BEAD Initial Proposal, Volume 1

Last Revision Date: 10/20/23

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Note: Volume 1 contains requirements 3, 5, 6 and 7 of the BEAD NOFO for the Initial Proposal. Remaining requirements (1, 2, 4, 8-20) are covered in Volume 2 of the Initial Proposal, a separate document, following the NTIA template.

1 Introduction

Broadband access has been a priority of the State of South Dakota for several decades. As early as 1996, South Dakota connected all public schools to high-speed internet with its Connecting the Schools project. As stated on the Governor's website, South Dakota aims to "ensure that every single South Dakotan is able to access broadband service that meets their needs."[1] Through the Broadband Equity, Access, and Deployment (BEAD) Program, the State intends to connect the rest of the areas that have not yet been reached through the ConnectSD[2] or other federal and state programs.

As part of the ConnectSD program, South Dakota has made the decision to prioritize approval and funding future-proof, reliable, fiber projects that are the gold standard for broadband deployment. Technologies such as DSL copper, fixed wireless, and satellite, while they have their place in the ecosystem, are considered temporary "stop-gap" or "the only option" technologies. These technologies are undesirable to the end user experience and therefore would only be approved for locations where fiber prioritization exceeds an "Extremely High-Cost Threshold." Currently, except for two early projects, all the ConnectSD projects have been fiber installs. The states belief is that all citizens (no matter where they live – including tribal areas) deserve to have the gold standard of high-speed fiber broadband. The state will try to adhere to this policy for our citizens as much as possible while staying in the confines of the allowable activities, rules, and compliancy of the BEAD program.

A long standing state government decision is that South Dakota does not own any of the telecommunications or broadband infrastructure in the state. Rather, South Dakota relies on the expertise of its Internet Service Providers (ISPs) to own, service and maintain telecommunications infrastructure. South Dakota acts in the capacity of an anchor tenant that helps provide economic development within in the state. More background and information can be found in the 2019 South Dakota Broadband Plan at https://sdgoed.com/wp-content/uploads/2020/08/State-Broadband-Plan.pdf.[3]

This document represents Volume 1 of South Dakota's BEAD Initial Proposal, which provides information on broadband-serviceable locations, Community Anchor Institutions (CAIs), and the public process for challenging the identified locations. While NTIA utilizes the verbiage "Challenge Process" it must be noted that the state does not want our citizens to view this as a bad thing. Rather our intentions are to be most prudent with the funding to "get it right." We intend to find those last locations needing connectivity, by using whatever means possible, including location by location record keeping, end user citizen input, and relying on boots on the ground local expertise.

The Initial Proposal, both Volume 1 and Volume 2, builds off South Dakota's BEAD Five-Year Action Plan, and outlines what implementation processes are required over the next few years.

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[1] South Dakota Governor Krisi Noem (accessed on September 13, 2023), Connecting South Dakota. Accessed at: https://governor.sd.gov/priorities/broadband.aspx.
[2] South Dakota Governor's Office of Economic Development (accessed on September 13, 2023), ConnectSD Broadband. Accessed at: https://sdgoed.com/public-records/connectsd/.
[3] South Dakota Governor's Office of Economic Development (accessed 10/23/23), South Dakota Broadband Plan at: https://sdgoed.com/wp-content/uploads/2020/08/State-Broadband-Plan.pdf
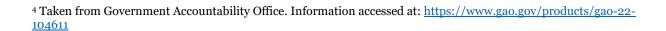
1.1   Existing Broadband Funding (Requirement 3)

This section identifies existing broadband initiatives supported by the federal government or qualified organizations in South Dakota.

Typically, states do not get direct funding for broadband. Historically, funding has gone directly to providers. South Dakota supports funding that comes through the state to ensure that funds are specifically directed to unserved citizens. This helps pin-point truly unconnected locations that federal funding may miss.

There are other federal broadband funding sources available. The Government Accountability Office (GAO) identified over 100 federal programs—administered by 15 agencies—that could be used to expand access.[4] Each federal program has their own set of rules for the provider to navigate. South Dakota continues to monitor new grant awards to keep state maps up-to-date and prevent overbuilding of these federally funded areas with state general funds or other ConnectSD funding. The below table lists various Broadband Funding sources other entities in South Dakota have taken advantage of. These are only the awards or funding that we are currently aware of. There could be others we have not been made aware of.

The state previously submitted the BEAD Five-Year Action Plan, which detailed the existing broadband funding, the funding source, and purpose of those funds. The funding information the state has utilized is provided in *Table 1: State Broadband Funding. Table 2: Federal and Other Broadband Funding Sources* includes the various Federal Broadband funding sources we are aware of.

