considered to have a high probability for historic properties by qualified professionals; or

- Meets certain existing conditional exemptions contained in the Program Comment.

The Program Comment enables NTIA, grant recipients, and consulting parties to focus Section 106 reviews on the small percentage of projects with the potential to adversely affect historic properties.

Other things the Program Comment Does:

- Establishes presumed Areas of Potential Effect and initial historic property identification via Records Check
- Enables survey and monitoring provisions to avoid adverse effects in lieu of a Memorandum of Agreeement

NTIA

Consultation and Permitting: Wetlands

Section 404 of the Clean Water Act (CWA) requires a U.S. Army Corps of Engineers (USACE) Permit before dredged or fill material may be discharged into waters of the United States, including wetlands. Activities under this program include but are not limited to fill for development projects (such as wireless towers) and infrastructure development (such as fiber deployment). A proposed project's impacts to these areas will determine what permit type is required.

OBTAINING A PERMIT

GENERAL PERMITS

General Permits comprise a series of permits issued by the USACE for **minor structures, work, or discharges** that will result in only minimal adverse effects.

Regional General Permits	A regional general permit is issued for a specific geographic area by an individual USACE District.
Programmatic General Permits	Programmatic general permits are based on an existing state, local, or other federal program and designed to avoid duplication of that program.
Nationwide Permits (NWPs)	Nationwide permits (such as NWP 57, Electric Utility Line and Telecommunications Activities) are issued by USACE on a national basis and are designed to streamline authorization of projects such as commercial developments, utility lines, or road improvements that produce minimal impact the nation's aquatic environment.

INDIVIDUAL PERMITS

Projects that do not meet the terms and conditions of an NWP or Regional General Permit are evaluated as an individual permit.

An individual permit is issued when projects have more than minimal individual or cumulative impacts, are evaluated using additional environmental criteria, and involve a more comprehensive public interest review.

Consult a USACE representative early to to arrange a pre-application meeting.

NTIA

Rights-of-Way and Easements

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.

Federal Permitting

The federal government alone owns about 28% of U.S. land, and this land is managed by many different federal agencies. Each agency may have their own specific permitting process and required documents for securing an easement. Agencies that are engaged in federal permitting include: *Department of Energy, Department of Transportation, Department of Interior, Department of Commerce, the U.S. Military, and the Department of Defense.*

State, Local, and Private Permitting

Along with obtaining federal permits, applicants will need to obtain multiple state/local permits, all under the rules and regulations of their induvial state, local and Tribal governments. If applicants need access to state-owned lands or infrastructure, they should coordinate with their *State Department of Transportation* to secure a right-of-way, along with their *State Department of Environment/Natural Resources* to coordinate any environmental, historical, or cultural resource impacts. To access private land, the applicant must contact the direct property owner for permission, and they may have their own rules and regulations as well.

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Federal Permitting Agency Application Process

Subgrantee schedules should reflect the typical milestones associated with federal broadband deployment permits (i.e., right-of-way permits), including pre-application meeting, draft application review, and resubmission.

AVERAGE FEDERAL PERMITTING PROCESS

Pre-Review: 5 days – 6 months   *Application Review: <270 days*

Pre-application Meeting

As early as possible, applicants should arrange a pre-application meeting with relevant federal land/resource management agencies to present their project and discuss permit requirements, processes like cost recovery, and timelines.

Submission of Draft Application

Many agencies require a pre-acceptance review of draft applications, which may take between 5 days and 6 months.

Notification of Complete Application and Acceptance

Once an application is deemed complete, the agency will notify applicants once their application is accepted.

Decision Issued

Federal executive agencies are statutorily required to decide on broadband right-of-way applications within 270 days of acceptance, in accordance with the MOBILE NOW Act.

For more information on federal permitting processes, view the video recordings from the NTIA and BLM Federal Interagency Broadband Permitting Summit. Applicants should also consider any required state, local, and Tribal permits.

NTIA

Subgrantee Planning for NEPA for BEAD

Subgrantees can apply NTIA's Permitting Tools early to prepare for NEPA and permitting for BEAD.

1. Permitting & Environmental Information Screening

Summarizing the permits and environmental considerations identified through screening the proposed project location using the publicly available mapping tool ensures that the applicant has considered these requirements and is aware of the obligations.

2. Best Management Practices

Applicants can show how they plan to address the environmentally sensitive resources and areas identified through screening by applying NTIA's Best Management Practices Measures to avoid, minimize or mitigate potential environmental impacts.

3. Permit Identification and Planning

Applicants can begin to build the NEPA milestone schedule required in the BEAD General T&C by providing Eligible Entities with a list of permit requirements identified during project screening and development.

4. Initial Categorical Exclusion Review

Applicants can review NTIA's 47 Categorical Exclusions and identify to the Eligible Entity whether the proposed project may qualify for streamlined NEPA review.

