

# Compare Results

Old File:

**AL - BEAD Initial Proposal - Volume 1 Draft.pdf**

**30 pages (361 KB)**

12/1/2023 10:21:50 AM

versus

New File:

**AL - BEAD Initial Proposal - Volume 1 Final.pdf**

**28 pages (300 KB)**

3/27/2024 12:16:59 PM

## Total Changes

**179**

Text only comparison

## Content

**98** Replacements

**52** Insertions

**29** Deletions

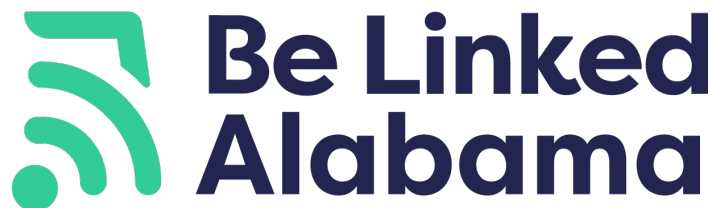
## Styling and Annotations

**0** Styling

**0** Annotations

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# Initial Proposal Volume 1 Broadband Equity, Access, and Deployment Program



**Alabama Department of Economic and  
Community Affairs**

**Submitted December 2023**

**Approved February 2024**

This document provides the information included in the Broadband Equity, Access, and Deployment (BEAD) Program Initial Proposal Volume I submitted by the Alabama Digital Expansion Division of the Alabama Department of Economic and Community Affairs (ADECA), which received National Telecommunications and Information Administration (NTIA) approval. This document reflects NTIA's instructions and data submission process for BEAD Initial Proposal Volume I. ADECA's BEAD Initial Proposal Volume I, including the tentative action dates herein, is subject to change in accordance with federal law, BEAD Program requirements, and NTIA guidance, and any updates thereto, and ADECA will publish additional information regarding the proposals described in this document during the BEAD Initial Proposal Volume I implementation process.

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Federal Award ID Number: 01-20-B093  
Grant Request Number: GRN-000093  
Funding Program Name: Broadband Equity, Access, and Deployment (BEAD) Program  
Funding Request Name: ECONOMIC AND COMMUNITY AFFAIRS, ALABAMA-BEAD-Initial Proposal-Vol I-GRN-000093  
Applying Organization: ECONOMIC AND COMMUNITY AFFAIRS, ALABAMA DEPARTMENT OF  
Applicant Name: Maureen Neighbors

### 01.01.01 Existing Broadband Funding

As a required attachment, submit the file identifying sources of funding, a brief description of the broadband deployment and other broadband-related activities, the total funding, the funding amount expended, and the remaining funding amount available. Eligible Entities may copy directly from their Five-Year Action Plans.

#### ADECA Response:

As required, please find ADECA's file identifying sources of funding, a brief description of the broadband deployment and other broadband-related activities, the total funding, the funding amount expended, and the remaining funding amount available [here](#).

### 01.02.01 Unserved Locations Lists

As a required attachment, submit one CSV file with the location IDs of each unserved location, including unserved locations in applicable Tribal Lands.

#### Instructions:

The Eligible Entity is required to identify each unserved location under the jurisdiction of the Eligible Entity (including unserved in applicable Tribal Lands) using the most recently published National Broadband Map as of the date of submission of the Initial Proposal. The CSV file should contain the location IDs of unserved locations (named "unserved.csv") and must be a single-column file.

Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

#### ADECA Response:

As required, please find ADECA's file with the location IDs of each unserved location, including unserved locations in applicable Tribal Lands [here](#).



### **01.02.02 Underserved Locations List**

As a required attachment, submit one CSV file with the location IDs of each underserved location, including underserved locations in applicable Tribal Lands.

Instructions:

The Eligible Entity is required to identify each underserved location under the jurisdiction of the Eligible Entity (including underserved in applicable Tribal Lands) using the most recently published National Broadband Map as of the date of submission of the Initial Proposal. The CSV file should contain the location IDs of underserved locations (named “underserved.csv”) and must be a single-column file.

Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

*ADECA Response:*

As required, please find ADECA’s file with the location IDs of each underserved location, including underserved locations in applicable Tribal Lands [here](#).

### **01.02.03 National Broadband Map Publication Date**

Identify the publication date of the National Broadband Map that was used to identify the unserved and underserved locations.

Instructions:

Only the first edition of the National Broadband Map in each month can be selected. The publication date of the National Broadband Map cannot predate the submission of the Initial Proposal by more than 59 days.

*ADECA Response:*

ADECA used the December 12, 2023, publication of the National Broadband Map to identify the unserved and underserved locations.

### **01.03.01 CAI Statutory Definition**

Describe how the statutory definition of “community anchor institution” (e.g., schools, libraries, health clinics) was applied, how eligible CAIs were identified, and how network connectivity needs were assessed, including the types of CAIs that the Eligible Entity intends to serve.

Instructions:

The Eligible Entity must include:



- a. A description of how the Eligible Entity applied the statutory definition of the term “community anchor institution” and identified all Eligible CAIs (i.e., “a community anchor institution that lacks access to Gigabit-level broadband service”) in its jurisdiction and in applicable Tribal Lands.
- b. A description of how the Eligible Entity assessed the needs of Eligible CAIs, and of what types of CAIs the Eligible Entity intends to receive service under the BEAD Program.
- c. A description of the categories of institutions proposed as CAIs, including during the public comment period, if any, that the Eligible Entity considered but declined to classify as an eligible CAI, and a description of the basis on which the Eligible Entity determined that such category of CAI does not facilitate greater use of broadband service by vulnerable populations.
- d. If the Eligible Entity proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Act\*, the basis on which the Eligible Entity determined that such category of CAI facilitates greater use of broadband service by vulnerable populations.

Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

\*Section 60102(a)(2)(E) of the Infrastructure Act cites CAIs categories as an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

#### *ADECA Response:*

#### 4.1 Definition of “community anchor institution”

Based on the statutory definition of “community anchor institution” as defined in 47 U.S.C. § 1702(a)(2)(E), ADECA defines a CAI to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency, HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater public use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

Additionally, based on information received through ADECA’s outreach, some government buildings such as county courthouses that facilitate greater public use of broadband are also included in the definition of a CAI. Some Alabama courts offer public Wi-Fi. In addition, Alabama’s Administrative Office of Courts stated in a letter to ADECA that Alabama’s public safety system increasingly relies on broadband, and noted that the justice system in the



following eight counties would benefit by having access to broadband: Bullock, Cherokee, Choctaw, Clarke, Greene, Lowndes, Washington, and Wilcox.

