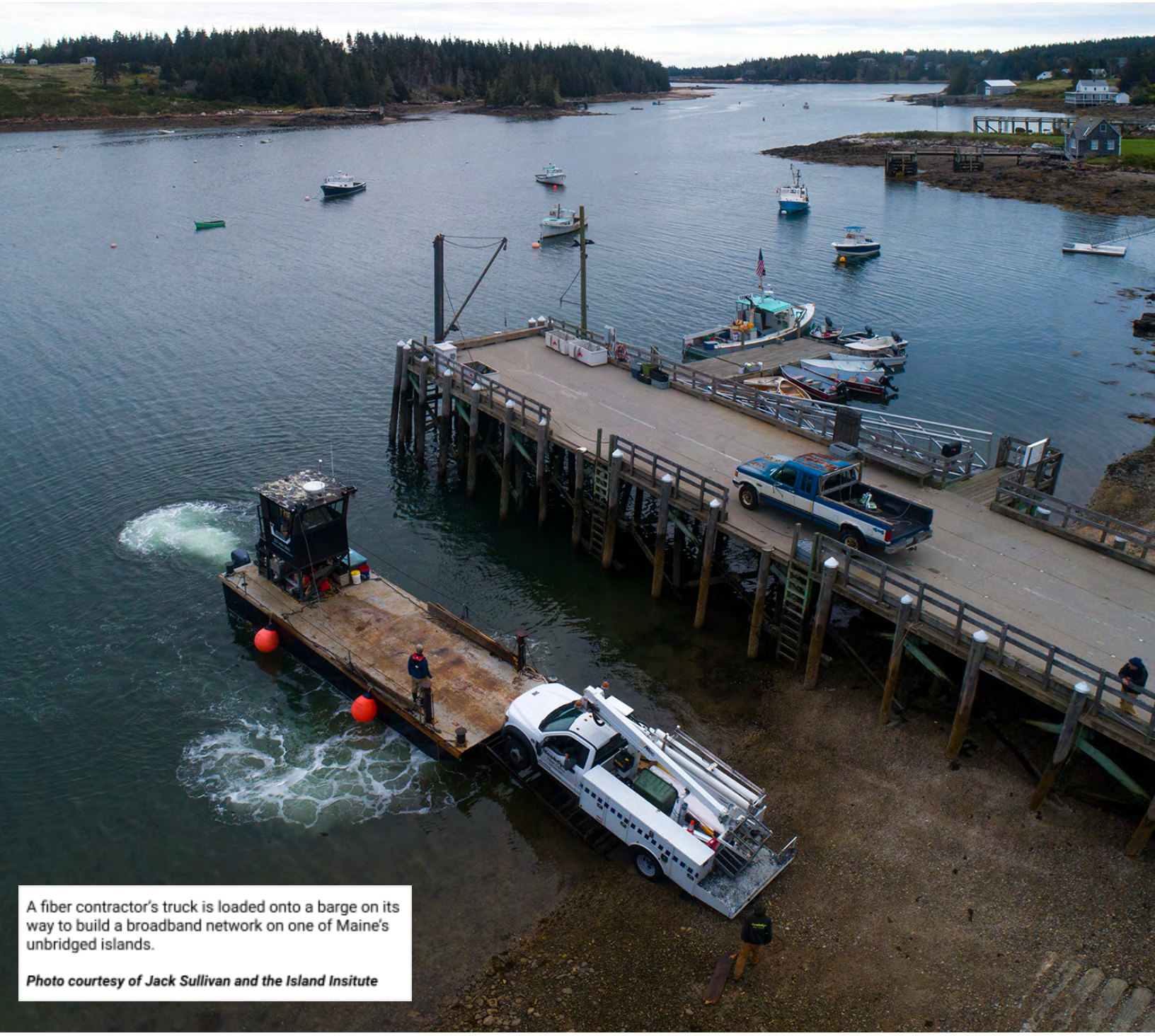

A fiber contractor's truck is loaded onto a barge on its way to build a broadband network on one of Maine's unbridged islands.

Photo courtesy of Jack Sullivan and the Island Insitute

State of Maine
BEAD Initial Proposal, Volume 1
Broadband Equity Access and Deployment Program

MAINE CONNECTIVITY AUTHORITY

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NTIA

DEPARTMENT OF COMMERCE · UNITED STATES OF AMERICA

BEAD Initial Proposal Volume 1

// Draft for Public Comment //

MAINE CONNECTIVITY AUTHORITY

Table of Contents

Introduction

On behalf of the Maine Connectivity Authority (MCA), we are pleased to share this draft of Maine's BEAD Initial Proposal Volume I for public comment. The Broadband Equity Access and Deployment Program (BEAD) is a vital part of Maine's connectivity strategy and will be central to achieving our vision where everyone in Maine has access to affordable, reliable, high-speed internet for a future of increased connectivity and digital inclusion.

