



**TEXAS BROADBAND
DEVELOPMENT OFFICE**

Texas Broadband

Draft: Initial Proposal Volume I

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Broadband Equity, Access and Deployment Program



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**Texas Comptroller
of Public Accounts**

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Volume I Initial Proposal Requirements

1.1 Existing Broadband Funding (Requirement 3)

Table 1: Sources of funding for broadband deployment and other broadband-related activities from Texas’ Five-Year Action Plan

Source Name of federal agency/other source of funding.	Purpose Indicate whether the broadband funding program was federal, state/territory or locally funded.	Total amount of funds awarded by the listed source.	Expended Total amount of funds expended to date.	Available Total amount of remaining funds available to date.
U.S. Treasury - American Rescue Plan Act (ARPA) Capital Projects Fund (CPF)	<p>CPF provides \$10 billion to eligible governments to carry out critical capital projects that directly enable work, education and health monitoring, including remote options. The 87th Texas Legislature appropriated \$500.5 million, the state’s entire allocation of CPF funding, to the Texas Broadband Development Office (BDO) for broadband expansion purposes. The BDO plans to use CPF dollars to support multiple competitive last mile grant programs to fund broadband projects across Texas, as well as several state agency-led initiatives focused on broadband expansion. The identified projects, which are in various stages of planning and execution, include:¹</p> <ul style="list-style-type: none"> • Bringing Online Opportunities to Texas (BOOT) Program - \$363.8 million • Texas State Library and Archives Commission Library Infrastructure and Facility Access - \$9.4 million • Texas Department of Transportation El Paso District Safety Rest Area Broadband Infrastructure Project - \$6 million • Texas Department of Agriculture Texas Rural Hospital Broadband Program - \$25 million • Texas Pole Replacement Program - \$75 million 	\$500.5 million	\$3.1 million	\$497.5 million

¹ 2023 CPF Annual Performance Report. <file:///C:/Users/mweiner/Downloads/cpf-report-2023.pdf>

U.S. Treasury - Coronavirus Aid, Relief, and Economic Security Act (CARES)	Operation Connectivity is an ongoing partnership between Gov. Greg Abbott, the Dallas Independent School District and the Texas Education Agency to connect all 5.5 million public school students in Texas. Leveraging \$900 million in CARES funding, combined with federal, state and local sources, Operation Connectivity acquired 4.5 million devices, purchased 3.6 million keyboard e-learning devices and purchased 874,000 hotspots ² .	\$900 million ³	\$900 million	\$0
Texas Broadband Infrastructure Fund (BIF)	The 88th Texas Legislature passed HB 9 creating the BIF for the purposes of developing and financing projects related to broadband and telecommunications services and 911 services, as well as providing matching funds for federal money from the Broadband, Equity, Access, and Deployment (BEAD) Program, among other items. The funding is contingent on voter approval of a constitutional amendment in the November 2023 election. ⁴	\$1.5 billion (pending approval by Texas voters) ⁵	\$0	\$0
U.S. Department of Agriculture (USDA) - ReConnect Program: Tatum Telephone Co.	Funds will be used to deploy a fiber-to-the-premises and hybrid-fiber-coax network to provide high-speed internet. The network will benefit 520 people, 25 businesses, one farm and two educational facilities in Panola County.	\$2.9 million ⁶	n/a	n/a
USDA - ReConnect Program: Legacy ISP LLC	Funds will be used to deploy a fiber-to-the-premises network, serving 10,367 people, 513 businesses, 29 farms and 39 educational facilities in Karnes and DeWitt counties.	\$21.1 million	n/a	n/a
USDA - ReConnect Program: Poka-Lambro Telephone Cooperative Inc.	Funds will be used to deploy a fiber-to-the-premises, fixed wireless and unlicensed network to provide high-speed internet to 238 people, six businesses, 39 farms and two educational facilities in Borden, Scurry and Fisher counties in Texas.	\$24.6 million	n/a	n/a
USDA - ReConnect Program: Eastex Telephone	Funds will be used to deploy fiber-to-the-premises service to Eastex's existing customers in the socially vulnerable	\$25 million	n/a	n/a

² Texas Education Agency Operation Connectivity Overview <http://23.98.222.250/>

³ Texas Education Agency Operation Connectivity Bulk Order Form <https://tea.texas.gov/texas-schools/health-safety-discipline/covid/operation-connectivity-bulk-order-fags.pdf>

⁴ House Joint Resolution 125 (Texas 88th R.S.). <https://capitol.texas.gov/tlodocs/88R/billtext/pdf/HJ00125F.pdf#navpanes=0>

