



# Connecting All Missourians

Initial Proposal



Missouri Department of  
**Economic Development**

### **0.0.0 Curing and Publication Note**

On March 8, 2024, Missouri's Initial Proposal Volume One received official approval from the National Institute of Standards and Technology (NIST), the last step in a multi-stage curing process for the document. Initial Proposal Volume One generally lays out the rules that will govern eligibility of locations (homes, businesses, and community anchor institutions) for funding under the Broadband Equity, Access, and Deployment (BEAD) Program.

During the curing process, the National Telecommunications and Information Administration (NTIA) requested several changes in Missouri's challenge process to bring it into compliance with the rules governing the BEAD program. While many of these changes involved clarifications or expansions on the rationale behind different elements of the proposal, a few changes represent significant changes in policy relative to the BEAD program. These changes are summarized below.

1. NTIA requested OBD replace its state modification to the challenge process entitled "Mutually Agreed Amendments," which was designed to address concerns about the reporting of wireless service by allowing the state to reach an understanding with wireless providers and remove their service from the map. Instead, NTIA requested OBD insert a pre-approved amendment categorically changing the treatment of cellular fixed wireless. Under this amendment, cellular fixed wireless service at speeds of 100/20 Mbps or higher will be treated as "underserved" for the purpose of determining a location's BEAD eligibility. As described in the amendment, this change is subject to rebuttal. The new text appears on page 17 of this document.
2. NTIA requested OBD eliminate a state modification entitled "Certification of Service to MDUs," which required providers challenged regarding service to one unit of an MDU to certify that they could serve all the units of that MDU. The modification was removed.
3. NTIA requested OBD eliminate a state modification entitled "Special Cases of Deduplication." Some enforceable commitments to provide broadband within awarded areas do not require the awarded provider to serve every location within their awarded area (e.g., a provider might be required to serve 95 percent of the locations in their awarded area). OBD's proposed modification would have allowed providers in this situation to report the locations they did not plan to deploy to ahead of

the challenge process so these locations could be made eligible for BEAD funding. The modification was removed. Providers subject to enforceable commitments to less than 100 percent of the location in their territory should file a “Not an Enforceable Commitment” challenge during the challenge window to disclose these locations.

4. OBD added language spelling out how it will treat challenges that, if sustained, would have no effect on BEAD eligibility (because the location is ineligible for multiple reasons, for instance). In brief, adjudication of challenges will be deprioritized relative to challenges which, if sustained, would move locations between funding categories. The new text appears on page 31 of this document.

New text introduced in the curing process appears in blue. If you have questions about these changes or any element of Initial Proposal Volume One, the state challenge process, or the BEAD program, contact [broadband@ded.mo.gov](mailto:broadband@ded.mo.gov) or consult the resources available on [ded.mo.gov/getconnected](http://ded.mo.gov/getconnected).

**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*

See broadband\_funding\_sources\_approved.xlsx

**01.02.01. Unserved Locations List**

*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.*

See `unserved_approved.csv`

**Publication Note:** This list of unserved locations does not reflect the service availability that will be used in Missouri's state challenge process and on [broadbandmap.mo.gov](http://broadbandmap.mo.gov). NTIA's BEAD Challenge Process Policy Notice reads:

"If more than 60 calendar days have elapsed between submission of the Initial Proposal Volume 1 and the beginning of the challenge process, Eligible Entities are encouraged to use the most recent version of the National Broadband Map for the challenge process. Eligible Entities do not need to resubmit these updated lists of unserved and underserved locations to NTIA."

In line with this guidance, OBD has updated service availability from the version of the National Broadband Map that was used to generate this list of locations. It also does not reflect pre-challenge modifications. For information about the status of Missouri locations by location IDs as reflected on [broadbandmap.mo.gov](http://broadbandmap.mo.gov), see the files listed under the "dataset download" on the challenge process landing page on [ded.mo.gov](http://ded.mo.gov).

## 01.02.02 Underserved Locations List

See `underserved_approved.csv`

**Publication Note:** This list of unserved locations does not reflect the service availability that will be used in Missouri's state challenge process and on [broadbandmap.mo.gov](http://broadbandmap.mo.gov). NTIA's BEAD Challenge Process Policy Notice reads:

"If more than 60 calendar days have elapsed between submission of the Initial Proposal Volume 1 and the beginning of the challenge process, Eligible Entities are encouraged to use the most recent version of the National Broadband Map for the challenge process. Eligible Entities do not need to resubmit these updated lists of unserved and underserved locations to NTIA."

In line with this guidance, OBD has updated service availability from the version of the National Broadband Map that was used to generate this list of locations. It also does not reflect pre-challenge modifications. For information about the status of Missouri locations by location IDs as reflected on [broadbandmap.mo.gov](http://broadbandmap.mo.gov), see the files listed under the "dataset download" on the challenge process landing page on [ded.mo.gov](http://ded.mo.gov).

**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.*

2023-12-12

### **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.*

*Based on the statutory definition of “community anchor institution” in 47 U.S.C. § 1702 (a)(2)(E), OBD applied the definition 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 use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

OBD determined the inclusion or exclusion of community support organizations not specifically listed in 47 U.S.C. § 1702(a)(2)(E) as a CAI based on whether the organization 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.

The following definitions and sources were used to identify the types of CAIs the State intends to serve:

- **Schools:** K-12 schools include 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 any public or private K-12 schools in datasets maintained by the State of Missouri Office of Geospatial Information (OGI) as part of its work supporting the geospatial information needs of the MO Department of Elementary and Secondary Education, and other state evidence.
- **Libraries:** Including all libraries participating in the FCC E-Rate program as well as libraries listed in a dataset maintained by OGI.
- **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 (CMS) identifier. These were supplemented with datasets of healthcare providers maintained by OGI on behalf of the MO Department of Health and Senior Services, including its Division of Regulation and Licensure and Office of Long Term Care Regulation.
- **Public safety entity:** The list includes entities such as fire houses, emergency medical service (EMS) stations, police stations, and public safety answering points (PSAP). The list of fire stations, EMS stations, and police stations were based on records maintained by OGI drawn from the U.S. Geological Survey. The list of PSAPs includes all those listed by the U.S. Department of Homeland Security as part of the Homeland Infrastructure Foundation-Level Data (HIFLD).