Through BEAD funding, MCA will deploy over $272 million for broadband infrastructure to no-connection, unserved, underserved, and Community Anchor Institution locations throughout the state. To access these funds, MCA has produced a comprehensive Broadband Action Plan and Digital Equity and Inclusion Strategy to help inform the production of an Initial Proposal to the National Telecommunications and Information Administration (NTIA), which is composed of two volumes that outline how the BEAD program will function.

Volume I of Maine's Initial Proposal focuses on identifying available funding for broadband, the locations of unserved, underserved, and community anchor institution locations, and the process to submit challenges to the location lists. Volume II, to be released by November 9, 2023, will provide further details on how MCA will administer the BEAD program, including a subgrantee selection process. These work products (The Initial Proposals Volume 1&2, The Broadband Action Plan and The Digital Equity Strategy) are all products that reflect your extensive engagement, input and feedback throughout the last year.

Once submitted and approved by NTIA, this proposal, and Volume 2 to follow, will allow MCA to begin to implement the strategies and activities we describe in our Five-Year Action Plan and, more specifically, in these two proposals. Your partnership remains essential. We value your input and feedback on this Initial Proposal Volume 1 and invite you to review this document and submit feedback.

Feedback can be submitted through a form on the MCA website at **https://www.maineconnectivity.org/bead**.

Public comment on Volume 1 will be accepted for 30 days until December 3, 2023, at 5:00 p.m. EST. MCA will translate your input to update this plan before submission to NTIA for approval. Thank you for your ongoing participation and collaboration.

We can get there from here,

Andrew Butcher
President, Maine Connectivity Authority

1.1 Existing Broadband Funding (Requirement 3)

Identify existing efforts funded by the federal government or an Eligible Entity within the jurisdiction of the Eligible Entity to deploy broadband and close the digital divide, including in Tribal Lands.

1.1.1 Existing Broadband Funding Sources and Information: The State of Maine has a strong legacy of leveraging state and federal investment to address the digital divide. These varied funding programs will complement funding from the BEAD program to achieve the goals set out in Maine's Broadband Action Plan.

MCA will ensure throughout the BEAD process that funding to specific locations is not duplicated. MCA cannot verify remaining funding amounts for awards it did not directly receive, such as USDA ReConnect, FCC Rural Digital Opportunity Fund, and FCC ACAM, among others.

Funding Source	Federal Agency	Purpose	Total	Expended	Available
Source of funding	*Federal or State agency*	*Indicate whether the broadband funding program was federal, state/territory, or locally funded.*	*Total funds awarded by the listed source.*	*Total funds expended to date.*	*Total of funds remaining available to date.*
ARPA - Capital Projects Funds (MCA)	U.S. Department of Treasury	Federal award directed to MCA, Capital Projects Fund for broadband infrastructure.	$128 MM	$74 MM	$54 MM
IIJA - BEAD Planning (MCA)	NTIA	Federal award directed to MCA for BEAD Planning	$5 MM	$5 MM	$3 MM
IIJA - Digital Equity Planning (MCA)	NTIA	Federal award directed to MCA for Digital Equity Planning	$0.5 MM	$0.5 MM	$0 MM
IIJA - Middle Mile (MCA)	NTIA	Federal award to support the development of Maine's Middle Mile network - MOOSE Net	$53 MM project ($30 MM - grant / $23 MM - cash & In-kind)	$0 MM	$53 MM
IIJA - BEAD (MCA)	NTIA	Federal award to support Last Mile Infrastructure	$267 MM	N/A	$267 MM
IIJA - Digital Equity (MCA)	NTIA	Federal award to support Digital Equity Capacity for Maine	TBD - estimated $13 MM	N/A	N/A (Award estimated 2024)
RDOF (external)	FCC	FCC Rural Digital Opportunity Fund, Approved Deployment and Non-Deployment Activities	$3,106,717	Unknown.	Unknown.