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[4] Taken from Government Accountability Office. Information accessed at: https://www.gao.gov/products/gao-22-104611

Table 1: State Broadband Funding

Source	Purpose	Total	Expended	Available
South Dakota General Funds	Funded activities and grants through the ConnectSD program	$85,000,000 2019 $5M, 2020 $5M, 2021 $75M	$58,000,000	$27M
CARES Act – Coronavirus Relief Fund	Funded activities through the ConnectSD program	$38,200,000 2020 $6.6M, 2021 $31.6M	$38,200,000	$0
American Rescue Plan Act – State and Local Fiscal Recovery Fund	Planned to fund grants through the ConnectSD program	$50,000,000	All Awarded and obligated	$0
IIJA – Internet for all	Planned to fund grants through the ConnectSD program/Team BEAD & Digital Equity Programs	$207,000,000	Actual expended changes monthly We have two planning grants $2.6M BEAD Planning $526K Digital Equity Planning	$203.9M

Table 2: Federal and Other Broadband Funding Sources

Source	Purpose	Total	Expended	Available
IIJA – Internet for all	Planned to fund grants through the ConnectSD program	$207,000,000	$2.6M Planning $526K Digital Equity Planning	$203.9M
USDA ReConnect Loan and Grant Program[5,6]	South Dakota Network, LLC (dba SDN Communications)	$6,014,940		
	Golden West	$1,731,630		
	Cheyenne River Sioux Tribe Telephone Authority	$16,957,883		
	Valley Telecommunications Cooperative Association, Inc.	$15,173,307		
	Alliance Communications Cooperative, Inc.	$1,588,183		
	Heartland Telecom (Iowa)	$7,210,117		
	Oglala Sioux Tribe (Under Review)	$34,999,264		
	Gallatin Wireless Internet, LLC (Under Review, Partial SD) *USDA site still says under review, but company has informed us it was funded.*	$18,557,850		
Rural Development Opportunity Fund (RDOF)	Alliance Communications Cooperative, Inc.	$390,799		
	Interstate Telecommunications Cooperative, Inc.	$1,929,028		
	Midcontinent Communications	$296,393		
	Lumen Technologies, Inc.	$121,060		
	Roberts County Telephone Cooperative Association	$263,796		
	Valley Telecommunications Cooperative Association, Inc	$1,659,116		
	Venture Communications Cooperative, Inc.	$1,007,266		

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[5] USDA (accessed on June 23, 2023), ReConnect Program FY2022 Funding Opportunity Announcement Awardees. Accessed at: https://www.usda.gov/reconnect/round-three-awardees
[6] USDA (accessed on October 20th 2023), ReConnect Program: Proposed and Approved Projects, Map at: https://ruraldevelopment.maps.arcgis.com/apps/webappviewer/index.html?id=e2d4c909e06c46d3aa9577bea695a2b9

Tribal Broadband Connectivity Program[7]	Oglala Sioux Tribe *(Deployment)*	$19,620,766		
	Rosebud Sioux Tribe *(Deployment)*	$48,352,973		
	Lower Brule Sioux Tribe *(Deployment)*	$2,675,390		
	Cheyenne River Sioux Tribe Telephone Authority *(Use and Adoption)*	$2,367,685		
	Sisseton Wahpeton Oyate of the Lake Traverse Reservation *(Use and Adoption)*	$1,847,628		
	Flandreau Santee Sioux Tribe *(Use and Adoption)*	$2,477,508		
ACP Outreach Grant	Increasing ACP enrollment in the State. This grant was made to the Northeast SD Community Action Program, a nonprofit.	$200,000[8]		
	SD Department of Labor and Regulations received ACP Round 2 grant	$400,000		
Civic Nation	Voices for Peace was awarded an ACP outreach grant	$25,000[9]		
Emergency Connectivity Fund Program	Funded internet connectivity programs at schools and libraries to help students, staff and patrons connected through the COVID-19 pandemic. This grant was made directly to institutions that applied.	$10,224,167[10]		
E-Rate	Funded infrastructure and other needs of schools and libraries to access the internet. This grant was made directly to institutions that applied.	$20,839,234[11]		
E-ACAM FCC Enhanced A-CAM has	Alliance Communications Cooperative, Inc	TBD		

been accepted by these South Dakota ISPs.[12]	Cheyenne River Sioux Tribe Telephone Authority (BLS)	TBD		
	TrioTel Communications, Inc.	TBD		
	Venture Communications Cooperative	TBD		
	Hanson Communications, Inc.	TBD		
	Clarity Telecom, LLC	TBD		
	Golden West Telecommunications	TBD		