- **Institutions of higher education:** Institutions of higher education include all institutions that have a National Center for Education Statistics (NCES) ID in the category “college”, including junior colleges, community colleges, minority serving institutions, historically black colleges and universities, other universities, or other educational institutions, based on datasets maintained by OGI on behalf of the MO Department of Higher Education and Workforce Development.
- **Public housing organizations:** Public housing organizations were identified using a dataset maintained by the U.S. Department of Housing and Urban Development and cross-referenced with data documenting housing assets in the state of Missouri maintained by the MO Department of Mental Health. Per guidance from NTIA, “the CAI category of ‘public housing organization’ refers specifically to public housing agencies (i.e., entities that run public housing), not individual residential units or groups of units,” owned or operated by such organizations. The latter are referred to in this document as “public housing residential units” and are not included as CAI unless they qualify for some other reason.
- **Community support organizations:** The State included any organizations that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. The State included senior centers, job training centers, Community Supplemental Food Program (CSFP) distribution sites, Community Action Agencies, and local government buildings open to the public in this category. The U.S. Department of Labor maintains a database of “American Job 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. OGI maintains datasets documenting the location of senior centers, CSPF distribution sites, and Community Action Agencies. These databases were used to geolocate the institutions in these categories for the purposes of inclusion of Missouri’s list of CAIs.

These categories were identified as community support organizations for the following reasons:

- Senior Centers facilitate greater use of broadband by aged individuals and other members of vulnerable populations, especially when

broadband is not available at home or when the individual needs support to access broadband resources.

- Job training centers facilitate greater use of broadband by unemployed individuals and other vulnerable populations, in part by offering opportunities to develop digital skills. - CSFP distribution sites or nutrition centers and Community Action Agencies facilitate greater use of broadband by low-income individuals that congregate there to use their services, especially when broadband is not available at home.
- Local government buildings that are open to the public facilitate greater use of broadband by low-income individuals in rural areas who may not be able to afford broadband at home or travel longer distances in order to reach other CAs. In small towns in rural areas without other community spaces, city halls and other municipal buildings are often the only buildings with public wi-fi.

In each category of CAI, Missouri also drew on state, county and municipal resources to identify additional eligible CAs in this category or any of the categories that were not contained in the data sources listed above. Missouri allowed institutions to self-identify as CAs and provide relevant information as part of the data collection process associated with Missouri's digital asset map. OBD considered potential revisions to its definition of CAs based on suggestions received during its Initial Proposal Volume I comment period. These suggestions included adding public housing residential units, non-public affordable housing units, and local government buildings.

OBD chose not to include public housing residential units and non-public affordable housing units as CAs for the purpose of determining BEAD eligibility. Improved internet connections to these buildings will be an important part of improving connectivity across the state of Missouri, especially for vulnerable populations, but such housing, including units in multi-dwelling residential units that do not have service over 100/20 Mbps using wired or licensed fixed wireless, will be eligible for funding in the higher-priority unserved and underserved categories. The statutorily defined CAs are generally locations open to the public or broadly defined groups of clients where individuals go to receive services, including activities that require high-capacity internet connections. This does not generally describe residential units of any description, where internet is used by the residents and invited guests with correspondingly reduced demand for capacity. OBD did choose to include local government buildings that are open to the public as CAs. Comments indicated that for some rural areas with a dearth of other community gathering spaces, city halls and other publicly accessible community buildings like recreation centers offer an opportunity to

access online resources using tools including public Wi-Fi. For this reason, OBD determined that these locations facilitate greater use of broadband service by vulnerable populations.

To assess the network connectivity needs of the types of eligible CAIs listed above, OBD:

- Engaged Missouri's research and education network: OBD reached out to MOREnet, Missouri's research and education network and E-Rate coordinator to better identify and understand the needs of its member schools, libraries and non-profits. Given the nature of its work, MOREnet is one of the only entities with tracking internet capabilities of CAIs across Missouri. MOREnet provided data to OBD with a report of its connections as of June 30, 2023, which included 614 connections. For these locations, a 1 Gbps figure was entered into the "Broadband Availability" field, based on reports from MOREnet that all of their locations are fiber connected and should be able to achieve at least those speeds.
- Engaged government agencies. OBD reached out to relevant Missouri agencies to understand what records they have available regarding relevant CAIs and their 1 Gbps broadband service availability. OBD will continue to work with these agencies and others to refine and build on this list over the course of the Initial Proposal Volume I comment period and the challenge process to refine and enrich this list. Agencies were asked to identify potential datasets speaking to the locations as well as internet service needs and capabilities and to reach out to their CAI stakeholders to encourage further data-sharing. In other cases, OBD consulted databases maintained by or for these entities. State agencies providing data include the MO Department of Health and Senior Services, the MO Department of Elementary and Secondary Education, the MO Department of Public Safety, the MO Department of Health and Senior Services, the Office of Long Term Care Regulation, the Division of Regulation and Licensure, the Missouri 911 Service Board, and the MO Department of Mental Health. OBD notes that while several of these agencies agreed to reach out to stakeholders to encourage data sharing, none indicated that they had documentation of broadband availability or need.

Using the responses received, OBD compiled the list of CAIs attached in response to section 1.3.2. To the extent possible, OBD has attempted to identify eligible and potentially eligible CAIs before the submission of this document (Initial Proposal Volume I). OBD acknowledges that the list does not capture every CAI and lacks information about Internet access for many of the locations

that are included. Over the course of the state challenge process OBD will continue to work to refine this list.

Missouri does not have tribal land as defined in the BEAD NOFO, so there was no occasion for special consideration of CAIs on tribal land in the compilation of this list.

### **State Modification: Treatment of Community Anchors that Appear as Broadband Serviceable Locations**

Some locations identified as CAIs through this process appear on the FCC National Broadband Map as broadband serviceable locations (i.e., with values “B”, “R”, or “X” in the “building code” field). As further explained in Initial Proposal Volume II, CAIs are subject to a lower priority than unserved and underserved broadband serviceable locations should Missouri's BEAD allocation be insufficient to reach all eligible locations. Notwithstanding their inclusion in this list as CAIs, buildings that would otherwise appear on the FCC National Broadband Map as unserved or underserved broadband serviceable locations will be treated as unserved or underserved broadband serviceable locations for the purpose of BEAD funding prioritization, should Missouri determine that it is unable to fund improved service to all CAIs.

### **Rationale for State Modification to Model Process (Treatment of Community Anchors that Appear as Broadband Serviceable Locations)**

This rule eliminates a potentially perverse result whereby locations with very poor levels of Reliable Broadband Service (under 100/20 Mbps) would be excluded from receiving funding because they were identified or self-identified as community anchor institutions through the process outlined above. This could reduce participation in the CAI identification process by forcing CAIs to make complicated determinations about their best path to adequate connectivity, given limited BEAD funds. Without this rule, a CAI designation could actually make a location worse-off than the counterfactual. This rule preserves the goals of the program across different potential scenarios, allowing a CAI-designated broadband serviceable location access to the high-speeds called for in the BEAD NOFO for CAIs, if possible, while preserving their ability to receive lower but still substantial improvements in broadband service if there is not sufficient funding to serve all CAIs.

### **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.*

cai\_approved.csv

**Publication Note:** In the absence of changes over the course of the challenge process, locations listed in the CAI spreadsheet are only eligible if they have been positively identified as having no service available. Locations with no availability data, or availability data indicating speeds of at least 1 Gbps/1 Gbps will not be treated as eligible unless information indicating service availability is received and confirmed during the challenge process.