Funding Source	Federal Agency	Purpose	Total	Expended	Available
Source of funding	*Federal or State agency*	*Indicate whether the broadband funding program was federal, state/territory, or locally funded.*	*Total funds awarded by the listed source.*	*Total funds expended to date.*	*Total of funds remaining available to date.*
E-ACAM (external)	FCC	Provides financial support to rate-of-return providers for extending broadband networks to rural areas.	$99,233,010	Unknown.	Unknown.
ACAM/ACAM II (external)	FCC	Provides financial support to rate-of-return providers for extending broadband networks to rural areas.	$134,181,058	Unknown.	Unknown.
ReConnect CAF II (external)	USDA	Program furnishing loans to providers to support the construction, improvement, or acquisition of facilities and equipment to provide service in rural areas.	$120,074,378	Unknown.	Unknown.
CARES (external)	U.S. Department of Treasury	Coronavirus Relief Funds allocated for short-term broadband access for students in underserved areas	$6,400,000	$6,400,000	$0M
BTOP (external)	NTIA	Funding to build a fiber backbone of middle mile infrastructure in Maine through what is known as the Three Ring Binder	$25,400,000	$25,400,000	$0M
E-Rate (external)	FCC	Telecommunications and information services funding support for schools and libraries.	Unknown.	Unknown.	Unknown.
ACP (external)	FCC	Federal Affordable Connectivity Program provides eligible households with discounts on broadband service and connected devices.	Unknown.	Unknown.	Unknown.

The table of existing broadband funding can also be downloaded at: **https://www.maineconnectivity.org/bead**.

1.2 Unserved and Underserved Locations (Requirement 5)

Identify each unserved location and underserved location under the jurisdiction of the Eligible Entity, including unserved and underserved locations in applicable Tribal Lands, using the most recently published Broadband DATA Maps as of the date of submission of the Initial Proposal, and identify the date of publication of the Broadband DATA Maps used for such identification.

The BEAD Program establishes a two-tiered definition of areas that lack qualifying broadband service at or above the level of 100 megabits per second (Mbps) download and 20 Mbps upload (100/20). In accordance with this definition, for the purposes of the BEAD Program:

- Those locations without access to internet speeds at or above 25/3 are considered **unserved**.
- Those locations without access to internet speeds at or above 100/20 are considered **underserved**.

To identify all unserved and underserved locations in the State of Maine, the Maine Connectivity Authority (MCA) has provided two .csv files that list each location and provide a unique location ID.

1.2.1 Attachment: A CSV file with the location IDs of each unserved location, including unserved locations in applicable Tribal Lands, can be downloaded here: **https://www.maineconnectivity.org/bead**.

1.2.2 Attachment: A CSV file with the location IDs of each underserved location, including underserved locations in applicable Tribal Lands, can be downloaded here: **https://www.maineconnectivity.org/bead.**

1.2.3 Date Selection:

When identifying all unserved and underserved locations for purposes of preparing this draft version of Volume I as well as the .csv files identified in Section 2.1 for public comment and review by the NTIA, the MCA utilized the Broadband Data Collection (BDC) data as of December 31st, 2022 last updated on October 10, 2023 from the National Broadband Map. To base the state challenge process on the most current information available, MCA plans to utilize the BDC data as of June 30, 2023 (BDC Version 3) as the baseline for the state challenge process.

MCA encourages those who are participating in the public comment process to focus their comments on the process described in this document and to use the state challenge process itself for providing feedback on whether certain broadband serviceable locations have been correctly identified as served, underserved, or unserved.

1.3 Community Anchor Institutions (CAIs) (Requirement 6)

Describe how the Eligible Entity applied the statutory definition of the term "community anchor institution," identified all eligible CAIs in its jurisdiction, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including what types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, 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.

1.3.1 Definition & Identification of Community Anchor Institutions (CAIs)

The Maine Connectivity Authority's Community Anchor Institution (CAI) definition began with the definition in 47 USC 1702 (a)(2)(E): 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 low-income individuals, unemployed individuals, and aged individuals. After research and deliberation, Maine has opted to add the following institution types to this statutory definition:

1. **Government Buildings** (meaning local, state, federal or tribal government buildings)
2. **Correctional Facilities and Juvenile Detention Centers**
3. **Public Access Television Station Facilities**

Maine arrived at this definition by taking the statutory definition offered by NTIA under Section 60102(a)(2)(E) of the Infrastructure Act and discussing possible additions with stakeholders and other partners. Suggestions included houses of worship, correctional facilities and juvenile detention centers, public outdoor spaces, public access television facilities, YMCA/YWCA facilities, and food pantries/banks.

The MCA staff considered the role of each of these types of institutions in the lives of Mainers, particularly the role they play in digital equity and inclusion solutions, including how often they were discussed and cited in our digital equity planning and discussions throughout 2022 and 2023. Based on this process and criteria, MCA decided not to include houses of worship and public outdoor spaces as CAIs, as these were not specifically cited by digital equity partners, or during the digital equity planning process, as a resource for broadband service for underrepresented communities. MCA opted to include correctional facilities and juvenile detention centers after hearing extensively during stakeholder engagement that access to broadband service within correctional institutions was a major concern and need for a vulnerable covered population - incarcerated individuals.