5. Obtain Consultant Support

Applicants who have identified and interviewed environmental consultants and have a plan to support environmental and historic preservation requirements will have a head start in meeting NEPA obligations.
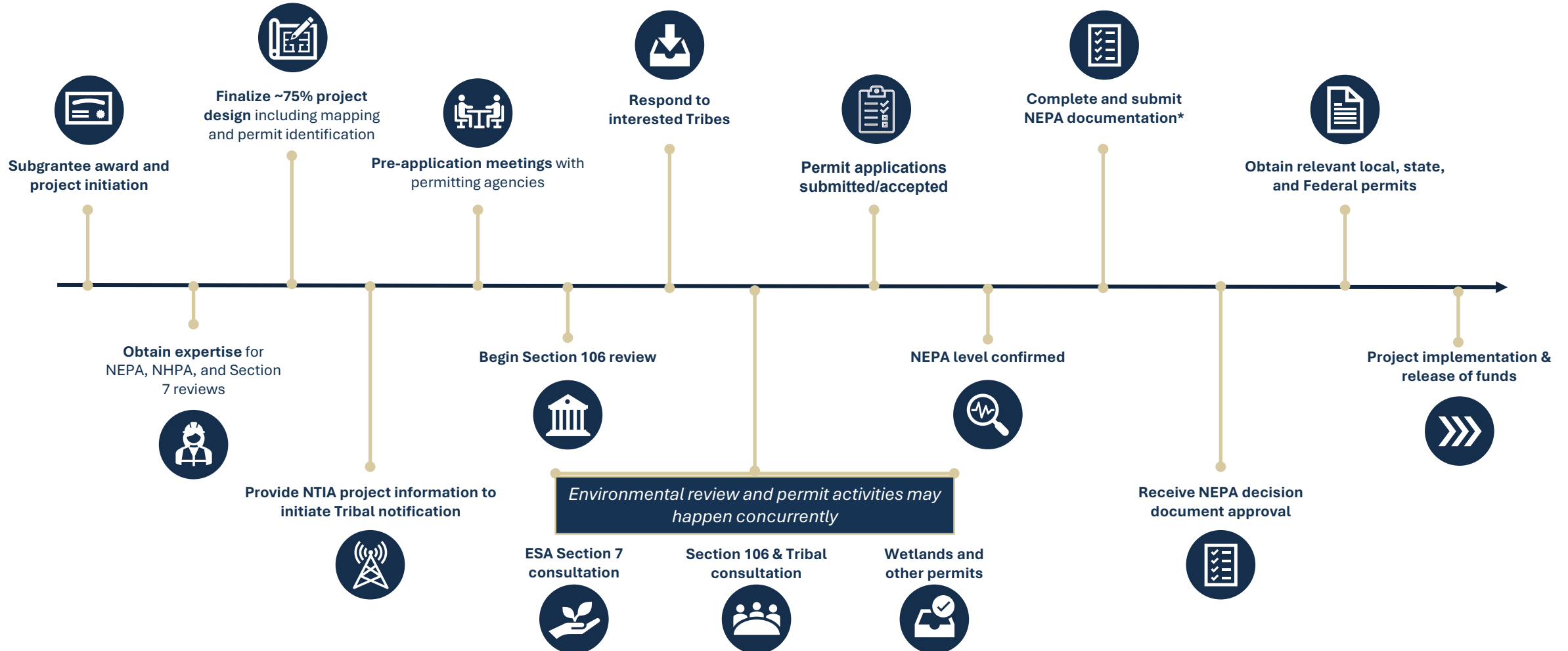
6. Draft Milestone Schedule

Applicants may provide a draft NEPA milestone schedule showing Eligible Entities how they will fulfill subgrantee award conditions.

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Subgrantee Milestone Schedule Considerations

Milestone schedules will include NEPA & permitting work that qualifies as "limited permissible pre-implementation activity."

Subgrantee award and project initiation

Finalize ~75% project design including mapping and permit identification

Pre-application meetings with permitting agencies

Respond to interested Tribes

Permit applications submitted/accepted

Complete and submit NEPA documentation*

Obtain relevant local, state, and Federal permits

Obtain expertise for NEPA, NHPA, and Section 7 reviews

Begin Section 106 review

NEPA level confirmed

Project implementation & release of funds

Provide NTIA project information to initiate Tribal notification

Environmental review and permit activities may happen concurrently

Receive NEPA decision document approval

ESA Section 7 consultation

Section 106 & Tribal consultation

Wetlands and other permits

* Some Federal Land and Resource Management agencies (i.e., BIA, Forest Service) may require the completion of NEPA before permits are issued

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Limited Permissible Activities

The subgrantee may undertake or allow limited permissible activities to proceed using award funds prior to the completion of the environmental review process.

PRE-IMPLEMENTATION ACTIVITIES:

- Pre-construction planning, including collecting information necessary to complete environmental reviews
- Applications for environmental permits
- Studies, including, but not limited to:
  - Environmental Assessments
  - Wetland delineations
  - Biological assessments
  - Archaeological surveys
  - Other environmental reviews and analyses
- Administrative and pre-award application costs

- Activities supporting consultations required under the NHPA, the Endangered Species Act, and the Clean Water Act
- Limited, preliminary procurement, including the purchase or lease of equipment, or entering into binding contracts to do so; the purchase of applicable or conditional insurance; and/or funds used to secure land or building leases (including right-of-way easements)

⚠️ **Subgrantees that undertake unauthorized project activities in contravention of this Section proceed at their own risk and may face de-obligation of funding.**

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Permitting & Environmental Information

NTIA has configured a public data site, application, and map package to help partners and the public discover their published geospatial data, including the Permitting and Environmental Information Application.

Permitting Page

https://broadbandusa.ntia.doc.gov/assistance/permitting

Permitting and Environmental Information Application

- Access Mapping Tool
- Access a video explaining how to use the Mapping Tool here
- Access GIS Map Package Including Tool Data Enhanced Functionality (04/25)
- Map Package User Guide
- Access a video explaining how to use the Map Package here

Also available at nbam.ntia.gov

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Questions?