**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.*

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."*

#### **Optional Module 2: Digital Subscriber Line (DSL) Modifications**

OBD 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.

#### **State Modification: FCC Area Modifications**

OBD will treat locations within a census block group that the National Broadband Map shows to be served as unserved or underserved if (1) (a) six (6) or more broadband serviceable locations using a particular technology from the same provider within a census block group or (b) thirty (30) or more broadband serviceable locations using a particular technology from the same provider within a census tract and at least one within each census block group within that census tract were subject to successful availability challenges through the FCC's challenge process and (2) the location would be unserved or underserved if not for the challenged service.

The location's status would change to the status that would have been assigned to the location without the challenged service. For locations that do not meet condition 2 (e.g., because there are other reported options that are "served" by BEAD definitions), service meeting condition 1 will be removed for the purposes of considering challenges during the state challenge process.



Challenge records will be taken from “[broadbandmap.fcc.gov/data-download/challenge-data](https://broadbandmap.fcc.gov/data-download/challenge-data)”. All records from the January 31, 2023, posting of resolved fixed challenges (the first posting of resolved fixed challenges for the state of Missouri) through the December 31, 2023, posting will be considered in this process. The following entries in the outcome field will be treated as a successful challenge:

- Challenge Upheld - Provider Conceded
- Upheld - Service Change
- Challenge Upheld - Adjudicated by FCC

Providers whose reported service is removed by this modification will be allowed to overturn this prechallenge modification by submitting the evidence required for a rebuttal of an area challenge.

### **Rationale for State Modification to Model Process (FCC Area Modifications)**

This modification applies the logic of the area challenge module to challenges already filed through the FCC challenge process. FCC challenges reflect relatively recent cases in which providers and challengers had an opportunity to provide evidence about the service available at a given location, subject to adjudication by a third party (the FCC). Cases in which six FCC challengers were successful in a single census block likely reflect more extensive mapping inaccuracies (just as six successful challenges through the state challenge process justify changes under the area challenge module). This modification is therefore evidence-based in the same sense that the area challenge module is-while it does not reflect specific information about every one of the effected locations, it does reflect patterns of evidence about the service available in areas in general in cases in which those patterns are sufficiently clear. Some challenges used as evidence in this modification will have been resolved close to a year before the modification is applied. OBD believes this time frame is justified by the strength of the evidence – these challenges were either conceded by the provider (especially in cases of early resolution) or upheld by the FCC – and given the opportunity to file rebuttals should the situation have changed in the interim.

In some areas in Missouri, an active community engagement process resulted in successful challenges to a substantial number of locations through the FCC challenge process. Without these modifications, these communities would actually be at a disadvantage in terms of correcting more widespread errors in the state challenge process, as FCC challengers whose challenges had been upheld would no longer have the challenged service listed and could not file a state challenge that would count towards an area challenge.

### **State Modification: Carrying Over FCC Challenges**

Because a distinction between licensed fixed wireless and licensed by rule fixed wireless was not introduced until the December 2022 vintage of the FCC broadband map, successful challenges against licensed fixed wireless service on the June 2022 vintage of the FCC broadband map will be treated as a challenge against both licensed fixed wireless and licensed by rule fixed wireless. In cases where providers now report licensed-by-rule fixed wireless where successful challenges were filed against that provider's licensed fixed wireless service on the June 2022 vintage of the FCC broadband map, BEAD eligibility will be determined as if that licensed by rule service is not available, and for the purpose of triggering area modifications challenges to licensed fixed wireless on the June 2022 vintage of the map will count as challenges to licensed by rule fixed wireless (i.e. six successful challenges to licensed fixed wireless service on the June 2022 vintage of the FCC broadband map against one provider in one census block group would trigger the area modification for all licensed fixed wireless service and licensed by rule wireless service in that census block group, subject to rebuttal).

At the time of the publication of OBD's initial classification of locations, OBD will identify the cases in which this modification was applied. Providers whose reported service is removed by this modification will be allowed to overturn this pre-challenge modification by submitting the evidence required for a rebuttal of an availability challenge. Providers affected by this change will be able to file challenges to reinstate their service by submitting evidence that the change in reported service was due to a change in available infrastructure.

### **Rationale for State Modification to Model Process (Carrying Over FCC Challenges)**

This modification accounts for cases in which challenges that should have carried over from one version of the map to another did not because of a change in technology code that likely did not reflect changes to the actually available infrastructure at a location. Treating these locations as "served," despite the successful challenges, would weaken public confidence in the mapping process in general (as outside stakeholders will not necessarily distinguish between the FCC and state challenge process) and effectively ignores validated evidence of broadband availability.

### **State Modification: Cellular Fixed Wireless**

The broadband office will treat as "underserved" locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a

location that is "served") due solely to the availability of Cellular Fixed Wireless Access (CFWA) as "underserved." The broadband office has determined that this modification, and the corresponding rebuttal opportunity, will assist the office in determining the availability of networks with sufficient capacity to meet the expected consumer demand for qualifying broadband in the relevant area. The broadband office has initially determined that 13,904 BSLs are affected by this modification (these are locations outside of funded commitment areas where the only provider using an eligible technology at or above 100/20 Mbps is a cellular fixed wireless provider).

The affected CFWA provider will have an opportunity to rebut this modification. To successfully rebut this modification, the cellular fixed wireless provider must demonstrate that it:

- is providing 100/20 Mbps or better service at the relevant locations (e.g., by using the rebuttal approach for the speed test area challenge); and
- has sufficient network capacity to simultaneously serve (i.e., as concurrently active subscribers) at least 80% of locations in the claimed coverage area reported as served only by cellular fixed wireless. As one option for making such a showing, a provider may describe how many fixed locations it serves from each cell tower and the amount of per-user averaged bandwidth it uses for capacity planning. A capacity of 5 Mbps for each claimed location is considered sufficient."

**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.*

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.*

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

1. The broadband funding map published by the FCC pursuant to IIJA § 60105.<sup>1</sup>

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<sup>1</sup> The broadband funding map published by FCC pursuant to IIJA § 60105 (47 U.S.C. § 1704) is referred to as the "FCC Broadband Funding Map."

2. Data sets from state broadband deployment programs that rely on funds from the American Rescue Plan Act's Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury.
3. State and local data collections of existing enforceable commitments.

OBD will make a best effort to create a list of broadband serviceable locations (BSLs) subject to enforceable commitments based on state/territory or local grants or loans. If necessary, OBD will translate polygons or other geographic designations (e.g., a county or utility district) describing the area to a list of Fabric locations. OBD submitted this list, in the format specified by the FCC Broadband Funding Map, to NTIA on November 2, 2023.<sup>2</sup>

OBD has also identified cases in which federally funded enforceable commitments are not accurately captured on the FCC Broadband Funding Map. For instance, as of December 2023, the FCC Broadband Funding Map had not been updated to reflect some recent awards issued by the U.S. Department of Agriculture's ReConnect Program, and the documentation of Missouri's awards through the NTIA Broadband Infrastructure Program contained material discrepancies in both extent and speeds required by the awards when compared to Missouri's records of its agreements with subrecipients in the Program.