Maine includes the following types of Community Anchor Institutions in the definition used for the BEAD Program:

- **Schools:** K-12 schools, including all K-12 schools participating in the FCC E-Rate program or that have an NCES (National Center for Education Statistics) ID in the categories "public schools" or "private schools," and institutions of higher education.

- **Government Buildings:** Local and/or state government buildings (such as town halls, city halls, town clerk offices, public safety buildings, and courthouses). These were identified using the U.S. General Services Administration's (GSA) "Inventory of GSA Owned and Leased Properties" to identify federal buildings in our state. State, local, and tribal government buildings were identified by consulting state, local, and tribal records. Included are facilities where members of the public can access online meetings or forms, pay taxes, or apply for business licenses. These buildings also support staff with various needs to provide current online information to citizens of all populations regarding emergency services, utilities, and current events. MCA did not opt to include government buildings that are not easily accessible to the public and do not facilitate greater use of broadband services, such as wastewater treatment facilities, public works, maintenance facilities, or those used primarily for storage.

- **Health Clinics:** Includes health centers, hospitals, or other medical providers, in addition to health clinics. In remote or rural locations, a health clinic may be the only CAI that residents have access to, and facilitating broadband service there can facilitate access to many other key services such as online prescription management, telehealth for other providers and specialty services, etc.

- **Public Housing Organizations:** Public housing organizations were identified by contacting the Public Housing Agencies (PHAs) enumerated for the state by the U.S. Department of Housing and Urban Development. The nonprofit organizations Public and Affordable Housing Research Corporation (PAHRC) and National Low-Income Housing Coalition maintain a database of nationwide public housing units at the National Housing Preservation Database (NHPD), and the organizations providing those units were also identified to ensure they were included. Maine Housing provided a data set directly to MCA as well. Public housing organizations often provide services to residents, such as family self-sufficiency programming, workforce training and education, and childcare. Public housing organizations can also be leveraged as device distribution centers, hosts for digital skills programs, and in many other ways to provide and improve access to broadband for vulnerable populations.

- **Community Support Organizations:** MCA has included community support organizations that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. MCA further clarifies that community support organizations include senior centers, job training centers, YMCA/YWCA and Boys and Girls Clubs, tribal centers, and food pantries/banks. The Department of Labor maintains a database of "American Job Training" training centers, established as part of the Workforce Investment Act, and reauthorized in the Workforce Innovation and Opportunities Act of 2014. The database can be accessed at the American Job Center Finder. The National Council on Aging (NCOA) helped identify senior centers. MCA staff also felt it was important to clarify that the definition of community support organizations includes YMCA/YWCAs, food pantries/banks, and Boys and Girls Clubs.

During the Broadband Action Planning process in 2023, MCA heard from individuals and partners across the state about the pivotal roles of these specific organizations. Some YMCA/YWCAs are offering free teen programming in low-income neighborhoods where students can do homework, access devices, and also access free mentoring and support services. Boys and Girls Clubs provide childcare, teen programming, mentoring, and other community services. Therefore, Boys and Girls Clubs are also, like YMCA/YWCAs, a good system of locations to leverage for community programming. Food pantries can be leveraged as device distribution centers or as a point of contact for awareness/enrollment in initiatives such as the Affordable Connectivity Program. Senior centers are an excellent gathering point for this covered population to access broadband service, digital skills programming, and device distribution in a safe, comfortable environment. Tribal centers serve as a critical community resource for tribal communities and allow members to access broadband service, digital skills programming, and device distribution in a safe, comfortable environment.

- **Correctional Facilities and Juvenile Detention Centers:** To close the digital divide for currently incarcerated Mainers, MCA must ensure all of Maine's correctional facilities and juvenile detention centers have reliable, high-capacity broadband available. This will also allow these facilities to improve offerings for digital skills, inmate education and workforce training.

- **Public Access Television Station Facilities:** While not providers of broadband service to underrepresented communities, public access television stations serve as critical information sharing channels, relaying educational programming, details about social services programs, and could be used to highlight device and service affordability programs, including the ACP. Digital skills training could also be delivered in this way. In addition, these stations also play a critical role in sharing information during natural disasters and other crises, making it particularly important that the facilities housing these stations have the most robust, resilient, and highest-capacity broadband service possible.

Once MCA's CAI definition had been discussed and established, MCA engaged a research associate to focus on data sources that would lead to identifying CAIs in these categories. The list is being published in the draft of Volume 1, being released for public comment, and simultaneously shared with MCA's Regional and Tribal Broadband Partners and other stakeholders to assist with data collection and needs assessment for the CAIs in each region. This data is being collected through a form on the MCA website and used to populate a central data set. Stakeholder groups such as the Digital Equity Task Force will also bring awareness to the importance of collecting this data for CAIs. Once MCA has assessed the connectivity needs of eligible CAIs via this central data set, MCA can better assess the need for infrastructure support for these crucial community institutions.

