

Nebraska Broadband Office

Initial Proposal to the National
Telecommunications and Information
Agency (NTIA)

Volume 1

CONNECTING
NEBRASKA

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1. Introduction

The Nebraska Broadband Office (NBO) drafted volume 1 of the Initial Proposal to the National Telecommunications and Information Agency (NTIA), as part of the Broadband Equity Access and Deployment (BEAD) program. The NBO is now accepting public comments on this document for finalizing volume 1 and submitting it to NTIA for approval.

To develop volume 1, the NBO drew on data compiled in the 5-Year Action Plan, consulted the Nebraska Public Service Commission and the Federal Communication Commission (FCC) National Broadband Map, reviewed asset inventories from the eight regional Economic Development Districts, and accessed data from various government databases and national organizations. The NBO is specifically inviting responses on the following items:

1. Has the office accounted for all qualified Community Anchor Institutions (CAI)?
2. If you represent a CAI that you believe does not have access to 1 Gbps internet service, please submit a response to advise the NBO of your current access to internet service.
3. What feedback do you have on the challenge process?

The public comment period will open on September 14, 2023, and all comments or responses are due by 11:59 PM central time on October 14, 2023.

Public Comments can be submitted Here

2. Existing Broadband Funding (Requirement 3)

Nebraska’s funding sources for broadband deployment were published in the Five-Year Action Plan. Table 1 contains updated data to reflect the most recent data available as of August 31, 2023. This table uses the following data fields:

1. Source of funding
2. Purpose of funding
3. Total amount provided
4. Total amount expended to date
5. Amount of remaining funds available

Source	Purpose	Total	Expended	Available
ACP Outreach Grant	Federal	\$500,000	\$13,227	\$486,773
American Rescue Plan	Federal	\$87,700,000	0	\$87,700,000
BEAD Planning Grant	Federal	\$4,999,817	\$412,811	\$4,587,006
BEAD Tribal Broadband Connectivity Program	Federal	\$40,748,827	\$0	\$40,748,827
Connecting Minority Communities Pilot Program	Federal	\$2,938,816	\$0	\$2,938,816

Coronavirus Aid, Relief, and Economic Security (CARES) Act Support	Federal	\$29,500,000	\$29,500,000	\$0
Digital Equity Planning Grant	Federal	\$598,746	\$149,977	\$448,769
E-Rate (federal) [FY 2022-2023, as of 7/31/2023]	Federal	\$13,276,241.00	\$7,366,679.00	\$5,909,562
Healthcare Connect Fund	Federal	\$4,302,232	\$1,158,351.95	\$3,143,880
Lifeline	Federal	\$200,000	\$42,683	\$157,317
United States Treasury CPF	Federal	\$87,700,000	\$0	\$87,700,000
Universal Service Fund High-Cost Broadband Loop Support: (federal) [FY 2023, as of 7/31/2023]	Federal	\$15,169,433	\$9,615,879.00	\$5,553,554
Universal Service Fund High-Cost Support: ACAM Programs (federal) [FY 2023, as of 7/31/2023]	Federal	\$53,767,410	\$31,365,666	\$22,401,744
Universal Service Fund High-Cost Support: RDOF	Federal	\$27,000,000	\$1,712,177	\$25,287,823
USDA Reconnect Grant Program	Federal	1528882789	35,015,380	\$1,493,867,409
E-Rate Special Construction Program	State	\$1,000,000	\$9,696	\$990,304
Nebraska Broadband Bridge Program Support 2021	State	\$20,000,000	174000	\$19,826,000
Nebraska Broadband Bridge Program Support 2022	State	\$20,350,000	0	\$20,350,000
Nebraska Broadband Bridge Program Support 2023	State	\$20,000,000	0	\$20,000,000
Nebraska Universal Service Fund Support: Broadband Deployment Support	State	\$26,200,000	0	\$26,200,000
Nebraska Universal Service Fund Support: Reverse Auction Support	State	\$13,100,000	0	\$13,100,000
NUSF Telehealth Program	State	\$1,500,000	\$0	\$1,500,000
Total		\$1,999,434,211	\$116,536,527	\$1,882,897,784

3. Unserved and Underserved Locations (requirement 5)

To meet this requirement, NBO accessed the data from the FCC National Broadband Map as of August 2023. Upon formal submission of the Initial Proposal Volume 1 to the NTIA two files will be uploaded: unserved.csv and underserved.csv. The current files can be accessed on the Nebraska Broadband Office website at <https://broadband.nebraska.gov/public-comment-page/> or by viewing the Nebraska Broadband Map at <https://broadband.nebraska.gov/broadbandavailabilitymap/>.