OBD 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 in which the state or local program did not specify broadband speeds, or when there was reason to believe a provider deployed higher broadband speeds than required, OBD will reach out to the provider to verify the deployment speeds of the binding commitment. OBD will document this process by requiring providers to sign an agreement certifying the actual broadband deployment speeds deployed.

OBD drew on these subrecipient agreements, along with its existing database on state and local broadband funding programs' binding agreements, to determine the set of state and local enforceable commitments.

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<sup>2</sup> Guidance on the required format for the locations funded by state or territorial and local programs will be specified at a later date, in coordination with FCC.

**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.*

*deduplication\_programs\_approved.csv*

**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 1.4.7 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.*

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

### **Permissible Challenges**

OBD will only allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by the State,
- Community anchor institution BEAD eligibility determinations,
- BEAD eligibility determinations for existing broadband serviceable locations (BSLs),
- Enforceable commitments, or

- Planned service.

### **Permissible Challengers**

During the BEAD Challenge Process, OBD will only allow challenges from nonprofit organizations, units of local and tribal governments, and internet service providers. OBD's challenge portal will include mechanisms to enforce this restriction, a requirement of the NTIA BEAD Challenge Process Policy Notice. These mechanisms will include a registration process and a log-in restricting access to eligible challengers.

### **State Modification: Public Data Collection**

Only representatives of nonprofits, local governments, and internet service providers will be eligible challengers during the state challenge process. Where it is technically feasible, OBD plans to provide tools built into its state broadband map to facilitate the collection of evidence from individuals that could substantiate challenges. This evidence will then be made available to the University of Missouri, an eligible challenger with expertise in broadband, a capacity to review challenges, and no material conflict of interest regarding the BEAD eligibility of individual locations. The University of Missouri will be provided information about how the challenge data was collected and will be asked to certify that they reviewed submitted evidence before using it as the basis of a challenge. Challenges filed based on this evidence will be subject to the same standard of proof as other challenges and will be subject to rebuttal on the same basis as other challenges.

### **Rationale for State Modification to Model Process (Public Data Collection)**

Many small eligible challengers will struggle to participate in the challenge process without some support in collecting and submitting challenges. The tools proposed here will mean that every small town, ISP, or nonprofit in the state will not have to create their own workflow for collecting and filing challenges. The amendment respects the requirement that only non-profits, units of local government, and ISPs act as challengers and requires every challenger to take an active role in considering the evidence and deciding to file a challenge. It maintains the state's neutral role as adjudicator in the process, as the state will not make challenges, determine which challenges should be submitted, or favor challenges submitted based on evidence gathered using these tools over challenges filed based on other evidence.

### **Challenge Process Overview**

The challenge process conducted by OBD will include three phases (a challenge, rebuttal, and determination phase), spanning 90 calendar days. Exact dates in this section should be treated as subject to change based on the completion of the state's challenge portal, approval of Initial Proposal Volume I, and other factors. If the start of the challenge phase is delayed for any of these reasons, OBD will respect the time windows for the challenge, rebuttal, and determination phases proposed here.

**1. Publication of Eligible Locations:** Prior to beginning the Challenge Phase, OBD 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). OBD will also publish locations considered served, as they may be challenged. Subject to plan approval, OBD capacity, and other factors, a final list of locations will be published February 18, 2024.

**Publication Note:** As noted, timeline dates were subject to change based on the time of approval of Initial Proposal Volume One by NTIA. As of publication of this document, the final list of locations will be published March 18.

**2. Challenge Phase:** During the Challenge Phase, the challenger will submit the challenge through the OBD challenge portal. This challenge will be visible to the service provider whose service availability and performance is being contested. The portal will notify the provider of the challenge through an automated email, 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 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 FCC 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, OBD 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. If a challenge does not meet this minimum level of evidence, the challenge will be removed from a “challenged” state and the challenge portal updated to alert the provider that a rebuttal is no longer necessary.

Challenged locations will only count toward an area challenge or state-wide terms of service challenge if they meet this standard of review. This higher standard of review before providers are asked to respond to these challenges should reduce the burden on rebutters associated with these challenge types, which will generally affect many locations simultaneously.

- b. **Timeline:** Challengers will have 30 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted. OBD expects this window to open Feb. 19, 2024, and close March 20, 2024.

**Publication Note:** As of publication of this document, the challenge window is scheduled to run from March 25 to April 23.

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.

#### **State Modification: Notification for CAI, Type (P), and Type (E) Challenges**

Because it will not be possible to directly notify the universe of potential rebutters for CAI, planned service, or enforceable commitment challenges, OBD will post a cumulative list of all such challenges online intermittently during the challenge period and a final list at the conclusion of the challenge phase. The posting of that final list will be treated as the beginning of the rebuttal phase for these challenges. OBD will work with umbrella organizations representing potential rebutters to alert them to this list of challenges and the potential implication for BEAD eligibility.

#### **Rationale for State Modification to Model Process (Notification for CAI, Type (P), and Type (E) Challenges)**

Challenges to service reported on the FCC National Broadband Map have a discrete and easy-to-identify universe of potential rebutters. The

challenge types addressed in this modification have a broader universe of institutions that may have interest in submitting a rebuttal. Because it will not necessarily be possible to identify and contact a particular rebutter for these challenges, this modification proposes additional steps to bring the challenge to the attention of potential rebutters.

If a challenge that meets the minimum level of evidence is not rebutted, the challenge is sustained, except for challenges of type (P) or type (E).

Challenges of type (P) or type (E), which do not have a specific designated rebutter, will be sustained only if the submitted evidence meets standards defined in the relevant sections of the state's standard operating procedures for challenge evaluation.

### **Rationale for State Modification to Model Process**

For these challenge types there is no specific, designated rebutter that can be notified and made responsible for documenting the case against changing the BEAD eligibility determination. This increases the likelihood that challenges in this category could succeed by default. To preserve the fairness of the process for communities affected by modifications made on the basis of these challenges, OBD reserves the ability to decline to accept challenges even if no rebuttal has been filed based on an application of the relevant section of the state's standard operating procedures to the submitted evidence.

For any challenge type, a provider may also agree with the challenge and thus transition the location to the “sustained” state. Providers must regularly check the challenge portal notification method for notifications of submitted challenges.

- a. **Timeline:** Providers will have 30 calendar days from notification of a challenge to provide rebuttal information to OBD. The rebuttal period begins once the provider is notified of the challenge, and thus may occur concurrently with the challenge phase. A provider notified of a challenge on the last day of the challenge phase (March 20, 2024) would have from March 21 to April 20, 2024, to respond.