⁵ Summary of Senate bill 1238 (88th Legislative Session) <https://comptroller.texas.gov/programs/broadband/about/legislation.php>

⁶ For all USDA ReConnect awards, this link shows the basic information: <https://www.usda.gov/reconnect/round-four-awardees>

Cooperative	communities of Maydelle and Hudson Chapel within Cherokee and Anderson counties. ⁷			
USDA - ReConnect Program: Totelcom Communications LLC	Funds will be used to deploy a fiber-to-the-premises network, connecting 299 people, nine businesses, 85 farms and one educational facility in Comanche County.	\$3.9 million	n/a	n/a
USDA - ReConnect Program: Taylor Telephone Cooperative Inc.	Funds will be used to deploy a fiber-to-the-premises network to connect 1,060 people, 20 businesses, and 450 farms in Coleman, Nolan, Runnels and Taylor counties.	\$32.7 million	n/a	n/a
USDA - ReConnect Program: Big Bend Telephone Co. (BBT)	Funds will be used to deploy a fiber-to-the-premises network, connecting 98 homes, one business and five farms in Presidio and Terrell counties.	\$24 million	n/a	n/a
FCC - Rural Development Opportunity Fund (RDOF) Phase I	A step toward bridging the digital divide, RDOF aims to facilitate reliable and fast internet to rural homes and small businesses. The 310,962 locations are covered by 456 bidders.	\$362.7 million ⁸	n/a	\$68,261.24 (2021) \$19,895,965 (2022) ⁹
Connect America Fund (CAF) Broadband Loop Support (BLS)	CAF BLS provides support for voice and broadband service, including standalone broadband. ¹⁰	\$65.7 million	n/a	n/a
CAF Intercarrier Compensation Support (ICS)	Intercarrier Compensation Recovery is the component of CAF that supports reforms to the intercarrier compensation system, the system of regulated payments among carriers to compensate each other for the origination, transport and termination of telecommunications traffic. ¹¹	\$13.4 million	n/a	n/a
Alternative Connect America Cost Model (ACAM)	ACAM provides funding to rate-of-return carriers that voluntarily elected to transition to a new cost model for calculating high-cost support in exchange for meeting defined broadband build-out obligations. ¹²	\$49.1 million	n/a	n/a

⁷ Eastex Telephone Cooperative ReConnect Announcement <https://www.eastex.com/wp-content/uploads/Reconnect-4-Press-Release-FINAL.pdf>

⁸ Federal Communications Commission, FCC Rural Digital Opportunity Phase I Auction State Results Summary, (Dec. 7, 2020), p. 3. <https://docs.fcc.gov/public/attachments/DA-20-1422A3.pdf>

⁹ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹⁰ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹¹ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹² <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

ACAM II	ACAM II provides funding to rate-of-return carriers that voluntarily elected to transition to a new cost model for calculating high-cost support in exchange for meeting defined broadband build-out obligations. ¹³	\$31.2 million	n/a	n/a
CAF High-Cost Loop (HCL)	HCL support provides support for the last mile of connection for rural companies in service areas where the cost to provide this service exceeds 115% of the national average cost per line. ¹⁴	\$34.5 million	n/a	n/a
CAF Phase II Auction	CAF II Auction provides support to carriers to deliver service in areas where the incumbent price cap carrier didn't accept CAF Phase II model-based funding and in extremely high-cost areas located within the service areas of the incumbent price-cap carriers. ¹⁵	\$8.2 million	n/a	n/a
Frozen High-Cost Support for CETCs	With the advent of CAF, existing high-cost program support was frozen at December 2011 levels, and additional changes were made to existing programs to transition universal service from focusing on voice networks to supporting and expanding broadband availability. ¹⁶	\$7 million	n/a	n/a
Rural Broadband Experiments (RBE)	RBE provides funding for experiments in price-cap areas to bring robust, scalable broadband networks to residential and small business locations in rural communities. ¹⁷	\$133,337	n/a	n/a
NTIA - Connecting Minority Communities Pilot Program (CMC) ¹⁸	CMC provides high-speed internet service to colleges and universities for minority students and local communities. Eligible institutions include: <ul style="list-style-type: none"> • Our Lady of Lake University. • Paul Quinn College. • Sul Ross State University. • Jarvis Christian College. • Prairie View A&M University. • South Texas College. • Texas College. • University of Houston - Downtown. 	\$19.7 million	n/a	n/a

¹³ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹⁴ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹⁵ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹⁶ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹⁷ <https://www.fcc.gov/general/federal-state-joint-board-monitoring-reports>

¹⁸ Internet for All, "Biden-Harris Administration Announces More Than \$175 Million in Internet for All Grants to 61 Minority-Serving Colleges and Universities," National Telecommunications and Information Administration, Washington, D.C., Feb. 27, 2023.