By offering free, reliable broadband access to the public, such institutions facilitate greater use of broadband service by vulnerable populations, including but not limited to low-income individuals, incarcerated individuals, and persons otherwise adversely affected by persistent poverty or inequality. As explained further below, Tribal government facilities can provide similarly critical services to members of Tribal Nations and correctional facilities can provide broadband access to incarcerated individuals, a vulnerable population that may not have access to any of the other CAI categories included in this Initial Proposal Volume I.

Based on the statutory definition above, the following criteria were used to determine the inclusion or exclusion of community support organizations not specifically listed in 47 U.S.C. § 1702(a)(2)(E): Whether the community support organization facilitates greater public use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

The following definitions and sources were used to identify the types of CAIs, including CAIs on Tribal lands (as explained in Initial Proposal Volume 2, ADECA has reached out to the Poarch Band of Creek Indians, Alabama's only federally-recognized Tribe, to schedule a listening session on Poarch territory. In January 2023, ADECA invited the Tribal Leadership to participate in a county session being held close to Tribal land but did not receive a response. In June 2023, ADECA sent a Dear Tribal Leader letter requesting input and in early September 2023 sent a follow-up letter to Tribal Leadership, but as of submission of this Initial Proposal, has not yet received a response. ADECA will continue to reach out to the Poarch Band of Creek Indians to try to schedule a listening session to identify any relevant CAIs and inform both the BEAD and Digital Equity Act funded programs):

1. Schools: The list of schools includes all K-12 schools participating in the FCC E-Rate program or that have a National Center for Education Statistics (NCES) ID in the categories "public schools" or "private schools."
2. Libraries: The list of libraries includes all those participating in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association.
3. Health clinic, health center, hospital, or other medical providers: The list of health clinics, health centers, hospitals, and other medical providers includes all institutions that have a Centers for Medicare and Medicaid Services certification number.
4. Public safety entities: The list of public safety entities includes fire houses, emergency medical service stations, and police stations, based on records maintained by the State of Alabama and units of local government. Included in the list of public safety entities is also the list of public safety answering points (PSAPs) in the FCC PSAP registry.
5. Government facilities: Government facilities are the anchor of many communities and provide broadband services and digital skills assistance to underrepresented



communities. Government facilities, including but not limited to county courthouses and Tribal government facilities, facilitate greater access to broadband services by vulnerable populations, including but not limited to low-income individuals, incarcerated individuals, and persons otherwise adversely affected by persistent poverty or inequality. Some Alabama courthouses offer free public Wi-Fi, thus facilitating greater use of broadband service. Tribal government facilities can provide similarly critical services to members of Tribal Nations. In addition, correctional facilities facilitate greater access to broadband services by incarcerated individuals, a vulnerable population that may not have access to any of the other CAI categories included in this Initial Proposal Volume I. Correctional facility work release programs may provide broadband training and access to recently incarcerated people, who may also fit into other categories of vulnerable populations. Therefore, some government facilities, including but not limited to county courthouses, Tribal government facilities, and correctional facilities are included in the list of CAI government facilities.

6. Institutions of higher education: Institutions of higher education include all institutions that have an NCES ID in the category “college”, including junior colleges, community colleges, minority serving institutions, Historically Black Colleges and Universities, other universities, and other educational institutions.
7. Public housing organizations: Public housing organizations were identified by contacting the Public Housing Agencies for Alabama enumerated by the U.S. Department of Housing and Urban Development, as well as by contacting nonprofit organizations Public and Affordable Housing Research Corporation and National Low Income Housing Coalition, which maintain a nationwide database of public housing units at the National Housing Preservation Database.
8. Community support organizations: The list of community support organizations includes organizations identified by ADECA, in the context of its multi-year broadband engagement work, that facilitate greater public use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aging individuals. Community support organizations include senior centers, activity centers, nutrition centers, wellness centers, and crisis centers which provide public computing access and offer digital skills training to vulnerable populations as well as assistance with wrap around services that include those accessed through online portals. These institutions often are administered by local and Tribal governments in support of their communities.
9. Other sources of data: ADECA also drew on state, county, and municipal resources to identify additional eligible CAIs that were not contained in the data sources listed above. In addition, ADECA used the Initial Proposal public comment process to ensure that all relevant institutions meeting the CAI criteria are included and will update such data as necessary as part of its ongoing community engagement efforts.

Some commenters identified potential issues with CAI location data, which were taken into consideration to inform ADECA’s approach to this Initial Proposal Volume I. ADECA



anticipates that CAI location data issues will be best addressed through the Challenge Process and encourages such commenters to participate in that process. Commenters also recommended the inclusion of certain categories of CAIs or changes to the proposed CAI categories described above. For example, commenters recommended the inclusion of farms and other locations as CAIs, narrowing the definitions of public safety entities and community support organizations, and broadening the types of public housing organizations that qualify as CAIs. ADECA carefully considered the feedback it received. However, such commenters failed to adequately demonstrate how such categories match NTIA's CAI guidance or how such recommendations would meaningfully facilitate greater public use of broadband services by vulnerable populations. As a result, ADECA does not propose to include these categories as CAIs or further alter its proposed CAI category definitions.

#### 4.2 Connectivity needs of defined CAIs

To assess the network connectivity needs of the types of eligible CAIs listed above, ADECA undertook the following activities:

- I. Engaged government agencies. ADECA communicated with relevant state agencies to understand what records they have available regarding Gigabit per second (Gbps) symmetrical broadband service availability for CAIs. Specifically, ADECA contacted the following agencies:
  - a. **Education:** ADECA coordinated with the Alabama State Department of Education to determine which schools do not currently have access to 1 Gbps symmetrical broadband service. ADECA has determined that many of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO; however, ADECA preliminarily presumes as unserved any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.
  - b. **Libraries:** ADECA coordinated with the Alabama Public Library Service to determine which libraries lack 1 Gbps symmetrical broadband service. ADECA has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and preliminarily presumes as unserved any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.
  - c. **Healthcare:** ADECA communicated with the Alabama Department of Public Health to determine which public health facilities lack 1 Gbps symmetrical broadband service. ADECA has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and preliminarily presumes as unserved any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.
  - d. **Public safety:** ADECA communicated with the Alabama Office of Information Technology and the Alabama Law Enforcement Agency Department of Public





Safety to obtain 1 Gbps broadband service availability data. ADECA has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and preliminarily presumes as unserved any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.