**Publication Note:** As of publication of this document, the rebuttal window for a challenge filed on the last day of the challenge process is scheduled to run from April 24 to May 23.

In limited cases, the process outlined in 2(a) for challenges filed at the end of the challenge window may take more than a day to complete. While the 30-day challenge window for individual challenges will begin immediately after the portal receives the challenge and notifies the provider, the 30-day window for rebuttal can only begin after a sufficient number of locations to trigger the challenge have been reviewed by OBD for a minimum level of sufficiency through the steps outlined in section 2(a). Similarly, in the case of a statewide terms of service challenge, OBD would start the window for a rebuttal only after completing the process in 2(a). If this process delays notification of the rebutter until after March 20, 2024, the rebuttal phase for that challenge will extend for 30 days regardless, continuing into the time allotted for the determination phase if necessary. The determination window will not be extended on this basis; because the time between the opening of the challenge process and the end of the determination window will not change, the 90 day window for the challenge process will not change. As an example, if it took five days to complete the process in 2(a) for a challenge filed on day 30 of the challenge process, the rebuttal window would extend from the completion of that process for thirty days, five days into the determination phase. OBD will allocate the necessary resources to quickly evaluate challenges that could contribute to area or state-wide challenges in order to minimize the overlap between the rebuttal window for these challenges and the determination window.

#### **4. Final Determination Phase**

##### **State Modification: Field Validation**

During the Final Determination phase, OBD will make the final determination of the classification of the location, declaring the challenge either “sustained” or “rejected.” In cases where the submitted challenge and rebuttal evidence does not allow OBD to determine the presence of service with a reasonable degree of confidence, OBD may choose to send OBD employees or contractors to gather additional evidence of the location’s status, potentially including speed tests and observation of infrastructure in the area. OBD will prioritize field validation of challenges based on factors including (1) the difficulty of making a ruling based on a desktop review of submitted challenge and rebuttal

evidence, (2) the likely implications of the ruling for the BEAD funding decisions in terms of the number of locations effected and the eligibility status of other locations in the area, and (3) the likelihood that additional on-the-ground evidence collection could resolve the dispute, based on the nature of the challenge, the location, and the submitted evidence. The methodology used for data collections will be documented in OBD's Standard Operating Procedure, and standards of review for validation evidence will align with standards of review for challenge and rebuttal evidence. OBD will use the findings of the field validation in conjunction with other submitted evidence when making its final determination of the classification of the location.

### **Rationale for State Modification to Model Process (Field Validation)**

OBD may have the capacity to carry out field validation for some cases where eligibility is disputed. OBD's experience during the challenge process associated with its ARPA Capital Projects Fund and State and Local Fiscal Recovery Funds-funded broadband program suggests that evidence submitted by interested parties is not always sufficient to resolve challenges with a high degree of certainty. In select cases, neutral field validation of the presence of service will improve the accuracy of challenge process results.

a. **Timeline:** Following intake of challenge rebuttals, OBD 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. In order to allow a full rebuttal phase for challenges submitted on the last day of the challenge phase, the final determination phase for the last set of challenges would tentatively take place from April 21, 2024, to May 21, 2024.

**Publication Note:** As of publication of this document, the challenge window is scheduled to run from May 24 to June 22.

### **Evidence & Review Approach**

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, OBD will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. OBD will document the standards of review to be applied in a Standard Operating Procedure and will require reviewers to

document their justification for each determination. OBD's grants team has experience neutrally applying rules in a challenge process for previous broadband grant programs. The grants team and other reviewers will be further trained to understand the Standard Operating Procedure, the rules of the BEAD program, and the principles underlying the state challenge process. Training will be conducted through presentations to reviewers and documentation that can be referenced later. OBD plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. OBD will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.

### **State Modification: Prioritization of BEAD-relevant challenges**

Some service appearing on the FCC National Broadband Map will have no effect on whether a location is eligible for BEAD funding (for instance, satellite service, or service at speeds below 25/3 Mbps) or how an eligible location is prioritized for BEAD funding (underserved as opposed to unserved). OBD will not review, request rebuttal evidence, or make final determinations about the validity of service reported in this category as part of the state challenge process. If information about service in this category is reported over the course of the state challenge process, OBD may draw on this information after the conclusion of the state challenge process for the purpose of improving the general accuracy of the state's broadband mapping or as the basis of challenges through the FCC challenge process.

In some cases, a location is ineligible for BEAD or subject to a lower level of BEAD prioritization for multiple reasons. For instance:

- A location has multiple providers reporting Reliable Broadband Service above 100/20 Mbps (so the location is ineligible even if one challenge is resolved in the challenger's favor)
- A location has multiple providers reporting Reliable Broadband Service at or above 25/3 Mbps and below 100/20 Mbps (so the location is underserved and subject to a lower priority than unserved locations even if one challenge is resolved in the challenger's favor)
- A location has one or more providers reporting Reliable Broadband Service above 100/20 Mbps and an enforceable commitment.



In these cases, a single challenge would not be sufficient to make the location eligible for BEAD funding or subject to a different level of BEAD prioritization. The focus of this state challenge process is on making funding decisions, and on that basis OBD will deprioritize challenges that would change BEAD eligibility or prioritization only if one or multiple other challenges that have not yet been filed are filed and sustained.

Through the end of the challenge window, OBD will prioritize evaluations of challenges that would change BEAD eligibility or prioritization, alone or in conjunction with other already filed challenges. At the close of the challenge window, OBD will be able to definitively identify challenges that will have no effect on BEAD eligibility or prioritization even if every other filed challenge was sustained. These challenges will not be further evaluated during the state challenge process. Challenges in this category may be evaluated later by OBD for the purpose of improving the general accuracy of the state's broadband mapping or as the basis of challenges through the FCC challenge process.

### **Rationale for State Modification to Model Process (Prioritization of BEAD-relevant challenges)**

This treatment of challenges that do not have implications for BEAD funding decisions will reduce the burden of the challenge process on OBD and allow more focus on BEAD-relevant challenge determinations.

### **State Modification: Challenge Types and Challenge and Rebuttal Evidence**

State challenge process determinations shall be made based on evidence listed in the table below submitted through process laid out in this section (1.4.6). OBD does not anticipate reaching out to either challengers or rebutters to expand the record beyond the submitted evidence. Should a challenged location be removed from the "challenged" state before the conclusion of the challenge window (either due to a rebuttal or an OBD determination that the challenge was not minimally sufficient) a challenger would be allowed to file a new challenge for the same location, which would be evaluated on its own merits, but OBD will not allow post-submission edits to challenges or rebuttals, and should a challenged location be removed from the challenge state after the conclusion of the challenge window, there will be no option to restore that challenge.

