

## Recommendations to Further Improve Government Permitting Processes to Expedite the Deployment of Fiber Broadband to All Americans

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Fiber broadband is the fundamental infrastructure for 21st century communications connectivity. It provides multi-gigabit symmetrical broadband service for residences, businesses, and community anchor institutions. It underlies 5G/6G wireless connectivity. It is essential for smart grid, smart city, and a host of other services and applications. Fortunately, providers are investing tens of billions of dollars annually to deploy fiber infrastructure rapidly. As of 2022, 68.3 million U.S. homes have access to fiber, nearly half of U.S. households. Not only will this private investment continue, but equally as important, federal, state, and local governments are committing tens of billions of dollars as well to deploy fiber to unserved and underserved locations, to Tribal governments, and for middle mile connectivity. In effect, the entire nation is rushing forward to have universal deployment of fiber infrastructure by the end of this decade, if not soon thereafter. However, to make this happen, government, industry, and other stakeholders will need to work together, especially to facilitate access by providers to public rights-of-way and infrastructure.

Government agencies and providers have long worked together to facilitate access to public rights-of-way and infrastructure for wireline communications projects. The 1984 Cable Act and the subsequent 1992 Act established processes and fee benchmarks long used by cable service providers and local franchising authorities. The 1996 Telecommunications Act established requirements for access to state and local government rights-of-way and infrastructure that governments and providers use every day to process and grant applications. And, many state and local governments have enacted their own laws and regulations for providing access, which are in constant use. In most instances, these processes and standards, while at times cumbersome and halting, have facilitated deployment of fiber infrastructure.

But, government agencies, providers, and other stakeholders all acknowledge that there have been bumps in the road, sometimes so significant that deployments are delayed for far too long, and even thwarted, depriving individuals, businesses, and institutions of fiber broadband connectivity. While this can be a problem for any privately funded build, it is especially unacceptable when it comes to the Broadband Equity, Access, and Deployment (BEAD) and other government programs that seek to build to unserved and under-served locations within a limited time. Moreover, as a general matter, FBA believes we should always be striving to improve government processes, which would help enable privately funded projects to reach into more economically challenging areas without direct government support. At the same time, FBA believes government agencies should be able to control their rights-of-way and infrastructure to further their citizens' interests, consistent with the greater public interest.

<sup>1</sup> The Fiber Broadband Association's (FBA) mission is to accelerate the deployment of fiber broadband networks to ensure digital equity and to enable every community to leverage the economic and societal benefits of fiber.

There are numerous federal, state and local agencies that play a role in overseeing access to public rights-of-way and infrastructure for fiber broadband projects. While these agencies have rules and processes in place today, FBA urges government agencies, providers, and other stakeholders to work together to evaluate these rules and processes and make reasonable additions and modifications. To assist in that effort, below FBA recommends permitting policies, processes, and standards that governments should adopt to facilitate more expeditious access to fiber broadband infrastructure.

## RECOMMENDATIONS

### I. *Objectives, Leadership, and Coordination*

#### A. *Making Fiber Broadband Deployment a Priority*

- Policy leaders at every level of government should make fiber connectivity a priority and communicate that objective widely and constantly to agencies and the public. The acknowledgment by leaders is powerful and will help provide the necessary authority to all parties who play a role so that they may obtain the resources they need to help carry out this national directive.

#### B. *Enhancing Coordination and Communication*

- To improve efficiency and further accountability, government agencies overseeing access to public rights-of-way and infrastructure for a deployment project should establish a single point of contact for applicants to interact with on all necessary permitting approvals and should regularly communicate with each other and with applicants to coordinate deployment timelines and approvals.
- As soon as government grant programs are established, government agencies should meet with all stakeholders to discuss permitting timelines and information and resource needs.
- Government agencies should implement “dig once” policies to enable fiber providers to access public rights-of-way and infrastructure when costs are lower and disruption to the public is minimized.

### II. *Permitting Approval Processes*

#### A. *Ensuring Transparency*

- Government agencies should provide transparency into their permitting processes to maintain consistency and a level playing field among broadband deployment projects. Transparency should include:
  - Clear understanding of application prioritization
  - Notice of standards and feedback regarding adherence — updates as application moves through each step of a review process, potential delays
  - Explicit reasoning as to any delays or approval failure

#### B. *Best Practices*

- Government agencies should consider establishing best practices for submission and review of applications to access public rights-of-way and infrastructure, which balance their needs with enabling expeditious deployment.

### ***C. Providing Sufficient Resources for Permitting***

- Government agencies should provide sufficient resources to enable them to process applications in a timely and cost-effective manner. Allocating resources by states to local governments in the form of both financial and human support is especially critical to keeping permitting for the BEAD program on track. In addition, government agencies should be open to (but not require) receiving support from providers to facilitate permitting.

### ***D. Streamlining Submission of Forms and Information***

- Government agencies should allow providers to submit all forms, applications, and documentation, including signatures, electronically.
- Government agencies should be open to innovative cost- and time-saving alternatives that streamline processes; for example, the acceptance of photos of completed work in lieu of in-person inspections to finalize certification.

### ***E. Establishing and Adhering to Reasonable Timelines for Review and Approval***

- To keep projects on track, government agencies should establish and implement reasonable requirements and time frames for provider submissions and government review and approval of applications to access public rights-of-way and infrastructure.
- Government agencies should refrain from duplicative reviews of applications. For instance, if an agency rejects a permit application at a later stage in the review process because a form is filled out incorrectly or insufficient information has been provided, the applicant should not have to resubmit the application and repeat all stages of the review process. Instead, if the required fix is made within a reasonable amount of time, the application should go back into the review process at the stage it was rejected. The permitting agency should also be available to help the applicant make the needed corrections.
- To provide an impetus for government agencies to press applicants for complete information and engagement and to hold themselves accountable, government agencies should deem an application “granted” after a reasonable period, so long as the applicant has met reasonable requirements to submit accurate, timely, and complete information. Adopting such a requirement also will place fiber projects on a level playing field with government review of access for wireless projects, which are already subject to this requirement.

## ***III. Standards, Requirements, and Fees***

### ***A. Ensuring Fees for Access to Public Rights-of-Way and Infrastructure are Reasonable***

- Government agencies should impose fees on applicants for access to public rights-of-way and infrastructure that are limited to the actual, objectively reasonable costs associated with processing an application.

### ***B. Establishing Fair and Reasonable Permitting Requirements***

- Government agencies should impose requirements for access to public rights-of-way and infrastructure that are fair and reasonable and related only to and commensurate with the access provided. For instance, street restoration requirements following a fiber deployment should be reasonable and proportional to and directly arise from the deployment and should be agreed upon in advance.