4. Community Anchor Institutions (requirement 6)

Based on the statutory definition of “community anchor institution”, Nebraska applied the definition of “community anchor institution” 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.¹

The following definitions and sources were used to identify the types of community anchor institutions:

1. **Schools:** K-12 schools to include all K-12 schools participating in the FCC E-Rate program, that have an NCES (National Center for Education Statistics) ID in the categories “public schools” or “private schools”, or members of Network Nebraska.
2. **Libraries:** Including all libraries participating in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association (ALA) or listed with the Nebraska Library Commission.
3. **Health clinic, health center, hospital, or other medical providers:** The list of health clinics, health centers, hospitals and other medical providers includes all institutions that have a Centers for Medicare and Medicaid Services (CMS) identifier from the Health Resources and Services Administration (HRSA).
4. **Public safety entity:** The list includes entities such as fire houses, emergency medical service stations, police stations, and public safety answering points (PSAP), based on records maintained by the State of Nebraska and units of local government. The list of public safety answering points (PSAPs) includes all PSAPs in the FCC PSAP registry 911 Master PSAP Registry.²
5. **Institutions of higher education:** Institutions of higher education include all institutions that have an NCES ID in the category “college”, including junior colleges, community colleges, minority serving institutions, historically black colleges and universities, other universities, or other educational institutions.
6. **Public housing organizations:** Public housing organizations were identified by accessing the database maintained by the U.S. Department of Housing and Urban Development.
7. **Community support organizations:** The NBO included any organizations that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. NBO included senior centers, workforce development centers, and job training centers in this category. The National Council on Aging (NCOA) and the National Institute of Senior Centers helped identify senior centers. Workforce centers were identified through the American Job Centers and Nebraska Works. The NBO

¹ 47 U.S.C. § 1702(a)(2)(E)

² <https://www.fcc.gov/general/9-1-1-master-psap-registry>

additionally consulted with the Regional Economic Development Districts in the state which have conducted asset inventories of community organizations throughout the state as part of the Digital Equity grant.

In each case, the NBO also relied on state, territorial, tribal, county, and municipal resources to identify additional eligible community anchor institutions that were not contained in the data sources listed above. Furthermore, NBO will use the Initial Proposal public comment process to ensure that all relevant institutions meeting the CAI criteria are included.

4.1 Connectivity Needs of CAIs

To assess the network connectivity needs of the types of eligible community anchor institutions listed above, the broadband office:

1. **Engaged government agencies** -- The NBO reached out to all Nebraska agencies to understand what records they have available regarding relevant community anchor institutions 1 Gbps broadband service availability. Specifically, the following agencies and programs were consulted:
 - a. **Network Nebraska** – Provides statewide connectivity to all schools, some private schools, the juvenile detention center, and a few rural libraries.
 - b. **Nebraska Library Commission** – Conducts an annual survey of all libraries in the state including their connectivity, device availability, and internet usage.
 - c. **Nebraska Department of Health and Human Services** – Provided a list of all health centers, rural health clinics, and hospitals.
 - d. **Relevant umbrella organizations and nonprofits** -- The NBO engaged with the eight Regional Economic Development Districts that work with community anchor institutions to coordinate and obtain 1 Gbps broadband service availability data. The NBO consulted each of the regional asset inventories and confirmed broadband connectivity where possible.

Using the responses received, the broadband office then compiled the list of those CAIs that do not have adequate broadband service. This data can be downloaded at <https://broadband.nebraska.gov/public-comment-page/> or by viewing the Nebraska Broadband Map at <https://broadband.nebraska.gov/broadbandavailabilitymap/>.

5 Challenge Process (requirement 7)

Nebraska will adopt the model challenge process, as provided by NTIA with appropriate modifications to accommodate the needs of Nebraskans. Such modifications include but are not limited to, incorporating the Nebraska Economic Development Districts as Challengers under the definition of Local Government Units, and extending the timeline by which providers can launch a challenge under the pretense of planned buildout to accommodate Nebraska's construction season.

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

5.1 Broadband Map Modifications

The NBO will treat as “unserved” or “underserved” locations that the national broadband map shows as served, if rigorous speed test methodologies demonstrate that the “served” locations actually receive service that is materially below 25 Mbps download and 3 Mbps upload (unserved) or 100 Mbps download and 20 Mbps upload (underserved). This modification will better reflect the locations eligible for BEAD funding because it will consider the actual speeds of locations. The detailed speed test requirements are defined in [Section 5.7](#).