No rebutter or challenger will be required to submit any particular piece of evidence, including customer information, as a part of the challenge process.

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).	<ul style="list-style-type: none"> <li>• Screenshot of provider webpage.</li> <li>• A service request was refused within the last 180 days (e.g., an email, letter from provider, or written account of a conversation with a provider representative).</li> <li>• Lack of suitable infrastructure (e.g., no fiber on pole).</li> <li>• A letter, email or (State Modification) customer's written account<sup>3</sup> of a conversation with a provider representative dated within the (State Modification) last 180 days indicating that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.<sup>4</sup></li> <li>• A letter, email or written account of a conversation with a provider representative</li> </ul>	<ul style="list-style-type: none"> <li>• Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill.</li> <li>• If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</li> <li>• 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.</li> </ul>

<sup>3</sup> In any case where challenges are substantiated by an account of the situation produced by the person submitting information in support of a challenge and not documentation produced by the provider ("a written account" as opposed to a provider's letter or email, or a screenshot of a provider's website), that information will be submitted using a form provided by OBD and integrated into the challenge process portal. The form will be designed to elicit sufficient information to define the grounds of the challenge, including the nature of the provider's response (refusal of a service request, failure to install within 10 days, etc.) and the date and format of the request. Challengers will further be asked to affirm that the information submitted is, to the best of their knowledge, complete and accurate. In cases where the information submitted is facially sufficient but does not reflect the actual status of the location (due to a miscommunication between the provider and prospective subscriber, incorrect information provided by an employee of the provider, or some other reason) the provider will be able to address this by filing a rebuttal. [Clear indications on the challenge portal that challenges are subject to rebuttal and that the challenged provider will be notified should further discourage unsubstantial challenges through this channel.](#)

<sup>4</sup> 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."

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
			<p>dated within the last 180 days indicating that a provider requested more than the standard installation fee ("charges... attributable to the extension of the network")</p> <ul style="list-style-type: none"> <li>• Screenshot of provider webpage.</li> <li>• A service request was refused within the last 180 days (e.g., an email, letter from provider, or written account of a conversation with a provider representative).</li> <li>• Lack of suitable infrastructure (e.g., no fiber on pole).</li> <li>• A letter, email or written account of a conversation with a provider representative dated within the last 180 days indicating that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.</li> <li>• A letter, email or written account of a conversation with a provider representative dated within the last 180 days indicating that a provider requested more than the standard installation fee</li> </ul>	

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
			<p>("charges... attributable to the extension of the network of the provider") 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.</p> <ul style="list-style-type: none"> <li>• <b>(State Modification)</b> A letter, email, or written account of a conversation with a provider representative indicating that the provider requires a site survey before confirming they can serve the location.<sup>5</sup></li> </ul>	
S	Speed	The actual speed of the service tier falls below the unserved or	Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests.	Provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network

<sup>5</sup> **Rationale for State Modifications to Model Process: Availability Evidence**

**a. Allowing written accounts of conversations with customer representatives.**

As many smaller Missouri providers primarily ask customers to sign up by phone, it is important that accounts of these conversations be explicitly included as evidence. Not allowing this as evidence would essentially exempt providers that did not provide service availability determinations in a print or digital format from the state challenge process. See footnote 3 for a discussion of how these accounts would be collected and validated

**b. 180 day evidence windows**

OBD has changed the window for acceptable availability evidence from 365 to 180 days for several evidence types. This creates a unified standard across availability challenge evidence types (instead of a 180 day standard for service request refusal and a 365 day standard for a delay of more than 10 business days or an above-standard installation fee. When reconciling these dates, OBD chose the six-month standard because (a) changes in service availability that would render the evidence out-of-date are more plausible over the course of a year due to construction of new networks or other reasons and (b) relatively few potential challengers will have realistically preserved or be able to source evidence from more than six months before the launch of the challenge process. On the basis of these considerations and after considering public comments, OBD determined that the 180 days standard would generate higher-quality, more current evidence while not unduly burdening challengers.

**c. Site surveys**

An amendment accepting a site survey requirement as grounds for a challenge brings the possible availability challenges in line with FCC rules. Requiring challenger to arrange a visit by a provider technician before a challenge could be filed would place an unfair burden on challengers. Provider submitted data should reflect actual knowledge about the locations they can serve. Removing service from locations where the availability of service is uncertain aligns with the goals of the BEAD program

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
		underserved thresholds. <sup>6</sup>		management system. <sup>7</sup>
L	Latency	The round-trip latency of the broadband service exceeds 100 ms <sup>8</sup> .	Speed testing by subscriber that is analytically rigorous and methodologically sound, showing the 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. <sup>9</sup>
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap") on the consumer. <sup>10</sup>	<ul style="list-style-type: none"> <li>• Screenshot of provider webpage.</li> <li>• Service description provided to consumer.</li> </ul>	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. Evidence that generic marketing material advertising the provider's services has been

<sup>6</sup> The challenge portal will 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, while only locations with a service of 25/3 Mbps or above can challenge locations as unserved. 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.

<sup>7</sup> As described in the 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.

<sup>8</sup> *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).

<sup>9</sup> *Ibid.*

<sup>10</sup> 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). The term "capacity allowance" is defined by the Urban Rate Survey as "the monthly data usage level at which the Internet Service Provider begins to block, rate-limit, or charge excess fees for additional data transmission." 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.

**Rationale for State Modification to Model Process** This amendment addresses a possible ambiguity in the term "data cap."

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
				circulated to the address will not be sufficient to rebut a challenge of this type.
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.	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. Evidence that generic marketing material advertising the provider's services has been circulated to the address will not be sufficient to rebut a challenge of this type.
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 service provider (e.g., authorization letter). For enforceable commitments that do not require deployment of qualifying broadband for 100 percent of locations in a project area, OBD will require	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	Challenge Type	Description	Specific Examples	Permissible rebuttals
			documentation that the specific challenged location will receive service as part of the commitment.	
P	Planned service	The challenger has knowledge that broadband will be deployed at this location by (State Modification) December 31, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment. <sup>11</sup>	Construction contracts or similar evidence of on-going deployment, along with evidence that necessary permits have been applied for or obtained. OBD will apply a high degree of scrutiny to planned service challenges, endorsing them only if a review of the evidence gives a high level of confidence they will be completed on time.	Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern), that the planned deployment does not meet the required technology or performance requirements, or that preliminary work (e.g., application for permits) necessary for completion of the project by December 31, 2024, has not been completed.
N	Not part of enforceable commitment.	This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not	Declaration by service provider subject to the enforceable commitment.	