<https://www.internetforall.gov/news-media/biden-harris-administration-announces-more-175-million-internet-all-grants-61-minority> (Press release.), (Last visited July 28, 2023.)

<p>USDA - Small Business Innovation Research</p>	<p>Nanohmics Inc. proposes to develop and fabricate printed passive relay antennas, which may be applied alongside existing rights-of-way (e.g., roads, power lines or first responder antenna networks) in rural areas. The technology is intended to support broadband infrastructure deployment by drastically minimizing the burden of last-mile deployments. Printed antennas are inherently low-cost and simple to scale to larger production levels. As a result, this antenna product would speed the deployment of internet access nationwide.</p>	<p>\$106,000</p>	<p>n/a</p>	<p>n/a</p>
<p>USDA - Distance Learning and Telemedicine Loans and Grants</p>	<p>Enable access to internet for rural communities. Funds can be used to purchase or support:</p> <ul style="list-style-type: none"> • Audio, video and interactive video equipment. • Broadband facilities used for distance learning or telemedicine (up to a certain percentage). • Computer hardware, network components, and software. • Instructional programming. • Technical assistance and instruction on how to use distance learning and telemedicine equipment. <p>Eligible entities include:</p> <ul style="list-style-type: none"> • Big Bend Telephone Co. Inc. • Blossom Telephone Co. • Border to Border Communications Inc. • Central Texas Telephone Cooperative Inc. • Five Area Telephone Cooperative Inc. • Peoples Telephone Cooperative Inc. • Taylor Telephone Cooperative Inc. • Totelcom Communications LLC. 	<p>\$71.5 million</p>	<p>n/a</p>	<p>n/a</p>
<p>NTIA - Tribal Broadband Connectivity Program</p>	<p>NTIA assists Tribal governments in broadband deployment on Tribal lands, as well as for telehealth, distance learning, broadband affordability and digital inclusion. Eligible entities include Alabama-Coushatta Tribe of Texas and Kickapoo</p>	<p>\$3.1 million</p>	<p>n/a</p>	<p>n/a</p>

	Traditional Tribe of Texas. ¹⁹			
NTIA - Broadband Infrastructure Program	Program directed toward encouraging partnerships between a state, or one or more political subdivisions of a state, and providers of fixed broadband service to support broadband infrastructure deployment, especially rural areas. Eligible entities include: Sabine County.	\$12.7 million	n/a	n/a
NTIA - Middle Mile Grant Program; Concho Valley Electric Cooperative (CVEC)	As part of the NTIA Middle Mile Grant Program, CVEC will expand middle-mile infrastructure into underserved areas of Tom Green and Coke counties.	\$3.3 million ²⁰	n/a	n/a
NTIA - Middle Mile Grant Program: Zayo LLC	Zayo will construct a new, 644-mile underground middle-mile fiber route from El Paso to Dallas.	\$55.1 million	n/a	n/a
NTIA - Middle Mile Grant Program: Zayo LLC.	Zayo will create new access points along its existing 822-mile, five-state underground middle-mile fiber route. The route runs from Dallas to Atlanta.	\$13.7 million	n/a	n/a
NTIA - Middle Mile Grant Program: ENMR Telephone Cooperative	ENMR Telephone Cooperative will enhance its existing network's infrastructure by creating alternate paths and increasing resiliency and bandwidth with upgrades and new fiber routes. It includes the construction of five new fiber segments, one of which completes a fiber ring linking Kermit, Texas to Jal, New Mexico in the southern edge of the middle mile network.	\$49.9 million	n/a	n/a

¹⁹ Tribal Broadband Connectivity Program, Round One Recipients. <https://broadbandusa.ntia.doc.gov/funding-programs/tribal-broadband-connectivity/award-recipients#K>

²⁰ <https://broadbandusa.ntia.gov/funding-programs/enabling-middle-mile-broadband-infrastructure-program/funding-recipients>