Note: You can find the BEAD Initial Proposal_Volume I_Existing Broadband Funding Sources spreadsheet document on the ConnectSD website: https://sdgoed.com/partners/connectsd/

1.2   Unserved and Underserved Locations (Requirement 5)

The following subsections provide for a listing of all unserved and underserved locations in South Dakota identified by the FCC Broadband Location Map Location ID. The state is required to use the NTIA (National Telecommunications and Information Administration) National Broadband Map (NBAM) to identify these locations. To have the most accurate of data we will also identify the date of publication of the NTIA NBAM and try our best to true it up with the FCC map.

This section identifies all unserved and underserved locations in South Dakota, including what data is available for Tribal Lands. The Broadband Team utilized the NTIA BEAD Eligible Entity Planning Toolkit to determine the list of unserved and underserved locations. This Toolkit is based on FCC's National Broadband Map.

For the purposes of BEAD, NTIA has identified unserved locations as those locations with speeds below 25 Mbps downstream and 3 Mbps upstream (typically noted as 25/3). Similarly, underserved locations are those locations with speeds below 100 Mbps downstream and 20 Mbps upstream (typically noted as 100/20).

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[7] NTIA (accessed on June 23, 2023), Tribal Broadband Connectivity Program TBCP Awards. Accessed at: https://broadbandusa.maps.arcgis.com/apps/dashboards/07f987529ae24273aec3320e5033d503
[8] Federal Communications Commission (accessed on March 15, 2023), Affordable Connectivity Outreach Grant Program. Accessed at: Affordable Connectivity Outreach Grant Program | Federal Communications Commission (fcc.gov).
[9] Civic Nation (published June 2023), Civic Nation ACP Pilot Report: Lessons for Community-Based Affordable Connectivity Program Outreach. Accessed at: CivicNation_OnlineForAll_PilotReport.pdf
[10] Universal Service Administrative Company (accessed on March 27, 2023), Open Data Tool. Accessed at: https://opendata.usac.org/.
[11] Universal Service Administrative Company (accessed on March 27, 2023), Open Data Tool. Accessed at: https://opendata.usac.org/.
[12] FCC (accessed October 20th, 2023), Rate of Return Resources. Accessed at: https://www.fcc.gov/general/rate-return-resources#enhanced

Since 2019, ConnectSD broadband policy has been to find and connect any location without a fiber connection or at least a cable modem connection. The minimum speeds required for ConnectSD funded projects are a fiber connection with 100Mbps download and capabilities of 1G symmetrical within a few years. When possible, this much higher standard will be accommodated with the BEAD program. It is South Dakota's view that all citizens of South Dakota (including tribal areas) deserve the best possible future proof connectivity when taxpayer funds are being used.

The following attached files contain the location IDs of all unserved and underserved Broadband Serviceable Locations (BSLs) in South Dakota. As required, they have been created utilizing the Eligible Entity Planning Toolkit provided by NTIA.

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

Find South Dakota NTIA NBAM Unserved Location IDs 10_10_2023 spreadsheet document on the ConnectSD website: https://sdgoed.com/partners/connectsd/

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

Find South Dakota NTIA NBAM Underserved Location IDs 10_10_2023 spreadsheet document on the ConnectSD website: https://sdgoed.com/partners/connectsd/

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

The Broadband Team utilized the NTIA National Broadband Map from the Eligible Entity Planning Toolkit, current as of 10/10/23, to identify unserved and underserved locations.

Note: Per NTIA guidance, the publication date of the National Broadband Map cannot predate submission of the Initial Proposal by more than 59 days. The State of South Dakota will make every attempt to utilize the absolute most updated maps available to identify these locations.

1.3   Community Anchor Institutions (CAIs) (Requirement 6)

1.3.1 Text Box: 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.

The Broadband Team has adopted the NTIA's list of CAIs from the BEAD Notice of Funding Opportunity, which includes:

1. **Schools:** Schools include K-12 schools participating in the FCC E-Rate program or have an NCES ID in the categories "public schools" or "private schools."

2. **Libraries:** Libraries include all libraries participating in the FCC E-Rate program and all-American Library Association member libraries and their branches.

3. **Health Clinics, Health Centers, Hospitals, and Other Medical Providers:** This category includes health facilities and institutions that have a Centers for Medicare and Medicaid Services (CMS) identifier.

4. **Public Safety Entities:** Public Safety Entities include fire stations, emergency medical service stations, police stations, and other public safety answering points sourced from the FCC 911 Public Safety Answering Points Registry.