1.3.2 Attachment: A CSV file 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 MCA's knowledge) can be downloaded here: **https://www.maineconnectivity.org/bead.**

1.4 Challenge Process (Requirement 7)

Include a detailed plan to conduct a challenge process as described in Section IV.B.6 of the BEAD Challenge Process Guidance Documentation.

1.4.1 NTIA BEAD Model Challenge Process Adoption: MCA plans to adopt the NTIA Challenge Process Model for Requirement 7, including two pre-challenge modifications (DSL and crowdsourced speed tests) and two optional modules (speed test challenges and area/MDU challenges).

1.4.2 Modifications to Reflect Data Not Present in the National Broadband Map: MCA plans to make the following modifications:

- **Optional Module 2: DSL Modifications -** MCA 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, as 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.

- **Optional Module 3: Speed Test Modifications -** MCA will treat locations that the National Broadband Map shows to be "served" as "underserved" if rigorous speed test methodologies (i.e., methodologies aligned to the BEAD Model Challenge Process Speed Test Module) demonstrate that the "served" locations actually receive service that is materially below 100 Mbps downstream and 20 Mbps upstream. This modification will better reflect the locations eligible for BEAD funding because it will consider the actual speeds available at those locations. As described below, speed tests can be rebutted by the provider during the rebuttal period.

- **Optional Module 4: Area and MDU Challenge Module -** MCA will treat locations that the National Broadband Map shows to be "served" as "underserved" if multiple locations or units within a census block group or MDU are challenged. An area challenge will be triggered if six or more broadband serviceable locations using a particular technology and a single provider within a census block group are challenged. An MDU challenge requires challenges by at least three units or 10% of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

  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 must demonstrate that they are indeed meeting the availability, speed, latency, data cap and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed below.

- **Additional Modification 1: Crowdsourced Speed Test Modification -** MCA will treat locations that the National Broadband Map shows to be "served" as "underserved" if a rigorous spatial analysis of crowdsourced speed test data from a network performance tool, such as M-Lab or Ookla, shows that the area is not receiving the speeds advertised by providers in the National Broadband Map.

  MCA has determined that this pre-modification is necessary for the success of our challenge process for several reasons. The number one complaint heard by our office is that the speeds experienced by internet users are not near the advertised speeds publicly listed. While the *Optional Module 3: Speed Test Modification* provides a venue for the individual subscriber to submit results to a non-profit or local or tribal unit of government, the bar is quite high to meet the requirements. If the user can meet the requirements and is willing to share their personally identifiable information, this can put a lot of power in the hands of a single individual and challenge their broadband serviceable location. This additional pre-modification provides additional insights into the patterns and potential shortcomings of network performance by harnessing the power of distributed data generation using statistically sound practices.

  Based on MCA's analysis, the number of BSLs that will be premodified through this additional modification to the model process is quite low. MCA believes that the locations with a single provider that claim speeds above 100/20 are in the low thousands, and these will be the most likely candidates to be altered through this premodification potentially.

  Crowdsourced speed test data from approved platforms including M-Lab (Maine's current platform and/or, Ookla will be used in the analysis. This data will be cleaned, removing any speed tests that are not geographically precise (e.g., GPS located), are in areas unlikely to take mass-market service (e.g., college campuses, military bases, etc.), or are tests that are potentially altered negatively by the user (e.g., poor wifi connection, user-chosen testing server).

  Choosing the correct geographic scale for analyzing the aggregated speed tests is a difficult decision due to the great variability of population density in Maine. In a densely populated area like Portland or Bangor, too large of geography, such as a single zip code, would not allow for finely identifying areas with a potential shortcoming in the infrastructure. In very rural areas with very dispersed populations, like around Millinocket or Moosehead Lake, the H3, Level 8 hexagons may only have a single or no broadband serviceable locations in them. For this reason, the analysis will start with Census Block Groups, which are intended to have between 600 and 3,000 people in them. If the census block group is too large a geography for understanding the broadband availability in an area, then MCA will use H3 hexagons for refinement.

  Speed tests will be joined to the census block groups and summarized. Census block groups with zero or insufficient speed tests will be removed from the analysis. Within each census block group, an outlier analysis will be conducted to identify faulty or erroneous speed tests that positively or negatively impact the summary statistics. The summarized results of census block group speed test statistics will include an investigation of the deviation between the speed test summary statistics and the speeds claimed by the individual providers.