U.S. Department of Commerce - Economic Adjustment Assistance	<p>Program includes construction and non-construction activities to assist communities in becoming more economically competitive.</p> <p>Eligible entities include:</p> <ul style="list-style-type: none"> • City of Farmersville. • City of Monahans. • Deep East Texas Council of Governments. • East Texas Council of Governments. • Gulf Coast Economic Development District Inc. • County of Medina. • Rural Capital Area Workforce Development Board Inc. • Town of Prosper. 	\$18.7 million	n/a	n/a
NTIA - State and Local Implementation Grant Program	Created under the Middle-Class Tax Relief and Job Creation Act of 2012, the grant program assists entities as they plan for the nationwide public safety broadband network. Eligible entities include the Texas Department of Public Safety.	\$4.8 million	n/a	n/a
NTIA - Broadband Technology Opportunities Program	Program administered by NTIA to deploy broadband infrastructure, enhance public computer centers, and encourage sustainable adoption of broadband service. Eligible entities include the Mexican Institute of Greater Houston Inc. ²¹	\$2.0 million	n/a	n/a
U.S. Department of Commerce - Measurement and Engineering Research and Standards	Resilient mobile broadband communication and edge computing for FirstNet. Eligible entities include the Texas A&M Engineering Experiment Station.	\$1.8 million	n/a	n/a
U.S. Department of Interior, Indian Affairs - Tribal Broadband Grant	The Alabama-Coushatta Tribe of Texas has been allocated a funding award to explore developing or extending broadband services in its communities to spur economic development and commercial activity, create opportunities for self-employment, enhance educational resources and remote learning opportunities, and meet emergency and law enforcement needs.	\$175,000	n/a	n/a

²¹ <https://www2.ntia.doc.gov/sites/default/files/grantees/factsheetxmexicaninstituteofgreaterhoustoninc.pdf>

Institute of Museum and Library Services - National Leadership Grants	The Arlington Public Library in Texas will expand its digital literacy offerings to serve more community members and address the digital divide at the local level.	\$40,000	n/a	n/a
Public Utility Commission of Texas - Texas Universal Service Fund (High-Cost Programs)	<p>The Texas Universal Service Fund (TUSF) was established in 1987 and supports 11 programs to ensure Texans have affordable access to voice services.</p> <p>TUSF is funded by a statewide uniform charge or assessment, payable by telecommunications providers that are allowed to recover the amount of assessment from retail consumers.</p> <p>The High-Cost Programs mainly help telecommunications providers offer landline service at reasonable rates in high-cost-to-serve rural areas of Texas.</p> <p>These programs include:</p> <ul style="list-style-type: none"> • Texas High-Cost Universal Service Plan. • Small and Rural ILEC Universal Service Plan. • Additional Financial Assistance. • PURA § 56.025 Make-Whole Provision. • IntraLATA Support. • High-Cost Uncertified. 	\$182 million ²²	\$182 million ²³	
Public Utility Commission of Texas - Texas Universal Service Fund (Social Service Programs)	<p>The Social Service Programs provide financial assistance for voice services for low-income consumers and support programs for Texans with disabilities, such as relay services for hearing-impaired consumers. These programs include:</p> <ul style="list-style-type: none"> • Lifeline. • Texas Relay Service. • Specialized Telecommunications - Assistance Program. • Audio Newspaper Program. 	\$21.8 million ²⁴	21.8 million	

²² Public Utility Commission of Texas, *2023 Biennial Agency Report* (January 2023), pp. 64-65. https://ftp.puc.texas.gov/public/puct-info/agency/resources/reports/leg/2023_Biennial_Agency_Report.pdf (Last visited July 28, 2023.)

²³ The payout amount is forecast every year. It is mandatory for PUC to fully fund all TUSF programs and to make all disbursements required by existing TUSF orders and commitments. https://www.lbb.texas.gov/Documents/SFC_Summary_Recs/88R/Agency_473.pdf

²⁴ Kyle Madsen, *ROW Utilities Manual*, Texas Department of Transportation, §11. (Nov. 28, 2022), http://onlinemanuals.txdot.gov/txdotmanuals/utl/broadband_initiatives.htm (Last visited July 28, 2023.)

	<ul style="list-style-type: none"> • Tel-Assistance Support. 			
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1.2 Unserved and Underserved Locations (Requirement 5)

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.

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.

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

Placeholder: BDC Version 3.2. Publication date 07/31/2023

ALERT: These files, and the version number, will need to be updated before the final submission of Vol. 2 of the Initial Proposal to the NTIA, such that it adheres to the requirement that the map version date does not predate the submission by more than 59 days. While major releases of the FCC National Broadband Map occur only semi-annually, smaller updates occur more frequently and are the basis for the versioning that can be used here.

1.3 Community Anchor Institutions (Requirement 6)

1.3.1

Based on the statutory definition of “community anchor institution” (CAI) in 47 USC 1702 (a)(2)(E), the BDO applied the definition of CAI to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency, HUD-assisted housing organization or Tribal housing organization) or community support organization that facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, children,

the incarcerated and aged individuals.

Based on the statutory definition above, the following criteria were used to determine the inclusion or exclusion of community support organizations not specifically listed in 47 USC 1702(a)(2)(E):

Whether the community support organization facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, children, the incarcerated and aged individuals.

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

Schools: 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.”

Libraries: All libraries participating in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association.