5. **Institutions of Higher Education:** Higher Education Institutions include all organizations that have an NCES ID in the "college" category, including junior colleges, community colleges, minority serving institutions, and historically black colleges and universities.

6. **Public Housing Organizations:** Low-income housing and public housing locations registered with South Dakota HUD.

7. **Community Support Organizations:** Community Support Organizations include organizations that facilitate greater use of broadband service by vulnerable populations.

During the public comment period, the Broadband Team will accept and review comments pertaining to additional CAI categories. The final Volume 1 will contain the Broadband Team's assessment of comments received on additional categories and final determination for their inclusion.

1.3.2 Attachment: 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.

The following attachment provides CAIs identified by the Broadband Team.

Find SD CAIs Initial Proposal List 2023 spreadsheet document on the ConnectSD website: https://sdgoed.com/partners/connectsd/

During the public comment period, the Broadband Team will accept and review challenges pertaining to the addition or removal of individual institutions to or from the list of CAIs to ensure the identified entities meet the CAI criteria. The final Volume 1 will contain an updated list of CAIs following the Broadband Team's review of challenges.

1.4   Challenge Process (Requirement 7)

The following subsections outline the design of the NTIA BEAD challenge model that South Dakota will utilize to conduct an evidence-based, fair, transparent, and expeditious challenge process. This includes the process to determine BEAD eligibility, acceptable challenge types and evidence, and the approach to deduplication of funding.

1.4.1 Yes/No Box: Select if the Eligible Entity plans to adopt the NTIA BEAD Model Challenge Process for Requirement 7.

☒South Dakota **will adopt the NTIA BEAD Model Challenge Process**, with the following modification:

- **Digital Subscriber Line (DSL) Modification:** this modification will facilitate the prioritization of deployment of fiber over other technologies (see 1.4.2 below).

1.4.2 Text Box: 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.

DSL Modification

The broadband office 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." South Dakota has made the policy decision to prioritize approval and funding future-proof fiber projects that are the gold standard for broadband deployment. Technologies such as DSL copper, fixed wireless, and satellite, while they have their place in the ecosystem, are considered temporary "stop-gap" or "the only option" technologies. These technologies are undesirable to the end user experience and therefore will only be approved for locations where fiber prioritization exceeds the Extremely High Cost Threshold.

1.4.3 Yes/No Box: Select if the Eligible Entity plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

☒South Dakota **will use the Eligible Entity Planning Toolkit** to identify existing federal enforceable commitments.

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

The BEAD Eligible Entity Planning Toolkit is a collection of NTIA-developed technology tools that, among other things, overlay multiple data sources to capture federal, state, and local enforceable commitments.

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

- The state is required to use the NTIA National Broadband Map (NBAM) to identify these locations.
  - To have the most accurate of data we will also identify the date of publication of the NTIA NBAM and try our best to true it up with the FCC map.
- The FCC Broadband Funding Map published by the FCC pursuant to IIJA § 60105.[13]
- Data sets from ConnectSD state funded broadband deployment projects
  - See *Table 1: State Broadband Funding* (above)
  - Example: Many areas have been funded since 2019, some of which are still being constructed or just finished and are not yet identified as served on the FCC map.
- Data sets from Federal programs awarded in South Dakota
  - See *Table 2: Federal and Other Broadband Funding Sources* (above)
  - Example: ReConnect, RDOF, NTIA Tribal Broadband Connectivity, E-ACAM, etc.
- State and local data collections of existing enforceable commitments.
  - As a citizen service focused team, ConnectSD will include in this data any notifications received from citizens that they are unserved or underserved. This may include, but is not limited to, citizen inquiries direct to ConnectSD or via

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[13] The broadband funding map published by FCC pursuant to IIJA § 60105 is referred to as the "FCC Broadband Funding Map."

PUC (Public Utilities Commission), the Governor, the Governor's Office, the online citizen inquiry portal, etc.

- The Broadband Team will make a best effort to create a list of BSLs subject to enforceable commitments based on state/territory or local grants or loans. If necessary, the Broadband Team will translate polygons or other geographic designations (e.g., an ISP's ILEC territory, a county or utility district) describing the area to a list of Fabric locations. The Broadband Team will submit this list, in the format specified by the FCC Broadband Funding Map, to NTIA.[14]

1.4.5 Attachment: 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.

The Broadband Team 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, the Broadband Team will reach out to the provider to verify the deployment speeds of the binding commitment.

The Broadband Team drew on provider agreements, along with its existing database on state and local broadband funding programs' binding agreements and collaborated with providers in the state to determine the set of state and local enforceable commitments.