Nebraska will enumerate broadband serviceable locations (BSL) subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult the following data sets at a minimum:

1. The Broadband Funding Map published by the FCC.
2. Data sets from Nebraska broadband deployment programs that rely on funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the Treasury Department.
3. Data collected by the Nebraska Public Service Commission (PSC), the Nebraska Office of the Chief Information Officer (OCIO), and other units of state, local, or tribal governments of existing enforceable commitments.

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

The NBO will review 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 program did not mandate broadband speeds, or when there was reason to believe an Internet Service Provider (ISP) deployed higher broadband speeds than required, NBO will reach out to the provider to verify the deployment speeds of the binding commitment. The NBO will require providers to sign a binding agreement committing the broadband provider to those speeds in the previously awarded area.

5.2 Permissible Challenges

Nebraska will only permit challenges on the following grounds:

1. The identification of eligible community anchor institutions, as defined by NBO.
2. Community anchor institution BEAD eligibility determinations,

3. BEAD eligibility determinations for existing broadband serviceable locations (BSLs).
4. Enforceable commitments.
5. Planned service.

5.3 Permissible Challengers

During the BEAD Challenge Process, NBO will only accept challenges from nonprofit organizations, units of local and tribal governments, and broadband service providers. Broadband consumers who are Nebraska residents may submit a challenge by contacting their local government or Regional Economic Development District (EDD) serving their county. The unit of local government or EDD will then submit the challenge on behalf of residents. In general, citizen surveys will not constitute acceptable evidence for either challenges or rebuttals. The process for Nebraska residents to follow to submit a challenge and for units of local government to receive any challenges will be provided in the Nebraska BEAD Challenge Guide.

5.4 Challenge Process Overview

The challenge process conducted by NBO will include four phases, spanning up to 120 days:

- 1. Publication of Eligible Locations:** Prior to beginning the Challenge Phase, NBO will publish the set of BSLs eligible for BEAD funding. The office will also publish locations considered served, as they may be challenged. NBO plans to publish eligible locations on or about January 3, 2024.
- 2. Challenge Phase:** During the Challenge Phase, the challenger will submit the challenge through the NBO challenge portal. It will be visible to the broadband provider whose service availability and performance are 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. The location will be considered "challenged" at this point.
 - a) **Minimum Level of Evidence Sufficient to Establish a Challenge:** The NBO challenge portal will verify that the address provided can be found in the Fabric and is a BSL. The NBO challenge portal will confirm that the challenged service is listed in the National Broadband Map, meets the definition of reliable broadband service, and confirm that the challenge is being submitted from a valid email address. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR). For availability challenges, NBO will verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated.
 - b) **Timeline:** Challengers will have 30 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted. The challenge phase is tentatively planned for January 3 to February 2, 2024.
- 3. Rebuttal Phase:** Only the challenged service provider may rebut the reclassification of a location or area with evidence, causing the location or locations to

enter the “disputed” state. If a challenge that meets the minimum level of evidence is not rebutted, the challenge is sustained. A provider may also agree with the challenge and thus transition the location to the “sustained” state.

- a) **Timeline:** Providers will have a maximum of 30 business days from notification of a challenge to provide rebuttal information to the broadband office. The rebuttal phase is tentatively planned for February 3 to March 16, 2024.

4. Final Determination Phase: During the Final Determination phase, NBO will make the final determination of the classification of the location, either declaring the challenge “sustained” or “rejected.”

- a). **Timeline:** The NBO 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. The final determination phase is tentatively planned for March 17 to April 16, 2024.

5.5 Evidence & Review Approach

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, NBO will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. The NBO will document the standards, process, and procedures of the challenge process in more detail in the Nebraska BEAD Challenge Guide and will publish the guide by December 22, 2023.

The NBO will require reviewers to document their justification for each determination. NBO plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. The NBO will also require that all reviewers submit an affidavit to ensure that there is no conflict of interest in making challenge determinations. The table below details the challenge types and acceptable evidence for each type.

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"> • Screenshot of provider webpage. • A service request was refused within the last 180 days (e.g., an email or letter from provider). • Lack of suitable infrastructure (e.g., no fiber on pole). • A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an 	<ul style="list-style-type: none"> • Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill. • If the

			<p>installation date within 10 business days of a request.³</p> <ul style="list-style-type: none"> • A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation fee to connect this location or that a Provider quoted an amount in excess of the provider’s standard installation charge in order to connect service at the location. 	<p>evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</p> <ul style="list-style-type: none"> • 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.
S	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds. ⁴	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 management system. ⁵
L	Latency	The round-trip latency of the broadband service exceeds 100 ms. ⁶	Speed test by subscriber, showing the excessive latency.	Provider has countervailing speed test evidence showing latency

³ A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as “the 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.”