2. Engaged relevant umbrella organizations and nonprofits. ADECA engaged with umbrella and nonprofit organizations that work with CAIs to determine CAI locations and obtain 1 Gbps symmetrical broadband service availability data. Specifically, ADECA requested information related to [availability](#) needs from relevant umbrella member organizations that represent all geographic regions of Alabama, including the following organizations: AARP, Alabama Association of Regional Councils, Alabama Community Action Agencies, Alabama Hospital Association, Alabama League of Municipalities, Association of County Commissions of Alabama, Community Action Association of Alabama, and the United Way (for a full list of partner organizations, see “Alabama BEAD Five-Year Action Plan,” Section 3.2 “Partnerships,” <https://adeca.alabama.gov/beadplan/>, pp. 26-34).
3. Compiled a list of CAIs that do not have adequate broadband service. Using the responses received, ADECA compiled a list of those CAIs that do not have adequate broadband service. Appendix 4 ([cai\\_revised.csv](#)) is an uploaded file with the current list of eligible CAIs that require qualifying broadband service and do not currently have access to such service, to the best of ADECA’s knowledge and based on the presumptions described above. ADECA notes that not all CAIs have an FCC-issued Location ID and ADECA provides the best available CAI location information it has at this time. Appendix 4 is a draft document and ADECA anticipates further refining CAI data as part of the Challenge Process.

### 01.03.02 Eligible CAI List

As a required attachment, submit the CSV file (named `cai.csv`) that lists eligible community anchor institutions that require qualifying broadband service and do not currently have access to such service, to the best of the Eligible Entity’s knowledge.

#### Instructions:

The Eligible Entity must submit a CSV file with a list of eligible CAI locations identified within the jurisdiction of the Eligible Entity, using the data format provided by NTIA. The Eligible Entity must complete all mandatory fields in the file named “`cai.csv`” as outlined in Appendix A of the NTIA BEAD Challenge Process Policy Notice. Address information must identify the physical location of the community anchor institutions, not the administrative location. For example, the address should describe the location of the school building, not that of the board of education administrative building.

#### ADECA Response:

As required, please find ADECA’s file [here](#).



### 01.04.01 NTIA Model Challenge Process: Challenge

Select if the Eligible Entity plans to adopt the NTIA Challenge Process Model for Requirement 7.

Instructions:

The Eligible Entity must indicate whether or not it intends to adopt the NTIA BEAD Model Challenge Process for Requirement 7.

*ADECA Response:*

Yes

### 01.04.02 Modifications to National Broadband Map

If applicable, describe any modifications to classification of broadband serviceable locations in the Eligible Entity's jurisdiction as "served," "underserved," or "unserved," and provide justification for each modification.

Instructions:

Eligible Entities may, subject to the approval of the Assistant Secretary, modify the set of locations identified as eligible for funding on the National Broadband Map to reflect data not present in the National Broadband Map. If the Eligible Entity plans to modify the classification of locations, it must include a description of each proposed modification and each associated justification. If the Eligible Entity will not plan to modify the set of locations identified as eligible for funding on the National Broadband Map, indicate "N/A" in the response.

Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

*ADECA Response:*

#### 5.1 Modifications to reflect data not present in the National Broadband Map

ADECA proposes the following modifications to classification of broadband serviceable locations (BSLs) in Alabama as "served," "underserved," or "unserved" to reflect data not present in the National Broadband Map and provides justification for each modification.

##### 5.1.1 DSL modifications

ADECA will treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is "served") delivered via DSL as "underserved." This modification will better reflect the locations eligible for BEAD funding because it will facilitate the phase-out of legacy copper facilities and ensure the delivery of "future-proof" broadband service. This designation cannot be challenged or rebutted by the provider.



### 01.04.03 Eligible Entity Planning Toolkit

Select if the Eligible Entity plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

ADECA Response:

Yes

### 01.04.04 Enforceable Commitments Identification

Describe the process that will be used to identify and remove locations subject to enforceable commitments.

Instructions:

If the Eligible Entity plans to adopt the NTIA BEAD Model Challenge Process, the Eligible Entity must copy in the Model language and add in the unique information required from each Eligible Entity as specified in the Model.

If the Eligible Entity does not adopt the NTIA BEAD Model Challenge process, the Eligible Entity must:

- a. Describe the process used to identify and remove locations subject to enforceable commitments, and
- b. Outline whether or not the Eligible Entity plans to use the BEAD Eligible Entity Planning Toolkit.

If the Eligible Entity does not plan to use the BEAD Eligible Entity Planning Toolkit, the Eligible Entity must also include the following information:

- a. A description of the technology or tool to be used for deduplication, including explanation of its capacity to aggregate multiple data sources to create an accurate list of existing federal, state/territory, and local commitments.
- b. Assurance that the process to identify and remove enforceable commitments will analyze, at a minimum:
  - i. All programs included in the Broadband Funding Map published by FCC pursuant to Section 60105 of the Infrastructure Act as of the date of the deduplication of funding process.
  - ii. All state or territorial and local broadband deployment programs, including those that utilize funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury.



Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

#### *ADECA Response:*

### 5.2.1 Process description

ADECA will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult at least the following datasets:

- The Broadband Funding Map published by the FCC pursuant to IIJA § 60105
- **Datasets** from the state's broadband deployment programs that rely on funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury
- **Datasets** from the state's broadband deployment programs that rely on state funds, as well as other local data collections of existing enforceable commitments

ADECA will make a best effort to develop a list of BSLs subject to enforceable commitments based on state, Tribal, and local grants or loans. If necessary, ADECA will translate polygons or other geographic designations (e.g., a county or utility district) describing the area to a list of Fabric locations. ADECA will submit this list, in the format specified by the FCC Broadband Funding Map, to NTIA.