<sup>11</sup> **Rationale of State Modification: Planned Service Completion Date**

OBD pushed the date by which planned service must be completed to be the grounds of a planned service challenge back six months from June 30 2024. During Missouri's public comment period commenters indicated that it should be possible to provide sufficient documentation of future construction plans over a longer period than the three or four month window between the beginning of the state challenge process and June 30. After further consultation, broadband subject matter experts indicated that providers should generally have sufficient documentation and solid plans for projects up to a year into the future. The December 31 date also means that providers will be able to support almost all projects due to be completed before the final BEAD grants are awarded. If this were not possible, the prospect of being overbuilt by a BEAD award winner in a given area could discourage construction during the second half of 2024, counter-productively reducing building with private funding in unserved and underserved areas

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
		covered by that commitment. (See BEAD NOFO at 36, n. 52.)		
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 Missouri. <sup>12</sup>	Evidence that the location does not fall within the definitions of CAIs set by Missouri 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 Missouri or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by Missouri or is still operational.

### Area and Multiple Dwelling Unity (MDU) Challenge

OBD 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 or MDU challenge 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.

~~Upon receipt of a challenge to service to a unit within an MDU, the challenged provider will be asked to certify that they can serve every unit in that building and, if not, which units they cannot serve. Any units the provider does not certify will be treated as if that service is not available for the purpose of BEAD eligibility determination. No action is required by providers beyond the certification for unchallenged units in MDUs until a multi-unit MDU challenge is triggered. A multi-unit MDU challenge requires challenges by at least 3 units or 10% of the unit~~

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<sup>12</sup> 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 OBD may rely on other reliable evidence that is verifiable by a third party.



~~count listed in the Fabric within the same broadband serviceable location, whichever is larger. A multi-unit MDU challenge must be rebutted using evidence that service is available to every unit in the building corresponding to the challenge type in the evidence table above.~~

### **Explanation for Broadband Office Amendment:**

~~The FCC Broadband Data Collection process treated multi-unit buildings as a single broadband serviceable location with a uniform level of service throughout. For service to broadband serviceable locations, the state challenge process functions as a corrective measure applied to data that has already been collected; for service within multi-dwelling units, the state challenge process will be collecting data for the first time. This amendment gives providers that serve multi-dwelling units an opportunity to report cases where their existing infrastructure cannot provide service to every unit without imposing too substantial an administrative burden.~~

A multi-unit 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 broadband serviceable location listed in the Fabric.<sup>13</sup> An MDU challenge counts towards an area challenge (i.e., six successful MDU challenges in a census block group may trigger an area challenge).

A block group 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.

### **State Modification: Census Tract Area Challenge**

A tract area challenge is triggered if 30 or more broadband serviceable locations using a particular technology and a single provider within a census tract, including at least one location in every census block group within that census tract, are challenged.

### **Rationale for State Modification to Model Process (Census Tract Area Challenge)**

This amendment extends the logic of the optional area challenge module to encompass cases more geographically extensive cases of misreporting. Because two locations in a census block group will generally be more similar than two locations in a census tract, a higher standard of evidence will be required to establish the likelihood that the location is in fact underserved, both in terms of the number of locations (the median Missouri census tract has three

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<sup>13</sup> For example, a complex of apartment buildings may be represented by multiple BSLs in the Fabric.

census block groups, which could be challenged individually on the basis of just 18 challenges) and geographic distribution (through the requirement that a challenge be filed in every census block group).

### **State Modification: Technology and Availability Challenges**

Each type of challenge and each technology and provider is considered separately, i.e., an availability challenge (A) does not count towards reaching the area threshold for a speed (S) challenge, except that challenge category (A) and challenge category (T) will be counted together. If a provider offers multiple technologies, such as DSL and fiber, each is treated separately since they are likely to have different availability and performance.

### **Rationale for State Modification to Model Process (Technology and Availability Challenges)**

While distinguishing between these challenge types is reasonable for the purposes of setting the evidence required for challenges and rebuttals, distinguishing between them for the purpose of triggering area challenges is not. Because broadband service is reported by technology in the FCC data (and because challenges are treated separately by technology for the purposes of area challenge), every availability challenge to a specific instance of broadband service also indicates that the technology listed is not available, and every technology challenge indicates that the broadband service reported by the provider using that technology is not actually available.

### **State Modification: Carrying Over FCC Challenges**

Broadband serviceable locations where successful challenges were filed through the FCC challenge process will be counted toward availability or technology area challenges against the challenged provider, technology, and challenge type. For instance, in a census block group where an FCC challenge was upheld for one location against a given provider and technology, five rather than six state challenges against that provider and technology in the same census block group would trigger an area challenge. Challenge records will be taken from [broadbandmap.fcc.gov/data-download/challenge-data](https://broadbandmap.fcc.gov/data-download/challenge-data). All records from the January 31, 2023, posting of resolved fixed challenges (the first posting of resolved fixed challenges for the state of Missouri) through the December 31, 2023, posting will be considered in this process. The following entries in the outcome field will be treated as a successful challenge:

- Challenge Upheld - Provider Conceded
- Upheld - Service Change
- Challenge Upheld - Adjudicated by FCC

## **Rationale for State Modification to Model Process (Carrying Over FCC Challenges)**

FCC challenges reflect relatively recent cases in which providers and challengers had an opportunity to provide evidence about the service available at a given location, subject to adjudication by a third party (the FCC), based on broadly similar evidence to the evidence required of challenges in the state challenge process. In some areas in Missouri an active community engagement process resulted in successful challenges to a substantial number of locations through the FCC challenge process. Without these modifications, these communities would actually be at a disadvantage in terms of correcting more widespread errors in the state challenge process, as successful FCC challengers would register as “served” and could not file a challenge that would count towards an area challenge.

Area or multi-unit MDU challenges for availability need to be rebutted with evidence that service is available for all BSL within the census block group, tract, or challenged MDU, e.g., by network diagrams that show fiber or HFC infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer representative random sample of the area in contention, but no fewer than 10, where the provider has to demonstrate service availability and speed (e.g., with a mobile test unit).<sup>14</sup> A successful rebuttal of an area challenge will overturn locations where the challenge was triggered by the area challenge; the six or more challenges that triggered the challenge and any other challenges to individual locations can only be rebutted based on evidence specific to the location.

### **State Modification: Statewide Terms of Service Challenge**

Upon determination that a data cap (D) challenge to a given technology offered by a given provider meets the standards outlined in step 2(a) of the challenge process, the state will administer a statewide terms of service challenge against the provider in question. A statewide terms of service challenge reverses the burden of proof for all broadband serviceable locations in the state associated with the same provider, technology, and broadband download and upload speed.

The challenge can be rebutted with evidence that a specific set of broadband serviceable locations can subscribe to service without an unreasonable

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<sup>14</sup> 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.

capacity allowance, including terms of service for the plan and the specific locations where it is available.