Health clinic, health center, hospital or other medical providers: The list of health clinics, health centers, hospitals and other medical providers that have a Centers for Medicare and Medicaid Services certification number.

Public safety entity: The list includes entities such as firehouses, emergency medical service stations, police stations and public safety answering points (PSAP), based on records maintained by the state and units of local government. The list of PSAPs includes all those in the FCC PSAP registry (the 911 Master PSAP Registry).

Institutions of higher education: 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.

Public housing organizations: Public housing organizations were identified by contacting the Public Housing Agencies for the state or territory enumerated by the U.S. Department of Housing and Urban Development. The nonprofit organizations Public and Affordable Housing Research Corporation and National Low-Income Housing Coalition maintain a database of nationwide public housing units at the National Housing Preservation Database.

Community support organizations: The BDO included any organizations that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. The BDO included senior centers and job training centers in this category. In general, a community support organization is an organization that provides in-person digital skills training, in-person technical support services or functions as a public computing center in a physical location in Texas that is not already categorized in the above CAI definitions. The U.S. Department of Labor maintains a database of “American Job Training” training centers, established as part of the Workforce Investment Act, and reauthorized in the Workforce Innovation and Opportunities Act of

2014. The database can be accessed at the American Job Center Finder. The National Council on Aging helped identify senior centers.

In each case, the BDO drew upon state, Tribal, local government and community stakeholders to identify additional eligible CAIs that were not contained in the data sources listed above. In addition, the BDO engaged stakeholders throughout the public engagement process to ensure eligible CAIs were identified. Task force and working group members, including associations representing multiple entities, were asked to share relevant data to identify CAIs. The BDO also deployed the Digital Resources Mapping Tool survey to any entity in the state that provided digital opportunity support and/or facilitated greater use of broadband services. Entities that identified their organization as a CAI in their survey responses were analyzed for inclusion in the CAI list. Finally, the BDO will use the Initial Proposal public comment period to identify and include other relevant institutions meeting the CAI criteria.

- Other organizations that wish to notify the state that they play a role in facilitating greater use of broadband service and meet the definition provided will have an opportunity to be included in the eligible CAI list as part of the challenge process.

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

Engaged government agencies

The BDO engaged Texas agencies to understand what records they have available regarding relevant CAIs' one gigabit per second (Gbps) broadband service availability. Reliable availability data for all CAIs was difficult to obtain. In the case of libraries, the BDO was able to obtain limited speed test data, which were used as a cross-reference to help indicate availability. Similarly, in the case of schools, the BDO was only able to obtain some availability data based on FCC E-rate participation. Because these data do not capture what is available for each location, the BDO performed an analysis to estimate the availability to each CAI and expects that these estimates will be refined and improved through the public comment and/or challenge process.

Engaged relevant umbrella organizations and nonprofits

The BDO engaged with umbrella and nonprofit organizations that work with CAIs to coordinate and obtain broadband service availability data. Specifically, the BDO requested information related to availability needs from the member organizations across all geographic regions. As with government agencies, it was difficult to get comprehensive, reliable information. Consequently, the BDO performed an analysis to estimate the availability to each CAI and expects that these estimates will be refined and improved through the public comment and/or challenge process.

Regarding the availability analyses, the CAI dataset was assigned the highest available broadband service (measured by Megabits per second or "Mbps") download speed and broadband technology, as per the BEAD guidelines. The speed and technology data are either actual or an estimate. Actual values were pulled from broadband serviceable location (BSL) data where a corresponding BSL directly matched

(spatially coincident) with a CAI (shared Location ID). Estimated speed and technology were captured based on the CAI's proximity to locations with known speed data. To accomplish this, contiguous Thiessen polygons were generated for like BSL speed and technology data. The Thiessen polygons were spatially joined with the CAI data. The speed and technology attributes were then coded onto the CAI locations for the corresponding Thiessen polygon.

Using the responses received and the analysis described above, the BDO developed the list of those CAIs that do not have adequate broadband service, attached in question 1.3.2.

- 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 attached .csv file shows CAIs identified by the BDO as of Nov. 2, 2023.

[\(INSERT link for Public Comment\)](#)

The current .csv list of CAIs is a draft based on the definition provided. The BDO will use the public comment period and challenge process to refine the list as needed.

1.4 Challenge Process (Requirement 7)

NTIA BEAD Model Challenge Process Adoption

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

Yes

- 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.

NTIA BEAD Model Challenge Process Answer:

The following response is a model response for the proposed modifications to the set of locations on the National Broadband Map identified as eligible for BEAD funding and subject to the challenge process and the associated justifications for each modification. If the Eligible Entity plans to adopt the NTIA BEAD Model Challenge Process, it must copy and paste at least one of the Model modules outlined below into the appropriate response textbox.