ADECA will review its repository of existing state broadband grant programs to validate the upload and download speeds of existing binding agreements to deploy broadband infrastructure. In situations in which the state program did not specify broadband speeds, or when there was reason to believe a provider deployed higher broadband speeds than required, ADECA will reach out to the provider to verify the deployment speeds of the binding commitment. ADECA will document this process by requiring providers to sign a binding agreement certifying the actual broadband deployment speeds deployed. ADECA will draw on these provider agreements, along with its existing database on state broadband funding programs' binding agreements, to determine the set of state enforceable commitments.

#### **01.04.05 Enforceable Commitments List**

As a required attachment, submit the list of the federal, state/territorial, and local programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding.

#### Instructions:

The Eligible Entity must list the programs that will be analyzed to identify existing enforceable commitments. If the Eligible Entity plans to use the BEAD Eligible Entity Planning Toolkit and/or the NTIA BEAD Model Challenge Process, the Eligible Entity must list any state or territorial and local programs that constitute enforceable commitments.



If the Eligible Entity does not plan to use the BEAD Eligible Entity Planning Toolkit, the Eligible Entity must list the federal, state or territorial, and local programs that will be analyzed to identify existing enforceable commitments. These programs must include, at a minimum:

- a. All programs included in the Broadband Funding Map published by FCC pursuant to the Infrastructure Act § 60105, and
- b. All state or territorial and local broadband deployment programs, including those that utilize funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury.

Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

#### *ADECA Response:*

As required, please find ADECA's file containing the list of the federal, state/territorial, and local programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding [here](#).

### **01.04.06 Challenge Process Design**

Describe the plan to conduct an evidence-based, fair, transparent, and expeditious challenge process.

#### **Instructions:**

If the Eligible Entity plans to adopt the NTIA BEAD Model Challenge Process, the Eligible Entity must copy in the Model language and add in the unique information required from each Eligible Entity, outlined in the Model.

If the Eligible Entity does not plan to adopt the NTIA BEAD Model Challenge Process, the Eligible Entity must include in its response:

- a. The proposed approach for the challenge process, including the publication of eligible locations, challenge phase, rebuttal phase, and final determination phase.
- b. Challenge types permitted, including the identification of community anchor institutions, existing Broadband Serviceable Location (BSL) and community anchor institution BEAD funding eligibility determinations, enforceable commitments, and planned service.
- c. Challengers permitted: units of local government, nonprofit organizations, and broadband service providers.
- d. Proposed evidentiary review process through which the Eligible Entity will review and make determinations based on challenges and rebuttals received. If the Eligible Entity decides to add any additional data sources to or remove from the list as outlined in



Table 3 “Examples of Acceptable Evidence for BEAD Challenges and Rebuttals” in the NTIA BEAD Challenge Process Policy Notice, it must respond to question I.4.7 and outline the proposed sources and requirements that will be considered acceptable evidence.

- e. Requirements for acceptable speed tests (e.g., number of speed tests, geographic distribution, speed test collection time), if applicable.
- f. Plan to ensure that sufficient opportunity and time is given to all relevant parties to initiate, rebut, and substantiate challenges, and that the challenge process standards of review are applied uniformly to all challenges submitted.
- g. The plan to ensure transparency, including:
  - i. The plan to publicly post documentation explaining the challenge process once it is approved by NTIA (prior to beginning the challenge process).
  - ii. The plan to post all submitted challenges and rebuttals before final determinations are made, including information from the NTIA BEAD Challenge Process Policy Notice.
  - iii. The plan to host a website, including the link to the website’s URL, if the hosting website already exists.
  - iv. The plan to inform units of local government, relevant nonprofit organizations and broadband providers to the challenge process and its deadlines.
- h. The plan to ensure the protection of Personally Identifiable Information (PII), business confidential, and proprietary information, including anyone who will have access to any PII submitted through the challenge process (e.g., provider’s subscriber PII), including through state/territory public records processes.
- i. The overall timeline, with tentative dates of initiation and completion, for the challenge process. The timeline must also include the plan to ensure that:
  - i. The proposed challenge process will be completed within 120 days, starting with the initiation of the challenge submission window.
  - ii. The proposed challenge process will include a minimum 14-day window to file a rebuttal after the challenge is available on the challenge portal.
  - iii. The proposed challenge process will publicly post final classification of eligible locations after resolving each challenge, at least 60 days before allocating grant funds for network deployment.



Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

## ADECA Response

### 5.3 Challenge process design

Based on the NTIA BEAD Challenge Process Policy Notice, as well as ADECA's understanding of the goals of the BEAD Program, the proposal represents a transparent, fair, expeditious, and evidence-based Challenge Process.

#### 5.3.1 Permissible challenges

ADECA will only allow challenges on the following grounds:

- The identification of eligible CAIs, as defined by ADECA
- CAI BEAD eligibility determinations
- BEAD eligibility determinations for existing BSLs included in the FCC's National Broadband Map
- Enforceable commitments, or
- Planned service

#### 5.3.2 Permissible challengers

During the BEAD Challenge Process, ADECA will only allow challenges from nonprofit organizations, units of local and Tribal governments, and broadband service providers. (Citizens may work directly with any of these entities to submit their challenge data during this process. In response to comments received, ADECA clarifies that it considers middle-mile broadband providers to be broadband service providers for the purposes of determining permissible challengers.)

#### 5.3.3 Challenge process overview

The Challenge Process conducted by ADECA will include four phases, potentially spanning 90 calendar days, per the schedule of the NTIA BEAD Model Challenge Process:

- I. Publication of Eligible Locations: Prior to beginning the Challenge Phase, ADECA will publish the set of locations eligible for BEAD funding, which consists of the locations resulting from the activities outlined in Sections 5 and 6 of the NTIA BEAD Challenge Process Policy Notice (e.g., administering the deduplication of funding process). ADECA will also publish locations considered served, as they can be challenged. ADECA will establish the date for the publication of location information upon approval of the Challenge Process by NTIA, with a tentative date set for March 1, 2024.



2. Challenge Phase: During the Challenge Phase, challengers will submit the challenge through ADECA’s challenge portal. The challenge will be visible to the service provider whose service availability and performance is being contested. The provider will be notified of the challenges through an automated process, which will include related information about timing for the provider’s response. After this stage, the location will enter the “challenged” state.
  - a. Minimum Level of Evidence Sufficient to Establish a Challenge: The challenge portal will verify the following:
    - i. That the address provided in the challenge can be found in the Fabric and is a BSL
    - ii. That the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service
    - iii. That the email address from which the challenge was sent is reachable by sending a confirmation message to the listed contact email
    - iv. For scanned images, the challenge portal will potentially determine whether the quality is sufficient to enable optical character recognition (OCR)
    - v. For availability challenges, ADECA will verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated
  - b. Timeline: Challengers will have 30 calendar days to submit a challenge from the time the initial lists of unserved and underserved locations, CAIs, and existing enforceable commitments are posted.