⁴ The challenge portal has to gather information on the subscription tier of the household submitting the challenge. Only locations with a subscribed-to service of 100/20 Mbps or above can challenge locations as underserved, 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.

⁵ 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.

⁶ *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).

				at or below 100 ms, e.g., from their own network management system or the CAF performance measurements. ⁷
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. ⁸	<ul style="list-style-type: none"> • Screenshot of provider webpage. • Service description provided to consumer. 	Provider has terms of service showing that it does not impose an unreasonable data cap or offers another plan at the location without an unreasonable cap.
T	Technology	The technology indicated for this location is incorrect.	Manufacturer and model number of residential gateway (CPE) that demonstrates the service is delivered via a specific technology.	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.

⁷ *Ibid.*

⁸. 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). 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.

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). In the case of Tribal Lands, the challenger must submit the requisite legally binding agreement between the relevant Tribal Government and the service provider for the location(s) at issue (see Section 6.2 above).	Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer an ongoing concern).
P	Planned service	The challenger has knowledge that broadband will be deployed at this location by June 30, 2025, without an enforceable commitment, or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.	<ul style="list-style-type: none"> • Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained. • Contracts or a similar binding agreement between the NBO, the Public Service Commission, or another unit of state or local government and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband service, even if not required by its funding source (<i>i.e.</i>, a separate federal or state grant program), including the expected date deployment will be completed, which must be on or before June 30, 2025. 	Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer an ongoing concern) or that the planned deployment does not meet the required technology or performance requirements.
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 covered by that commitment.	Declaration by service provider subject to the enforceable 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 the Eligible Entity. ⁹	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.
R	Location is not a CAI	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational.

5.6 Area and MDU Challenge

The NBO will administer area and MDU challenges for challenge types A, S, L, D, and T listed above. 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 they are meeting the availability, speed, latency, data cap and technology requirements for all served locations within the area or the units within an MDU. The provider can use any of the permissible rebuttals listed above.

An area challenge is triggered if 6 or more broadband serviceable locations using a particular technology and a single provider within a census block group are challenged.

An MDU challenge requires challenges by at least 3 units or 10% of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

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

⁹ 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 the Eligible Entity may rely on other reliable evidence that is verifiable by a third party.

Area challenges for availability need to be rebutted with evidence that service is available for all BSL within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer representative random, sample of the area in contention, but no fewer than 10, where the ISP must demonstrate service availability and speed (e.g., with a mobile test unit).¹⁰

5.7 Speed Test Requirements

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

Speed tests can take four forms:

1. A reading of the physical line speed provided by the residential gateway, (i.e., DSL modem, cable modem (for HFC), ONT (for FTTH), or fixed wireless subscriber module.
2. A reading of the speed test available from within the residential gateway web interface.
3. A reading of the speed test found on the service provider's web page.
4. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using either of the two below speed test services:
 - a) Ookla: <https://www.speedtest.net/>
 - b) M-Lab: <https://speed.measurementlab.net/>

Each speed test measurement must include:

1. The time and date the speed test was conducted.
2. The provider-assigned internet protocol (IP) address, either version 4 or version 6, identifying the residential gateway conducting the test.
3. Download and upload speeds
4. Latency (measured in milliseconds)

Each group of three speed tests must include:

1. The name and street address of the customer conducting the speed test.
2. A certification of the speed tier the customer subscribes to (e.g., a copy of the customer's last invoice).
3. An agreement, using an online form provided by NBO, that grants access to these information elements to the broadband office, any contractors supporting the challenge process, and the service provider.

¹⁰ 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.

NOTE: 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 or challenger must conduct a total of three speed tests on three different days; the days do not have to be adjacent, but the last test date should be no more than seven days from the first test date. The median of the three tests is used to trigger a speed-based (S) challenge, for either upload or download. For example, if a location claims a broadband speed of 100/25 Mbps and the three speed tests result in download speed measurements of 105, 102 and 98 Mbps (median 102 Mbps), and three upload speed measurements of 18, 26 and 17 Mbps (median 18 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 Internet Service Providers (ISPs), units of local government, Economic Development Districts (EDD) or nonprofit organizations.

Subscribers submitting a speed test must indicate the speed tier they are subscribing to. If the household subscribes to a speed tier 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.