[Optional Module 1: No Modifications]

The Eligible Entity will not make additional modifications.

Deduplication of Funding

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.

Yes

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

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

- The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.
- Data sets from state broadband deployment programs that rely on funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury.

Texas and local data collections of existing enforceable commitments. Note that the only relevant enforceable commitments foreseen from the state of Texas are those funded by the Bringing Online Opportunities to Texas (BOOT) program, funded by the CPF. For local commitments, inquiries regarding local enforceable broadband commitments are currently underway. Some Texas communities have used local ARPA funds for broadband projects, but whether these projects created enforceable commitments that affect BEAD eligibility has not yet been determined. The BDO will continue to monitor and maintain an inventory of broadband projects and collect sufficient data to determine if the commitments will be met at the appropriate technical specifications to affect the list of BSLs eligible for BEAD funding throughout the challenge and subgrantee selection process.

The BDO 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 BDO will translate polygons or other geographic designations (e.g., a county or utility district) describing the area to a list of Fabric locations. The BDO will submit this list, in the format specified by the FCC Broadband Funding Map, to NTIA.

The BDO 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 BDO will reach out to the provider to verify the deployment speeds of the binding commitment. The BDO will document this process by requiring providers to certify the actual broadband speeds deployed.

The BDO will draw on these provider certifications, along with its existing database on state and local broadband funding programs' binding agreements, to determine the set of Texas and local enforceable commitments.

- 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 BDO has provided a list of federal, state and local programs under Requirement 3 that will be further analyzed to determine which program constitutes enforceable commitments that affect the set of locations eligible for BEAD funding.

Challenge Process Design

- 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 BDO's understanding of the goals of the BEAD Program, the proposal represents a transparent, fair, expeditious and evidence-based challenge process. Note that the process description here closely follows the BEAD Model Challenge Process with slight modifications.

Permissible Challenges

The BDO will allow challenges only on the following grounds:

- The identification of eligible CAIs, as defined by the BDO.
- CAI BEAD eligibility determinations.
- BEAD eligibility determinations for existing BSLs.
- Enforceable commitments.
- Planned service.

Permissible Challengers

During the BEAD Challenge Process, the BDO will allow challenges from nonprofit organizations, units of local and Tribal governments and internet service providers (ISPs).

Challenge Process Overview

The challenge process conducted by the BDO will include four phases, spanning 120 days:

Challenge Process Timeline Summary

Table 2: Challenge Process Timeline

Activity	Period Length
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Upon approval from NTIA, the BDO will 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.	N/A - will remain online throughout the challenge process
All Texas BEAD Challenges will be presented online. No Personally Identifiable Information will be exposed.	N/A - will remain online throughout the challenge process
Challenge Phase: Publication of Eligible Locations and Submission Window	14 days
Challenge Phase: Review	14 days
All Texas BEAD Challenges will be posted online, and the Rebuttal Period will be announced. This posting is to adhere to the BEAD Challenge Process Policy requirement for Transparency.	N/A - will remain online throughout the challenge process
Rebuttal Phase: Submission Window	14 days
Rebuttal Phase: Review	14 days
Final Determination Phase	56 days
The BDO will forward the challenge process outcomes to the NTIA for review and approval.	8 days
TOTAL BEAD CHALLENGE PROCESS FOR THE STATE OF TEXAS	120 days

After completion of the BEAD challenge process, results will be submitted to the NTIA for review and approval of challenge process determinations.

Challenge Process Timeline Details

1. **Publication of Eligible Locations:** Prior to beginning the Challenge Phase, the BDO will publish the set of locations eligible for BEAD funding, consisting of the locations resulting from the activities outlined in Sections 5 and 6 of the NTIA BEAD Challenge Process Policy Notice. The office will also publish locations considered served, as they may be challenged. Publication is tentatively planned for release on April 4, 2024.

2. **Challenge Phase:** During the Challenge Phase, challengers will be able to submit challenges through the BDO’s online challenge portal. The URL for the portal will be public-facing and housed on the BDO website. Challenges will be visible to the ISP whose service availability and performance is being contested. ISPs will be notified of challenges through an automated email that will be sent after a challenge is submitted and will include related information about timing for the ISP’s response. (The portal will also recommend to users to preserve a screenshot as evidence as a backup.) After this stage, the location will enter the “challenged” state.
 - a. **Minimum Level of Evidence Sufficient to Establish a Challenge:** Consistent with BEAD, the BDO will establish and publish guidelines for challengers setting forth the minimum documentation requirements to sustain a challenge.
 - b. **Timeline:** Challengers will have 14 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, CAIs, and existing enforceable commitments are posted. Tentatively planned for April 4 – 17, 2024, for the challenge

receipt window, and April 18 to May 1, 2024, for review and initial validation by the BDO.