ADECA will establish the dates of the Challenge Phase once the plan has been approved by NTIA, with a tentative date range set for March 1, 2024, through March 30, 2024.

3. Rebuttal Phase: For challenges related to location eligibility, only the challenged service provider may rebut the reclassification of a location or area with evidence. If a provider claims gigabit service availability for a CAI or a unit of local government disputes the CAI status of a location, the CAI may rebut. All types of challengers may rebut planned service (P) and enforceable commitment (E) challenges. The provider will be notified of the challenges through an automated process; however, providers must regularly check the challenge portal notification for notifications of submitted challenges.
  - a. Provider Options: Challenged service providers will have the following options at this time:
    - i. Rebut: rebut the reclassification of a location or area with evidence, causing the location or locations to enter the “disputed” state.





- ii. Leave Unrebutted: If a challenge that meets the minimum level of evidence is not rebutted, the challenge will be considered conceded and sustained. This will result in transition of the challenged location(s) to the “sustained” state.
  - iii. Concede the Challenge: A provider may also agree with the challenge and thus transition the location to the “sustained” state.
- b. Timeline: Providers will have 30 calendar days from notification of a challenge to provide rebuttal information to ADECA. The rebuttal period begins once the provider is notified of the challenge, and thus may occur concurrently with the Challenge Phase.

ADECA will establish the dates of the Rebuttal Phase once the plan has been approved by NTIA, with a tentative date range set for April 1, 2024, through April 30, 2024.

4. Final Determination Phase: During the Final Determination Phase, ADECA will make the final determination of the classification of the location(s) that remain in the “disputed” state, either declaring the challenge “sustained” or “rejected.”
- a. Timeline: Following intake of challenge rebuttals, ADECA will make a final challenge determination within 30 calendar days of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received. ADECA will establish the dates of the Final Determination Phase once the plan has been approved by NTIA, with a tentative date range set for May 1, 2024, through May 30, 2024.

#### 5.3.4 Evidence and review approach

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant partners, ADECA will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. ADECA will:

- Document the standards of review to be applied in a Standard Operating Procedure
- Require reviewers to document their justification for each determination
- Ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted
- Require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations

#### TABLE I: CHALLENGE TYPES, EVIDENCE EXAMPLES, AND PERMISSIBLE REBUTTALS

Code: A

Challenge type: Availability



**Description:** The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).

**Specific examples:** Screenshot of provider webpage, A service request was refused within the last 180 days (e.g., an email or letter from provider, Unless otherwise noted, “days” refers to calendar days.), Lack of suitable infrastructure (e.g., no fiber on pole), A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request (A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as “[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider.”), A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation fee to connect this location or that a provider quoted an amount in excess of the provider’s standard installation charge in order to connect service at the location.

**Permissible Rebuttals:** Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill, If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability, The provider submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location.

**Code:** S

**Challenge type:** Speed

**Description:** The actual speed of the service tier falls below the unserved or underserved thresholds (The challenge portal has to gather information on the subscription tier of the household submitting the challenge. Only locations with a subscribed-to service of 100/20 Mbps or above can challenge locations as underserved. Speed challenges that do not change the status of a location do not need to be considered. For example, a challenge that shows that a location only receives 250 Mbps download speed even though the household has subscribed to gigabit service can be disregarded since it will not change the status of the location to unserved or underserved.).

**Specific examples:** Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests.

**Permissible Rebuttals:** Provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system (As described in the BEAD NOFO, a provider’s countervailing speed test should show that 80 percent of a provider’s download and upload measurements are at or above 80 percent of the required speed. See Performance Measures Order, 33 FCC Rcd at 6528, para. 51. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.).

**Code:** L



### Challenge type: Latency

**Description:** The round-trip latency of the broadband service exceeds 100 ms (Performance Measures Order, including provisions for providers in non-contiguous areas (§21)).

**Specific examples:** Speed test by subscriber, showing the excessive latency.

**Permissible Rebuttals:** Provider has countervailing speed test evidence showing latency at or below 100 ms, e.g., from their own network management system or the Connect America Fund (CAF) performance measurements.

**Code:** D

### Challenge type: Data cap

**Description:** The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer (An unreasonable capacity allowance is defined as a data cap that falls below the monthly capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022, <https://www.fcc.gov/document/2023-urban-ratesurvey-posting-data-and-minimum-usage-allowance>). Alternative plans without unreasonable data caps cannot be business-oriented plans not commonly sold to residential locations. A successful challenge may not change the status of the location to unserved or underserved if the same provider offers a service plan without an unreasonable capacity allowance or if another provider offers reliable broadband service at that location.).

**Specific examples:** Screenshot of provider webpage, Service description provided to consumer.

**Permissible Rebuttals:** Provider has terms of service showing that it does not impose an unreasonable data cap or offers another plan at the location without an unreasonable cap.

**Code:** T

### Challenge type: Technology

**Description:** The technology indicated for this location is incorrect.

**Specific examples:** Manufacturer and model number of residential gateway (CPE) that demonstrates the service is delivered via a specific technology.

**Permissible Rebuttals:** Provider has countervailing evidence from its network management system showing an appropriate residential gateway that matches the provided service.

**Code:** B

### Challenge type: Business service only



**Description:** The location is residential, but the service offered is marketed or available only to businesses.

**Specific examples:** Screenshot of provider webpage.

**Permissible rebuttals:** Provider documentation that the service listed in the BDC is available at the location and is marketed to consumers.

Code: F

**Challenge type:** Enforceable commitment

**Description:** The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.

**Specific examples:** Enforceable commitment by service provider (e.g., authorization letter). In the case of Tribal Lands, the challenger must submit the requisite legally binding agreement between the relevant Tribal Government and the service provider for the location(s) at issue (See BEAD Challenge Process Policy Notice, v.1.1, Section 6.2, “Deduplication of Funding”).