These deviations will be further analyzed using a series of spatial statistics, including clustering and outlier analysis, to determine areas that stand out due to a greater discrepancy between claimed speeds and speed test results compared to their neighboring census blocks.

In census block groups where the median speed tests show speeds at less than 80% of the required speeds outlined in IIJA (less than 80/16 Mbps), the geography will be flagged. If these census block groups have a sufficient number of speed tests below the threshold in a geographically compact area, they will be premodified to underserved and become potentially BEAD eligible, pending the outcome of the state challenge process. In areas where the census block groups are too large of a geographical area, further refinement of the speed testing summary will be conducted using the H3, level 8 hexagons. If the census block groups and hexagons that still don't provide clear boundaries to the areas identified by individual speed tests, custom polygons will be drawn. By capturing the geographic area more precisely, MCA will contain the pre-modification to areas where the problem actually exists.

All broadband serviceable locations in these flagged polygons (census block groups, hexagons, or custom polygons) will be premodified from served to underserved. This process of pre-modification will be conducted before the deduplication of locations. Locations with enforceable commitments will not be identified or become eligible for BEAD funding. The locations that are pre-modified in this manner will be eligible for rebuttal by the impacted internet service providers through the state-led challenge process. As with any other pre-modification made to the national broadband map, internet service providers will follow the rebuttal evidence process for rebutting the determinations made by MCA in pre-modifying locations.

1.4.3 Deduplication of Funding: MCA plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments. The BEAD Eligible Entity Planning Toolkit is a collection of NTIA-developed technology tools that, among other things, overlay multiple data sources to capture federal, state, and local enforceable commitments.

1.4.4 Process to Identify and Remove Locations Subject to Enforceable Commitments: MCA will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit and consult at least the following data sets:

- The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.
- Data sets from state 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.
- State of Maine and local data collections of existing enforceable commitments.

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

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

Additionally, MCA has created a proactive data-sharing process to encourage internet service providers to share material information confidentially to reflect active construction efforts such as pole licenses and permitting applications.

1.4.5 List of Programs Analyzed to Remove Enforceable Commitments: MCA has compiled a list of federal, state, and local broadband funding as documented in Requirement 3 of Volume 1 of the Initial Proposal. Those programs listed, except for FCC - ACAM/ACAM II, USDA - ReConnect CAF II, Treasury - CARES, NTIA - BTOP, and FCC - CAF BLS, are considered enforceable commitments. These noted programs are not enforceable commitments, as they did not deliver qualifying broadband service. That list can be downloaded here: **https://www.maineconnectivity.org/bead.**

1.4.6 Describe the plan to conduct an evidence-based, fair, transparent, and expeditious challenge process: Based on the NTIA BEAD Challenge Process Policy Notice, as well as MCA's understanding of the goals of the BEAD program, the proposal represents a transparent, fair, expeditious and evidence-based challenge process.

Permissible Challenges: MCA will only allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by the Eligible Entity,
- Community anchor institution BEAD eligibility determinations,
- BEAD eligibility determinations for existing broadband serviceable locations (BSLs),
- Enforceable commitments, or
- Planned service as documented with specific timelines and evidence of current or anticipated construction

Permissible Challengers: During the BEAD Challenge Process, MCA will only allow challenges from nonprofit organizations, units of local and tribal governments, and internet service providers.

Challenge Process Overview: The challenge process conducted by MCA will include four phases, spanning 90 calendar days.

1. **Publication of Eligible Locations**: Before beginning the Challenge Phase, MCA 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). MCA will also publish locations considered served, as they may be challenged. *(tentatively scheduled for March 1, 2024)*

2. **Challenge Phase**: During the Challenge Phase, the challenger will submit the challenge through the MCA challenge portal. This challenge will be visible to the service provider whose service availability and performance are being contested. The portal will notify the provider of the challenge through an automated email upon opening the rebuttal phase. This message will include related information about the timing of the provider's response. After this stage, the location will enter the "challenged" state.
    - **Minimum Level of Evidence Sufficient to Establish a Challenge:** The challenge portal will verify that the address provided can be found in the Fabric and is a BSL. The challenge portal will confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service. The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR). For availability challenges, MCA will manually 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.
    - **Service provider challenges to their own network:** If a service provider challenges pre-modifications or service availability for their own network, the evidence required will follow the rebuttal phase evidence to substantiate a challenge of this type.
    - **Timeline:** Challengers will have 30 calendar days to submit a challenge from when the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted. *(tentatively scheduled for March 1 to March 30, 2024)*
3. **Rebuttal Phase**: Only the challenged service provider may rebut the reclassification of a location or area with evidence, causing the location or locations to enter the "disputed" state. If a challenge that meets the minimum level of evidence is not rebutted, the challenge is sustained. A provider may also agree with the challenge and thus transition the location to the "sustained" state. Providers must check the challenge portal and challenge notification method (e.g., email) for notifications of submitted challenges.
    - **Timeline:** Providers will have 30 calendar days from the opening of the rebuttal phase to provide rebuttal information to MCA. The rebuttal period begins once the provider is notified of the challenge. *(tentatively scheduled for April 1 to April 30, 2024)*
4. **Final Determination Phase**: During the Final Determination phase, MCA will make the final determination of the classification of the location, either declaring the challenge "sustained" or "rejected."
    - **Timeline:** Following the intake of challenge rebuttals, MCA 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. *(tentatively scheduled for May 1 to May 31, 2024)*