- c. **Review:** The challenge portal will enable verification by a BDO reviewer trained in the administration of the BEAD challenge process that the address provided can be found in the Fabric and is a BSL. Reviewers will need to look up the incoming challenged addresses from the Fabric database. Some manual intervention may be needed to deal with file inconsistencies, such as different address spellings. The challenge portal will enable reviewers to confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service, by requiring from the challenger a full specification of the service being challenged. The challenge portal will confirm that the email address is reachable by sending a confirmation message to the listed contact. For scanned images, the challenge portal will *not* determine whether the quality is sufficient to enable optical character recognition (OCR). However, the BDO has access to another system that can perform OCR if necessary. For availability challenges, the BDO 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.

3. **Rebuttal Phase:** An ISP may rebut the challenge of a location or area. Rebuttal of location challenges will be limited to affected ISPs. If an ISP submits a rebuttal, the challenge will be marked as being “disputed”. An ISP rebutting a challenge will be required to provide documentation demonstrating that the location or area should not be reclassified. If a challenge that meets the minimum level of evidence is not rebutted, the challenge is sustained. An ISP may also agree with the challenge, and thus transition the location to the “sustained” state. ISPs must regularly check their email, or potentially other challenge portal notification methods that may be developed, for notifications regarding submitted challenges.

The BDO conducts monthly Texas Industry Broadband Roundtables with ISPs and expects to establish other additional ISP outreach channels where appropriate. In general, the BDO understands that it is critical to ensure communication and engagement with the broadband industry throughout the challenge process. The BDO actively engages the industry through monthly roundtables and has raised awareness of the BEAD Program activities through a variety of overlapping task forces, one of which is focused on the industry. The BDO will leverage its contacts and outreach experience to ensure it has current and appropriate contact information for ISPs to ensure that they are kept up to date on developments and receive adequate notice of challenges.

- a. **Timeline:** ISPs will have 14 calendar days from notification of a challenge to provide rebuttal information to the BDO. The rebuttal period is tentatively planned for May 2 through May 29, 2024, inclusive of the 14-day period for receiving rebuttals and the time needed for initial validation of rebuttal evidence.

4. **Final Determination Phase:** During the Final Determination phase, the BDO will make final determinations regarding location classification. Based on the evidence submitted by both challengers and ISPs, the BDO will either sustain or reject challenges.
 - a. **Timeline:** Following intake of challenge rebuttals, the BDO will make final challenge determinations, post determinations on its website and forward the determinations to NTIA within 78 calendar days of the challenge rebuttal. The challenge review process will occur on a rolling basis as challenges and rebuttals are received. This process is tentatively planned for May 30 through Aug. 16, 2024, if necessary but may conclude earlier if all determinations are made before the scheduled end date.
 - b. Following approval by NTIA, the BDO will publicly post the final classifications of each location or eligible CAI within its jurisdiction at least 60 days before allocating grant funds for network deployment.

Evidence and Review Approach

To ensure each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, the BDO will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. The BDO 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. The BDO will ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. The BDO will also require that all reviewers submit affidavits to ensure there is no conflict of interest in making challenge determinations.

As referenced in the BEAD Challenge Policy Process Notice provided by the NTIA, the BDO will require substantive evidence for challenges and rebuttal:

Table 3: Examples of Acceptable Evidence for BEAD Challenges and Rebuttals

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.	<ul style="list-style-type: none"> • Screenshot of ISP webpage. • A service request was refused within the last 180 days (e.g., an email or letter from ISP). • Lack of suitable infrastructure (e.g., no fiber on pole). • A letter or email dated within the last 365 days that an ISP failed to schedule a service installation or offer an installation date within 10 	<ul style="list-style-type: none"> • ISP shows 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 ISP submits evidence that service is now available as a standard installation (e.g., via a

			<p>business days of a request.²⁵</p> <ul style="list-style-type: none"> A letter or email dated within the last 365 days indicating that an ISP requested more than the standard installation fee to connect this location or that an ISP quoted an amount in excess of the ISP's standard installation charge in order to connect service at the location. 	copy of an offer sent to the location).
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap") on the consumer. ²⁶	<ul style="list-style-type: none"> Screenshot of ISP webpage. Service description ISP to consumer. 	ISP 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 that demonstrates the service is delivered via a specific technology.	ISP has opposing evidence from their network management system showing an appropriate residential gateway that matches the ISP service.
B	Business service only	The location is residential, but the service offered is marketed or available only to businesses.	Screenshot of ISP webpage.	ISP documentation that the service listed in the FCC's Broadband Data Collection program 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 ISP (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 ISP for the location(s) at issue. When the enforceable commitment involves an obligation to deploy at a speed below 100/20, the ISP can escalate	Documentation that the ISP has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., has gone out of business).