**Permissible rebuttals:** Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer a going concern).

Code: P

**Challenge type:** Planned service

**Description:** The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.

**Specific examples:** Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained, Contracts or a similar binding agreement between ADECA and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source (i.e., a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2024.

**Permissible rebuttals:** Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern) or that the planned deployment does not meet the required technology or performance requirements.

Code: N

**Challenge type:** Not part of enforceable commitment



**Description:** This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.)

**Specific examples:** Declaration by service provider subject to the enforceable commitment.

**Permissible rebuttals:** N/A

**Code:** C

**Challenge type:** Location is a CAI

**Description:** The location should be classified as a CAI.

**Specific examples:** Evidence that the location falls within the definitions of CAIs set by ADECA (For example, eligibility for FCC E-Rate or Rural Health Care Program funding or registration with an appropriate regulatory agency may constitute such evidence, but ADECA may rely on other reliable evidence that is verifiable by a third party).

**Permissible rebuttals:** Evidence that the location does not fall within the definitions of CAIs set by ADECA or is no longer in operation.

**Code:** R

**Challenge type:** Location is not a CAI

**Description:** The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.

**Specific examples:** Evidence that the location does not fall within the definitions of CAIs set by ADECA or is no longer in operation.

**Permissible rebuttals:** Evidence that the location falls within the definitions of CAIs set by ADECA or is still operational.

### 5.3.5 Area and MDU challenges

ADECA will administer area and MDU challenges for challenge types A, S, L, D, and T. An area challenge reverses the burden of proof for availability, speed, latency, data caps, and technology if a defined number of challenges for a particular category, across all challengers, have been submitted for a provider. Thus, the provider receiving an area challenge or MDU challenge must demonstrate that they are indeed meeting the availability, speed, latency, data cap and technology requirement, respectively, for all locations it serves within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed above. A successful MDU challenge converts the status of the location to the lowest level of service across all units.



For example, the location is considered unserved if one unit is found to be unserved, even if other units within the MDU reach the underserved or served speed thresholds.

An area challenge is triggered if eight or more BSLs using a particular technology and a single provider within a census block group are challenged. ADECA chooses to trigger this challenge at eight BSLs instead of six BSLs in order to better balance the burden between the challengers and the ISPs whose services are challenged.

An MDU challenge requires challenges for one unit for MDUs having fewer than 15 units, for two units for MDUs of between 16 and 24 units, and at least three units for larger MDUs. Here, the MDU is defined as one BSL listed in the Fabric (for example, a complex of apartment buildings may be represented by multiple BSLs in the Fabric). An MDU challenge counts towards an area challenge (i.e., eight successful MDU challenges in a census block group may trigger an area challenge). Any differences between these provisions and the NTIA BEAD Model Challenge Process are designed to better balance the burden between the challengers and the ISPs whose services are challenged.

Each type of challenge and each technology and provider is considered separately, e.g., an availability challenge (A) does not count towards reaching the area threshold for a speed (S) challenge. If a provider offers multiple technologies, such as DSL and fiber, each is treated separately because they are likely to have different availability and performance.

Area challenges for availability need to be rebutted in whole or by location with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or hybrid fiber-coaxial (HFC) infrastructure or by subscriber information. For fixed wireless service, the challenge must be rebutted with representative, random samples of the area in contention, but no fewer than 10 data points in which the provider has to demonstrate service availability and speed (e.g., with a mobile test unit – a mobile test unit is a testing apparatus that can be easily moved, which simulates the equipment and installation (antenna, antenna mast, subscriber equipment, etc.) that would be used in a typical deployment of fixed wireless access service by the provider). For MDU challenges, the rebuttal must show that the inside wiring is reaching all units and is of sufficient quality to support the claimed level of service.

### 5.3.6 Speed test requirements

ADECA will accept speed tests as evidence for substantiating challenges and rebuttals. Each speed test must consist of three measurements, taken on different days. Speed tests cannot predate the beginning of the challenge period by more than 60 calendar days.

Speed tests can take the following forms:

- I. A reading of the physical line speed provided by the residential gateway (i.e., DSL modem, cable modem (for HFC), ONT (for fiber-to-the-premises), or fixed wireless subscriber module)



2. A reading of the speed test available from within the residential gateway web interface
3. A reading of the speed test found on the service provider's web page
4. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using a NTIA-approved speed test application. Such applications currently include Ookla (<https://www.speedtest.net/>); M-Lab (<https://speed.measurementlab.net/#/>); Cloudflare (<https://speed.cloudflare.com/>); Netflix (<https://fast.com/>); and the speed test provided by ADECA on the Be Linked Alabama website (<https://broadband.alabama.gov/survey/>).

Each speed test measurement must include:

- The time and date the speed test was conducted
- The provider-assigned internet protocol (IP) address, either IP version 4 or IP version 6, identifying the residential gateway conducting the test

Each group of three speed tests must include:

- The name and street address of the customer conducting the speed test
- A certification of the speed tier to which the customer subscribes (e.g., a copy of the customer's last invoice)
- An agreement, using an online form provided by ADECA, that grants access to these information elements to ADECA, any contractors supporting the Challenge Process, and the service provider

The IP address and the subscriber's name and street address are considered personally identifiable information (PII) and thus are not disclosed to the public (e.g., as part of a challenge dashboard or open data portal).

Each location must conduct three speed tests on three different days; the days do not have to be adjacent. The median of the three tests (i.e., the second highest or lowest speed) is used to trigger a speed-based (S) challenge, for either upload or download. For example, if a location claims a broadband speed of 100 Mbps/25 Mbps and the three speed tests result in download speed measurements of 105, 102 and 98 Mbps, and three upload speed measurements of 18, 26 and 17 Mbps, the speed tests qualify the location for a challenge, since the measured upload speed marks the location as underserved.

Speed tests may be conducted by subscribers, but speed test challenges must be gathered and submitted by units of local government, nonprofit organizations, or a broadband service provider.



Subscribers submitting a speed test must indicate the speed tier they are subscribing to. Since speed tests can only be used to change the status of locations from “served” to “underserved”, only speed tests of subscribers that subscribe to tiers at 100/20 Mbps and above are considered. If the household subscribes to a speed tier of 100/20 Mbps or higher and the speed test yields a speed below 100/20 Mbps, this service offering will not count towards the location being considered served. However, even if a particular service offering is not meeting the speed threshold, the eligibility status of the location may not change. For example, if a location is served by 100 Mbps licensed fixed wireless and 500 Mbps fiber, conducting a speed test on the fixed wireless network that shows an effective speed of 70 Mbps does not change the status of the location from served to underserved.