The state of South Dakota has compiled a list of federal, state and local enforceable commitments as documented in Section 1.2.

You can find the BEAD Initial Proposal_Volume I_Existing Broadband Funding Sources spreadsheet document on the ConnectSD website: https://sdgoed.com/partners/connectsd/

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

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

Permissible Challenges

The Broadband Team will only allow challenges on the following grounds:

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

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[14] 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.

Addition, removal, or classification of BSLs is not permitted as part of the BEAD challenge process. However, South Dakota is aware of location data on the National Broadband Map that requires updating (including removal of invalid BSLs), and the state is working directly with ISPs (continuing in 2024) to true up location classifications through the normal FCC process.

Permissible Challengers

During the BEAD Challenge Process, the Broadband Team will only allow challenges from nonprofit organizations, units of local and tribal governments, and broadband service providers.

Challenge Process Overview

The challenge process conducted by the Broadband Team will include four phases, spanning 90 days[15]:

1. **Publication of Eligible Locations**: Prior to beginning the Challenge Phase, the Broadband Team 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). The office will also publish locations considered served, as they may be challenged. Locations will tentatively be published April of 2024.

2. **Challenge Phase**: During the Challenge Phase, the challenger will submit the challenge through the Broadband Team challenge portal. 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:
      i. The challenge portal will verify that the address provided can be found in the Fabric and is a BSL.
      ii. The challenge portal will confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service.
      iii. The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email.
      iv. For availability challenges, the Broadband Team will manually verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice.
   b. Timeline:
      i. Challengers will have 60 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.

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

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[15] The NTIA BEAD Challenge Process Policy Notice allows *up to* 120 days. Broadband offices may modify the model challenge process to span up to 120 days, as long as the timeframes for each phase meet the requirements outlined in the NTIA BEAD Challenge Process Policy Notice.

the location to the "sustained" state. Providers must regularly check the notification method (email) for notifications of submitted challenges.

    a. <u>Timeline</u>: Providers will have 30 business days from notification of a challenge to provide rebuttal information to the Broadband Team.

4. **Final Determination Phase**: During the Final Determination phase, the Broadband Team will make the final determination of the classification of the location, either declaring the challenge "sustained" or "rejected."

    a. <u>Timeline</u>: Following intake of challenge rebuttals, the Broadband Team 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.

Evidence & Review Approach

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

The following table shows examples of types of evidence that may be submitted as part of a challenge or rebuttal. The Broadband Team will consider all relevant evidence submitted based on the challenge type not restricted to the specific examples cited below.

Table 3: Types of Evidence Allowed under the South Dakota 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).	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 installation date within 10 business days of a request.[16] A letter or email dated within the last 365 days indicating that a provider requested more than the	Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill. If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability. The provider submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location.

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[16] 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
			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.	
S	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds.[17]	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.[18]
L	Latency	The round-trip latency of the broadband service exceeds 100 ms[19].	Speed test by subscriber, 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.[20]
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap") on the consumer.[21]	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.

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[17] 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.

[18] 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.

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

[20] *Ibid.*

[21]. 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.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
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.
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 a going 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.	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 Eligible Entity and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source (*i.e.*, a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2025.[22]	Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern) or that the planned deployment does not meet the required technology or performance requirements.
N	Not part of 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.	

[22] While original NITA guidance is for June 30, 2024, South Dakota is aware of current projects that will extend into 2025, but will cover locations currently listed as un/underserved by NTIA mapping.

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 the Eligible Entity.[23]	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.

Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, the Broadband Team 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. The Broadband Team 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 for challenge process updates and newsletters on the ConnectSD website (https://sdgoed.com/partners/connectsd/). They can engage with the team by a designated email address broadband@state.sd.us. Communications and announcements about the program will be provided through the Connect South Dakota listserv and on the ConnectSD website.

Beyond actively engaging relevant stakeholders, the Broadband Team 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 provider territory 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.

The Broadband Team 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 Team will review the basis and summary of all challenges and rebuttals to ensure PII is removed prior to posting them on the

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[23] 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.

website. Additionally, guidance will be provided to all challengers as to which information they submit may be posted publicly.

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

1.4.6 Optional Attachment: 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.

South Dakota has chosen to adopt the NTIA BEAD Model Challenge Process and will utilize the NTIA's sources and requirements for acceptable evidence. Although the "specific examples" of evidence in 1.4.6 likely cover most forms of relevant evidence, the Broadband team will continue its collaborative approach and will consider other forms of relevant evidence pertaining to a given challenge type.