²⁵ 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."

²⁶ 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.

			its service commitment by the process described after this table.	
P	Planned service	The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or an ISP 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 ongoing deployment, along with evidence that all necessary permits have been applied for or obtained. Contracts or a similar binding agreement between the BDO and the ISP committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source (i.e., a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2024. 	Documentation showing that the ISP is no longer able to meet the commitment (e.g., has gone out of business), permitting is unlikely to be obtained in time to meet the deployment deadline 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. (See BEAD NOFO at 36, n. 52.)	Declaration by ISP subject to enforceable commitment.	
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 BDO. ²⁷	Evidence that the location does not fall within the definitions of CAIs set by the BDO 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 BDO or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by the BDO or is still operational.

²⁷ 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.

Escalating Service Commitments

The Challenge Process Policy Notice specifies that:

If a provider offers to deploy broadband service to an area that is faster than what was required by a preexisting enforceable commitment, Eligible Entities [states] may, but are not required to, enter into a binding agreement with the provider that reflects the new, higher speed commitment and consider the locations in that area served with the higher speed.

A footnote on this text elaborates:

For example, a provider has a binding commitment only to provide 25/3 Mbps service under a state program but intends to deploy network facilities capable of delivering 100/20 Mbps service to meet that binding commitment and to offer 100/20 Mbps service over those facilities.

There will be cases where providers may have pre-existing commitments to deploy broadband to unserved and underserved locations that commit them to deploy at speeds less than the 100/20 Mbps that is targeted by the BEAD Program. These situations can be disadvantageous as two different projects may potentially be subsidized for the same location but at different technical specifications.

Consistent with the Challenge Process Policy Notice, where a provider is willing to upgrade the network that is under construction so it meets the BEAD Program's 100/20 Mbps standard, the BDO will accept challenges based on enforceable commitments for *less* than 100/20 Mbps *if* the provider agrees to escalate its service commitment and post a bond to ensure it will complete deployment by Dec. 31, 2024. If the deployment commitment is not completed on time, the provider will forfeit the funds posted, and the BDO may use the funds to incentivize another provider to deploy to the affected locations.

Transparency Plan

To ensure the challenge process is transparent and open to public and stakeholder scrutiny, the BDO office 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 BDO 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 ISPs. As detailed in Texas' Five-Year Action Plan, the BDO has engaged in vigorous stakeholder outreach, including among local governments, to raise awareness and prepare them to participate as needed. It will reactivate these vectors of communication to ensure effective and far-reaching distribution of the information that the challenge window is being launched, and about how to participate. Relevant stakeholders can sign up on the BDO website for challenge process updates and newsletters. They can engage with the BDO by a designated email address, which will be announced on or before the launch of the challenge process. As mentioned above, challenged ISPs will be notified by automated email of the challenges to their coverage claims.

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

- The ISP, nonprofit or unit of local government that submitted the challenge.
- The FCC Location IDs of challenged BSL.
- Identity of affected ISPs.
- The type of challenge (e.g., enforceable commitments or speed).
- A summary of the challenge, including whether a provider submitted a rebuttal.

The BDO 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 BDO will redact 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.

The BDO will treat information submitted by an existing ISP designated as proprietary and confidential consistent with applicable state and federal law. Submitters who assert information they are providing should be exempt from disclosure under state open records or privacy laws will be given the opportunity to clearly mark the information as privileged or confidential. Information that is not clearly marked as confidential will be made publicly available.

No special Texas rules or laws concerning PII need to be flagged at this time, but the portal development will be handled by developers who are familiar with state protocols.

^[1] 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, if the timeframes for each phase meet the requirements outlined in the NTIA BEAD Challenge Process Policy Notice.

^[2] 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.”

^[3] The challenge portal must 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 a location only receives 250 Mbps download speed even though the household has subscribed to gigabit service can be disregarded as it will not change the status of the location to unserved or underserved.

^[4] As described in the NOFO, a provider’s opposing speed test should show that 80% of a provider’s download and upload measurements are at or above 80% 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.

^[5] *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).

^[6] *Ibid.*

^[7] 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, Dec. 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.

[81](#) 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 BDO may rely on other reliable evidence that is verifiable by a third party.

1.5 Volume I Public Comment

1.5.1 Text Box: 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.

To be completed after public comment

Optional Attachment: 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.