A service provider may rebut an area speed test challenge by providing speed tests, in the manner described above, for at least 10 percent of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule, i.e., 80 percent of these locations must experience a speed that equals or exceeds 80 percent of the speed threshold. The 80/80 threshold is drawn from the requirements in the CAF II and RDOF measurements. See BEAD NOFO at 65, n. 80, Section IV.C.2.a. For example, 80 percent of these locations must have a download speed of at least 20 Mbps (that is, 80 percent of 25 Mbps) and an upload speed of at least 2.4 Mbps to meet the 25/3 Mbps threshold and must have a download speed of at least 80 Mbps and an upload speed of 16 Mbps to meet the 100/20 Mbps speed tier. Only speed tests conducted by the provider between the hours of 7 p.m. and 11 p.m. local time will be considered as evidence for a challenge rebuttal. More information regarding the speed test requirements for the Challenge Process can be found in NTIA’s Speed Test Requirements Checklist (see NTIA, “Understanding the Speed Test Requirements in the Model Challenge Process” (November 2023), [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-11/Speed\\_Test\\_Checklist\\_112023.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-11/Speed_Test_Checklist_112023.pdf)).

### 5.3.7 Transparency plan

To ensure that the Challenge Process is transparent and open to public and partner scrutiny, ADECA will, upon approval from NTIA, publicly post an overview of the Challenge Process phases, challenge timelines, and instructions on how to submit and rebut a challenge. This documentation will be posted publicly on the Be Linked Alabama website at <https://broadband.alabama.gov/> and on ADECA’s website at <https://adeca.alabama.gov/broadband/> for at least a week prior to opening the challenge submission window. The Challenge Process portal will be developed on a hosting website that will be available to link to from the Be Linked Alabama website at <https://broadband.alabama.gov/> and from ADECA’s website at <https://adeca.alabama.gov/broadband/>. ADECA also plans to actively inform all units of local government of its Challenge Process and set up regular touchpoints to address any comments, questions, or concerns from local governments, nonprofit organizations, and internet service providers.

ADECA will conduct Challenge Process engagement with local governments, nonprofit organizations, and internet service providers, who have been part of ADECA’s ongoing community outreach efforts over the past year. Such engagement will include targeted





Challenge Process outreach to the Alabama League of Municipalities and the Association of County Commissioners of Alabama to disseminate information to their members across the state. ADECA also will leverage its existing Broadband Alabama Mailing List to publish information regarding the Challenge Process requirements and timeframes (see “Broadband Alabama Mailing List,” ADECA, <https://adeca.alabama.gov/broadband-alabama-mailing-list/>). Relevant partners will be given an opportunity to sign up on the Broadband Alabama Mailing List (<https://adeca.alabama.gov/broadband-alabama-mailing-list/>) for notifications. Additionally, relevant partners can engage with ADECA through a designated email address ([broadband.fund@adeca.alabama.gov](mailto:broadband.fund@adeca.alabama.gov)).

Because of the state’s robust mapping efforts, ADECA already has contact information for most, if not all, broadband service providers in Alabama. Providers will be notified of challenges through an automated process discussed above. If any providers receive a challenge that ADECA does not have current contact information for, ADECA will work with industry associations, confer with the FCC, and review all publicly available contact information to ensure that the provider is contacted in an expeditious manner. Additionally, relevant partners will be encouraged to check the challenge portal for updates.

Beyond actively engaging relevant partners, ADECA will also post all submitted challenges and rebuttals before final challenge determinations are made, including:

- The provider, nonprofit, or unit of local government that submitted the challenge
- The census block group containing the challenged BSL
- The provider being challenged
- The type of challenge (e.g., availability or speed)
- A summary of the challenge, including whether a provider submitted a rebuttal

ADECA will not publicly post any PII or proprietary information, including subscriber names, street addresses, and customer IP addresses. To ensure all PII is protected, ADECA will review the basis and summary of all challenges and rebuttals to ensure PII is removed prior to posting them on the website. Additionally, guidance will be provided to all challengers as to which information they submit may be posted publicly.

ADECA will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law. If any of these responses do contain information or data that the submitter deems to be confidential commercial information that should be exempt from disclosure under state open records laws or is protected under applicable state privacy laws, that information should be identified as privileged or confidential. Otherwise, the responses will be made publicly available. ADECA will adhere to all relevant state laws and regulations pertaining to the protection of PII—as well as confidential, trade secret, or otherwise proprietary information—in its administration of the



BEAD Program. This includes but is not limited to the protections provided under the Alabama Open Records Act (see Ala. Code § 36-12-40, et seq.), Alabama Trade Secrets Act (see Ala. Code § 8-27-1, et seq. ), and related Alabama Attorney General guidance. In addition, ADECA employees are subject to standards of conduct that prohibit the unauthorized disclosure of confidential or proprietary information and ADECA adheres to the state’s privacy policy that provides protections for users accessing its website (see “Privacy Policy,” Alabama.gov, <https://www.alabama.gov/privacy-policy>).

#### **01.04.06.01 Challenge Process Design Acceptable Evidence**

As a required attachment only if the Eligible Entity is not using the NTIA BEAD Model Challenge Process, outline the proposed sources and requirements that will be considered acceptable evidence.

Instructions:

If the Eligible Entity plans to adhere to the sources outlined in Table 3 “Examples of Acceptable Evidence for BEAD Challenge and Rebuttals” in the NTIA BEAD Challenge Process Policy Notice, the Eligible Entity will not be required to complete the attachment. Otherwise, the Eligible Entity must list any proposed data sources that will be accepted as sufficient evidence that are not included in the NTIA BEAD Challenge Process Policy Notice. Additionally, the Eligible Entity must also indicate any data sources that are included in the NTIA BEAD Challenge Process Policy Notice that will not be accepted as sufficient evidence.