An ISP may rebut a speed test challenge by providing speed tests as follows:

1. Area Challenge: Submit data for at least 10% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule,¹¹ 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.
2. Submit three speed tests; one speed test taken from 7:00 PM to 11:00 pm central time, and the other two tests may be performed at any time of the day but must be at least an hour apart.

5.8 Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, NBO will, upon approval from NTIA, publicly post the Nebraska BEAD

¹¹ The 80/80 threshold is drawn from the requirements in the CAF-II and RDOF measurements. See BEAD NOFO IV.C.2.a, p 65.

Challenge Guide covering the challenge process phases, challenge timelines, and instructions on how to submit and rebut a challenge. This guide will be posted publicly for at least a week prior to opening the challenge submission window. NBO 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 the broadband office website ([URL Coming](#)) for challenge process updates. They can engage with the broadband office by a designated email address (NDOT.BroadbandOffice@Nebraska.gov). Providers will be notified via the broadband office website and emails to designated provider contacts.

Beyond actively engaging relevant stakeholders, the broadband office will also post all submitted challenges and rebuttals before final challenge determinations are made, including:

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

The broadband office 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, the broadband office 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.

5.9 Personally Identifiable Information and Proprietary Data

Under Nebraska Revised Statute 87-802 (Financial Data Protection and Consumer Notification of Data Security Breach Act of 2006), Personally Identifiable Information (PII) includes:

1. A Nebraska resident's first name or first initial and last name in combination with any one or more of the following data elements that relate to the resident if either the name or the data elements are not encrypted, redacted, or otherwise altered by any method or technology in such manner that the name or data elements are unreadable:
 - a. Social security number;
 - b. Motor vehicle operator's license number or state identification card number;
 - c. Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial account;
 - d. Unique electronic identification number or routing code, in combination with any required security code, access code, or password; or

- e. Unique biometric data, such as a fingerprint, voice print, or retina or iris image, or other unique physical representation; or
2. A username or email address, in combination with a password or security question and answer, that would permit access to an online account.

The NBO will comply with all federal and state laws and regulations related to the protection of PII. The challenge portal and system used for public comment will store data on encrypted servers using 128-bit encryption. Only authorized personnel or contractors will have access to the data.

In addition, the NBO will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law. If any ISP responses contain information or data that the responding broadband provider deems to be confidential commercial information that should be exempt from disclosure under state open records laws or is protected under applicable state privacy laws, that information should be identified as privileged or confidential. Otherwise, the responses will be made publicly available.

6 Public Comment Period

The NBO will invite public comment on this Initial Proposal Volume 1 draft. The public comment period will commence on September 14, 2023, and end on October 14, 2023. Public comments are sought from members of the public, representatives of community anchor institutions, non-profits, local governments, and broadband providers.

The Initial Proposal Volume 1 will be published online at <https://broadband.nebraska.gov/>. In addition, physical copies will be made available to the public at various community anchor institutions and at the offices of the eight Economic Development Districts.

NBO will host eight public meetings to receive public comments on the Initial Proposal Volume 1. The public meetings will be held between September 25, 2023, and October 11th, 2023, in each of the eight NDOT districts. Two of the eight meetings will also have a virtual option. Each of the Economic Development Districts is encouraged to hold community meetings or listening sessions to take public comment. All Nebraskans are urged to participate including community leaders, representatives of community organizations, or underrepresented groups.

Public comments may be submitted in three ways:

1. Through an online comment form
2. By mail to: Nebraska Office of Broadband, c/o NDOT Director's Office, 1500 Nebraska Pkwy, Lincoln, NE, 68502
3. By a brief oral presentation at a public hearing, community meeting, or listening session

6.1 Outreach and Engagement

Building on the outreach and engagement efforts NBO engaged in and described in the BEAD 5-Year Action Plan, the broadband office will continue to work with the Economic

Development Districts, the Public Service Commission, the Office of the Chief Information Officer, the Library Commission, and representatives of counties, municipalities, and community organizations to gather public comments. All public comments will be reviewed and where appropriate incorporated into the Initial Proposal Volume 1 final version submitted to NTIA.

The NBO is additionally soliciting public comments to identify locations that meet the definition of community anchor institution and that lack gigabit service. NBO has requested the Economic Development Districts review the asset inventories and data collected for the Nebraska Digital Equity Plan to identify activities and speeds for each of the locations and further assist the NBO by identifying new CAIs in the region since the data was last updated.

Nebraska residents who wish to identify CAIs that are not served by gigabit service may provide the information to the regional EDD or to the NBO by any of the three methods above.

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