Evidence & Review Approach

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, MCA will review all applicable challenge and rebuttal information in detail without bias before deciding to sustain or reject a challenge. MCA will document the standards of review applied in a Standard Operating Procedure and require reviewers to document their justification for each determination. MCA plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted.

MCA will also require that all reviewers submit affidavits to ensure no conflict of interest in making challenge determinations. Unless otherwise noted, "days" refers to calendar days.

A list of challenge types with specific examples is provided in the following table.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
A	**Availability**	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).	Screenshot of provider webpage. A service request was refused within the last 180 days (e.g., an email or letter from a provider). Lack of suitable infrastructure (e.g., no fiber on poles). 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 ten business days of a request. 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 to provide service at the location.	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	Challenge Type	Description	Specific Examples	Permissible rebuttals
S	**Speed**	The actual speed of the service tier falls below the unserved or underserved thresholds.	Speed test by a subscriber, showing insufficient speed and meeting the requirements for speed tests.	The provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system.
L	**Latency**	The round-trip latency of the broadband service exceeds 100 ms.	Speed test by a subscriber, showing excessive latency.	Provider has countervailing speed test evidence showing latency at or below 100 ms, e.g., from their own network management system or the CAF performance measurements
D	**Data cap**	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap") on the consumer.	Screenshot of provider webpage. Service description provided to the consumer.	The 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.
T	**Technology**	The technology indicated for this location is incorrect.	Manufacturer and model number of residential gateway (CPE) that demonstrates the service is delivered via a specific technology.	The provider has countervailing evidence from their network management system showing an appropriate residential gateway that matches the provided service.
B	**Business service only**	The location is residential, but the service offered is marketed or available only to businesses.	Screenshot of provider webpage.	Provider documentation that the service listed in the BDC is available at the location and is marketed to consumers.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
E	**Enforceable Commitment**	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.	Enforceable commitment by the 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 Section 6.2 above).	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).
P	**Planned service**	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.	Construction contracts or similar evidence of ongoing deployment, along with evidence that all necessary permits have been applied for or obtained. Contracts or a similar binding agreement between the Eligible Entity 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.	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.
N	**Not part of an enforceable commitment.**	This location is in an area subject to an enforceable commitment to less than 100% of locations, and that commitment does not cover the location (See BEAD NOFO at 36, n. 52.)	Declaration by service provider subject to the enforceable commitment.	

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
C	**Location is a CAI"**	The location should be classified as a CAI.	Evidence that the location falls within the definitions of CAIs set by the Eligible Entity.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.
R	**Location is not a CAI**	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational.

Optional Area Challenge Module - Area and MDU Challenge

MCA 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 must demonstrate that they are indeed meeting the availability, speed, latency, data cap and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed above.

An area challenge is triggered if six or more broadband serviceable locations using a particular technology and a single provider within a census block group are challenged.

An MDU challenge requires challenges by at least three units or 10% of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

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 since they will likely have different availability and performance.

Area challenges for availability need to be rebutted with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer a representative random sample of the area in contention (with no fewer than ten samples). The provider will then be asked to demonstrate service availability and speed (e.g., with a mobile test unit).

Optional Speed Test Module - Speed Test Requirements

The MCA will accept speed tests as evidence for substantiating challenges and rebuttals. Subscribers may conduct speed tests, but speed test challenges must be gathered and submitted by units of local government, nonprofit organizations, or a broadband service provider. Each speed test consists of three measurements taken on different days. Speed tests cannot predate the beginning of the challenge period by more than 120 calendar days. Speed tests can take four forms:

1. ONT (for FTTH) or fixed wireless subscriber module.
2. A reading of the speed test available 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 commonly used speed test application or a speed test application approved by the Eligible Entity.