- To add an additional data source: the Eligible Entity must complete all columns and indicate in column 3 (“Proposed Change to NTIA BEAD Policy Notice”) whether the Eligible Entity will add or remove this data source as outlined in the NTIA BEAD Challenge Process Policy Notice.
- To remove an approved data source: the Eligible Entity can skip columns 3 and 4 (i.e., “Data Source Requirements” and “Permissible Rebuttal”) and fill out only columns 1 and 2 (i.e., “Challenge Type” and “Data Source”).

Refer to NTIA BEAD Challenge Process Policy Notice for additional guidance.

*ADECA Response*

N/A

#### **Volume I Waivers**

Upload an attachment(s) detailing the waiver request(s) for the requirements related to Volume I. Please draft the waiver request(s) using the Waiver Request Form template.

*ADECA Response*



N/A

### 01.05.01 Volume I Public Comment

Describe the public comment period and provide a high-level summary of the comments received during the Volume I public comment period and how they were addressed by the Eligible Entity. The response must demonstrate:

- a. The public comment period was no less than 30 days; and
- b. Outreach and engagement activities were conducted to encourage feedback during the public comment period.

#### ADECA Response

This section describes the public comment period conducted for Initial Proposal Volume I and provides a high-level summary of the comments received as well as how they were addressed by ADECA.

Initial Proposal Volume I was made available for public comment for a period of 30 days, from November 14, 2023, to December 14, 2023, to gather feedback from partners and promote transparency in the development of the Initial Proposal. ADECA posted a draft of Initial Proposal Volume I on its website with an invitation to submit comments via an online form. ADECA monitored this online form for the duration of the comment period. ADECA directed those unable to access the online form to contact ADECA by email or by phone for instructions on additional methods of submitting comments.

To encourage broad awareness, participation, and feedback during the public comment period, ADECA conducted outreach and engagement activities to solicit participation by a diverse range of partners. For example, ADECA posted the comment period on social media and notified all subscribers to its Broadband Alabama Mailing List by email of the publication of Initial Proposal Volume I for public comment. In addition, ADECA held a webinar on November 20, 2023, regarding the contents of Initial Proposal Volume I and how to submit comments (see ADECA, “Broadband Webinars and Workshops,” <https://adeca.alabama.gov/broadband-webinars-and-workshops/>).

ADECA received comments from a variety of sources, including the general public, internet service providers (ISPs), non-profit organizations, and trade associations. At a high level, these comments addressed a myriad of themes regarding Initial Proposal Volume I. Accordingly, the following paragraphs address the most prevalent themes observed by ADECA during its public comment review process.

Numerous industry partners urged ADECA to adjust its Challenge Process timeline, either requesting changes be made to the proposed 90-day timeline or to the date by which the Challenge Process is set to end. These commenters tended to argue that the current timeline does not afford ISPs enough flexibility to account for unforeseen barriers. ADECA appreciates



these concerns and notes above that the specific dates for the Challenge Process phases will be determined once Initial Proposal Volume I is approved by NTIA. However, a lengthy Challenge Process implementation period with indeterminate deadlines could lead to unnecessary delays and hamper ADECA's ability to meet its Final Proposal deadline. As a result, ADECA has chosen to move forward with its proposed Challenge Process timeline in accordance with the BEAD Model Challenge Process and includes tentative implementation dates in accordance with further NTIA guidance.

Many commenters, including some industry partners, applauded ADECA for its inclusion of the DSL modification module to reflect data not present in the National Broadband Map. These comments were also often accompanied by requests for ADECA to expand upon this modification, including suggestions to reclassify locations currently served by DSL as unserved. Such an expansion would be inconsistent with the BEAD Model Challenge Process and potentially misconstrue the actual level of service in some areas. ADECA therefore elects not to adopt these recommendations and instead includes the DSL modification module as set forth in the BEAD Model Challenge Process.

Other commenters suggested that ADECA adopt the optional module related to speed test modifications. ADECA considered adopting this module when drafting Initial Proposal Volume I, but determined that the modification would add unnecessary complexity to the Challenge Process with minimal concomitant benefit. As stated above, ADECA proposes to accept speed tests as evidence for substantiating challenges and rebuttals to improve the accuracy of its final list of BSLs eligible for BEAD funding. Thus, service speed data supported by robust evidence will be critical to ADECA's implementation of the Challenge Process.

Many commenters urged ADECA to prioritize fiber for broadband deployment in unserved and underserved areas, while other commenters supporting using alternative technologies to maximize broadband deployment. In accordance with the BEAD NOFO, ADECA adopts NTIA's preference for "priority" broadband projects relying on fiber solutions. The BEAD NOFO provides that projects can only be funded with alternative technologies if the costs for fiber-to-the-premises exceed the Extremely High Cost Per Location Threshold that is calculated to enable all unserved locations to receive service with the available BEAD funding. Consequently, ADECA will consider alternative technology solutions in accordance with the BEAD NOFO project prioritization criteria.

A few commenters expressed support for ADECA's inclusion of a waiver accounting for RDOF-funded locations. These comments often included additional requests, apparently intended to strengthen the efficacy of such a waiver, such as the creation of additional criteria for ISPs to demonstrate that they have made progress on RDOF commitments. By contrast, other commenters strongly objected to the proposed RDOF-related waiver, contending that such a waiver is premature, overly broad, or contrary to BEAD NOFO requirements. After considering the comments received and further NTIA guidance, ADECA has removed the proposed RDOF-related waiver from Initial Proposal Volume I. However, ADECA reserves the right to revisit the RDOF-related waiver in the future on a project-specific basis, if evidence indicates that an RDOF recipient will fail to meet its broadband deployment obligations in Alabama.



ADECA carefully considered the feedback it received from this range of partners and other entities to inform this Initial Proposal Volume I. More information regarding the comments received in response to Initial Proposal Volume I, as well as ADECA's actions taken in response, can be found in the Local Coordination Tracker Tool included as Appendix A to Initial Proposal Volume 2 submitted to NTIA. ADECA will continue to take this input into account as it implements the Challenge Process and develops the Final Proposal, and will conduct ongoing communications to inform and engage the public through this process.

### **01.05.02 Volume I Supplemental Materials**

As an optional attachment, submit supplemental materials to the Volume I submission and provide references to the relevant requirements. Note that only content submitted via text boxes, certifications, and file uploads in sections aligned to Initial Proposal requirements in the NTIA Grants Portal will be reviewed, and supplemental materials submitted here are for reference only.

#### *ADECA Response*

See ADECA's optional attachment [here](#).