### **Rationale for State Modification to Model Process (Statewide Terms of Service Challenge)**

Data caps pose a special challenge in the implementation of the state challenge process because the FCC did not attempt to collect this data through the Broadband Data Collection or validate data caps through their challenge process. Provider network management strategies are not custom-built for each customer, and a determination that one location is subject to a data cap likely indicates that other locations in the state are similarly situated. Service with different speeds is treated separately for the purposes of this challenge because in many cases these speed tiers represent the availability of different subscription options possible associated with different terms of service, including different capacity allowances. Treating these different tiers of service separately reduces the risk that state-wide terms of service challenges will incorrectly result in overturning service not subject to a cap.

### **Speed Test Requirements**

OBD will accept speed tests as evidence for substantiating challenges and rebuttals. Each speed test shall 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 five forms:

1. A reading of the physical line speed provided by the residential gateway, (i.e., DSL modem, cable modem (for HFC),
2. ONT (for FTTH), or fixed wireless subscriber module.
3. A reading of the speed test available from within the residential gateway web interface.
4. A reading of the speed test found on the service provider's web page.
5. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using an NTIA-approved Speed Test.<sup>15</sup>

Each speed test measurement must include:

- The time and date the speed test was conducted.

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<sup>15</sup> NTIA has approved the following applications for conducting speed tests: (1) Ookla (<https://www.speedtest.net/>); (2) M-Lab (<https://speed.measurementlab.net/#/>); (3) Cloudflare (<https://speed.cloudflare.com/>); and (4) Netflix (<https://fast.com/>).

- 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 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 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. OBD's mapping portal will provide a tool subscribers may use to take speed tests and submit them to an eligible challenger. Subscribers submitting a speed test must indicate the speed tier they are subscribing to. If the household subscribes to a speed tier of between 25/3 Mbps and 100/20 Mbps and the speed test results in a speed below 25/3 Mbps, this broadband service will not be considered to determine the status of the location. 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 or underserved. 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% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule<sup>16</sup>, 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 pm and 11 pm 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, OBD 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 for at least a week prior to opening the challenge submission window. OBD 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. Relevant stakeholders can sign up on OBD's website ([ded.mo.gov/office-broadband-development](http://ded.mo.gov/office-broadband-development)) for challenge process updates and newsletters. These channels will also be used to inform stakeholders about upcoming deadlines over the course of the challenge process. They can engage with OBD by a designated email address ([broadband@ded.mo.gov](mailto:broadband@ded.mo.gov)). Providers will be notified of challenges by email. For the purposes of contacts with providers, OBD will create a list of providers potentially subject to challenge, including providers with funded commitments subject to deduplication and any provider offering wired or licensed fixed wireless service at speeds over 25/3 Mbps. OBD will draw on existing contact lists maintained by OBD and other publicly available contact information to reach out to each provider that might be subject to a challenge to determine an email address which will be checked regularly for updates about the challenge process. OBD will further reach out to associations representing the interests of internet service providers, including but not limited to the Missouri Cable Telecommunications Association, the Missouri

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<sup>16</sup> 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.

Telecommunications Industry Association, the Association of Missouri Electric Cooperatives, Missouri Broadband Providers, the Missouri Public Utility Alliance, and others to ask for contact information and help contacting their membership. Outreach to local governments will be conducted through the Missouri Association of Counties and the Missouri Municipal League. OBD will also publicize opportunities for potential participants in the challenge process to reach out to provide authoritative contact information OBD can use over the course of the challenge process on the OBD website and to OBD's email list of broadband stakeholders. Beyond actively engaging relevant stakeholders, OBD 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 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 and whether OBD chose the challenge for field validation.

After resolving each challenge and at least 60 days before allocating grant funds for network deployment, OBD will provide public notice of the final classification of each unserved location, underserved location, or Eligible Community Anchor Institution. OBD 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, OBD 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. OBD will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal and state 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 the Missouri Sunshine Law, Ch. 610 RSMo, § 620.014 RSMo, or other Missouri statutes regarding closed or confidential records, that information should be identified as privileged or confidential. Otherwise, the responses may be made publicly available.





#### **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*

**Publication Note:** Missouri uses the NTIA BEAD Model Challenge Process.

**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.*

**Publication Note:** None submitted

### **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.*

OBD conducted a public comment period for Initial Proposal Volume I from October 23, 2023 to November 26, 2023. OBD engaged in extensive outreach and engagement activities to encourage feedback during the comment period. The content of Initial Proposal Volume I was posted to [ded.mo.gov/getconnected](https://ded.mo.gov/getconnected), the webpage established as a source of information about OBD's IJJA-funded broadband programming over the course of the last year. Emails were sent to addresses that signed up for updates on OBD's broadband programming at the opening of the comment period and shortly before the period closed. The opportunity to participate in the comment process was promoted at stakeholder engagement events ahead of and during the comment period, including a well-attended state broadband summit. To facilitate actionable public comments, OBD provided an online form that allowed commenters to associate their comments with particular elements of Initial Proposal Volume I, either through a short survey allowing comment on several broad thematic elements of Initial Proposal Volume I or a longer survey posing more detailed questions about elements of Volume I. OBD received 70 responses through the "short form" survey and 52 through the "long form" survey.

Several themes emerged over the course of the comment period. Notable themes included:

1. Several commenters asked OBD to treat licensed fixed wireless service as "unserved" or "underserved", analogous to the treatment of DSL service. In line with the guidance in the BEAD NOFO about the definition of Reliable Broadband Service, and the tailored reasoning behind treatment of DSL service, OBD declined to do so. The modified challenge process proposed by OBD should provide opportunities for challengers concerned with the accurate depictions of broadband service to address some of the concerns evinced in these comments.
2. Some commenters asked OBD to decline to adopt the optional challenge module treating DSL service above 100/20 Mbps as "underserved" or to allow this modification to be overturned on the basis of evidence

submitted by the affected provider. OBD declined to do so. The rationale behind NTIA's module is grounded not in the service available at DSL locations in the present but on the level of service likely available to these location "in the foreseeable future."

3. Some commenters asked OBD to exempt service provided by fiber from some or all elements of the state challenge process, on the grounds that fiber service is not subject to performance issues that make challenges appropriate for other technologies. OBD declined to do so. To the extent this service does not have these issues, the rules of the challenge process should generate fewer challenges without adding an explicit assumption for fiber service. In the potentially rare cases where this is not the case, it would still be important that challenges be allowable for affected locations.
4. Commenters expressed concern about the burden placed on OBD and rebutters during the challenge process, especially due to the short, 15-day window allowed for rebuttals. On the basis of these comments, that period has been expanded to 30 days.
5. Commenters expressed concern that the window for planned service (initially June 30, 2024) was too short and would potentially allow overbuilding of soon-to-be completed broadband deployments. On the basis of these comments, OBD will recognize planned service challenges provided the service will be deployed by December 31, 2024.
6. OBD received comments on the proposed definition of community anchor institutions. For a description of changes and clarifications of the definition made based on these comments, see section 1.3.1.

**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.*

**Publication Note:** None submitted