Each speed test measurement must include the following:

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

Each group of three speed tests must include the following:

- The name and street address of the customer conducting the speed test.
- A certification of the speed tier the customer subscribes to (e.g., a copy of the customer's last invoice).
- An agreement, using an online form provided by the Eligible Entity, that grants access to these information elements to the Eligible Entity, 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 will not be disclosed to the public 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.

Subscribers submitting a speed test must indicate the speed tier they subscribe 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 does not meet 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% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule, i.e., 80% of these locations must experience a speed that equals or exceeds 80% of the speed threshold. For example, 80% of these locations must have a download speed of at least 20 Mbps (that is, 80% 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 be 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.

Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, MCA 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 through an interactive website integrated with associated data and tools. This documentation will be posted publicly for at least a week before opening the challenge submission window. MCA also plans to actively inform all units of local and tribal government of its challenge process and set up regular touchpoints to address any comments, questions, or concerns from local or tribal governments, nonprofit organizations, and Internet service providers. MCA already has a strong network of partners from the local and tribal governments and nonprofits interested in broadband expansion across the State of Maine. It will rely on this network to publicize the State-Led Challenge Process, and how partners can participate in submitting challenges. Specifically, MCA will leverage capacity and networks with the Regional and Tribal Broadband Partners, a group of stakeholders with deep connections to communities, to ensure open and transparent communication about the process and encourage involvement from all types of participants.

MCA will rely on its ongoing relationships and open lines of communication with the internet service providers in the state. MCA will conduct outreach to each provider to determine the best points of contact to receive updates about the State-Led Challenge Process and challenges to these providers.

To ensure no one is left out, relevant stakeholders can sign up on the MCA website at **https://maineconnectivity.org/bead** for challenge process updates and newsletters. Questions and feedback can also be directed to MCA at the following email address **bead@maineconnectivity.org**. With a deep commitment to proactive community engagement and stakeholder collaboration, MCA has successfully facilitated numerous informational sessions to ensure substantive public input and feedback.

Building from similar efforts through the last two years, MCA anticipates a series of virtual informational sessions where content will be shared with stakeholders broadly around the sequence and rationale of the Challenge Process. In the past, these sessions have included demonstrations of portals or applications to make complicated systems more approachable. Where possible, these sessions have encouraged an interactive structure so audience members can both prompt questions, provide comments and share ideas in real-time. A schedule for multiple public events is being developed and will build on prior engagement efforts. MCA will record these sessions and make them available for review and reference on the MCA website.

Beyond actively engaging relevant stakeholders, MCA will post all submitted challenges and rebuttals before final challenge determinations are made. The information posted will include:

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

MCA takes confidential information very seriously and will not publicly post any personally identifiable information (PII) or proprietary information, including subscriber names, street addresses and customer IP addresses. To ensure all PII is protected, MCA will review the basis and summary of all challenges and rebuttals to ensure PII is removed before posting them on the website. Additionally, guidance will be provided to all challengers regarding which submitted information may be posted publicly.

MCA 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.

The following Maine laws govern the protection of personally identifiable information (PII):

- Title 25, §2929: Confidentiality of system information - This law prohibits the disclosure of confidential information, including PII, except in certain limited circumstances, such as to provide emergency services or for law enforcement purposes.
- Title 33, §651-B: Privacy protection - This law allows individuals to request that their PII be redacted from records that are available on the public websites of registers of deeds.
- Maine Driver Privacy Protection Act - This law protects the privacy of personal information contained in Bureau of Motor Vehicle records, including PII such as name, address, telephone number, license plate number, and social security number.

In addition to these state laws, Maine businesses and organizations are also subject to federal laws that protect PII, such as the Gramm-Leach-Bliley Act (GLBA), the Fair Credit Reporting Act (FCRA), and the Health Insurance Portability and Accountability Act (HIPAA).

State-Led Challenge Process Anticipated Timeline

State Led Challenge Process Action	Length	Begin	End
Phase 1: Publication of Eligible Locations:		March 1, 2024	
Before beginning the Challenge Phase, MCA will publish the set of locations eligible for BEAD funding.			
Phase 2: Challenge Phase	30 Days	March 1, 2024	March 30, 2024
Challengers will submit the challenge through the MCA challenge portal.			
Phase 3: Rebuttal Phase	30 Days	April 1, 2024	April 30, 2024
Challenged service providers may rebut or accept the reclassification of a location or area with evidence.			
Phase 4: Final Determination Phase	30 Days	May 1, 2024	May 30, 2024
MCA will make the final determination of the classification of the location, either declaring the challenge "sustained" or "rejected."			
Phase 5: Final BEAD Locations Published	60 Days	June 1, 2024	July 31, 2024
MCA will publish the final list of locations used for the BEAD Subgrantee Selection process.			