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# INTERNET FOR ALL

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## Initial Proposal

Volume I

## Oklahoma



U.S. Department of Commerce  
National Telecommunications and Information Administration

**Note:** *This document is intended solely to assist recipients in better understanding BEAD Initial Proposal and the requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in this document.*

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# Volume I Initial Proposal Requirements

## 1.1 Existing Broadband Funding (Requirement 3)

Identified in this section are the existing efforts funded by the federal government and the state of Oklahoma to deploy broadband and close the digital divide, including in tribal lands. The information in this list was sourced directly from partners and from publicly available documentation from the federal government, including NTIA's Federal Broadband Funding Dashboard. One purpose of the list is to direct BEAD funds away from areas that already have funded commitments. The list is intended to provide a comprehensive view of Oklahoma Broadband Office's (OBO) strategy and resources. Some sources are listed because they are relevant to broadband policy in Oklahoma, even though they do not involve any funded broadband deployment commitments. This list will continue to be updated until the subgrantee selection process is underway to make sure no Oklahoma locations are double funded.

Note: if funding award amounts are not available for the current year, funding awards from 2022 will be used.

**[PROVIDED IN A SEPARATE ATTACHMENT]**

## 1.2 Unserved and Underserved Locations (Requirement 5)

Two .csv files are available for download (titled "unserved.csv" and "underserved.csv") listing unserved and underserved location IDs. The data is sourced from the most recent version of the FCC's National Broadband Map as of the compilation of this Initial Proposal. Specifically, the map version used was released on \_\_\_\_\_ **[UPDATE THIS BEFORE SUBMISSION]**.

The state of Oklahoma plans to use Version 2 of the Broadband Maps to identify unserved and underserved locations. Files were included categorizing the locations as follows:

Served: locations with speeds greater than 100 Mbps download and 20 Mbps upload (100/20)

Underserved: locations less than 100/20 Mbps and greater than or equal to 25/3 Mbps

Unserved: locations with speeds less than 25/3 Mbps

Note: Unlicensed fixed wireless and satellite are excluded.

Note: The publication date of the National Broadband Map does not predate the submission of Volume I of the Initial Proposal by more than 59 days.

## 1.3 Community Anchor Institutions (CAIs) (Requirement 6)

### 1.3.1 Identification of CAIs

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

The incarcerated are the only group not listed in the original definition that are explicitly added into Oklahoma's list of community anchor institutions. According to the National Institute of Corrections,

in 2020 Oklahoma had 93 jails in 77 counties, with the 2020 jail population as 10,670 incarcerated and overall prison population at 22,462<sup>1</sup>. Due to the high number of incarcerations in Oklahoma, this population shall be included to ensure equity and inclusion. State-owned prisons will be included in Oklahoma's list of CAIs as there are existing and emerging digital literacy programs within several of the prison locations.

The OBO utilized information from Homeland Infrastructure Foundation-Level Data to identify the following CAIs:

- **Schools:** The list includes K-12 public and private schools, child care centers, early learning centers, off-reservation boarding schools, tribal and non-tribal head start entities.
- **Libraries**
- **Local, state, federal or tribal government building listing:** The list includes tribal headquarters (from OKMaps.org/ogi/search.aspx), courthouses, prisons, community correction offices, conservation district offices (from the Oklahoma Conservation Commission).
- **Health clinic, health center, hospital, or other medical providers:** The list includes hospitals, nursing homes, assisted living, public health departments, urgent care facilities, veteran's medical facilities, and Indian Health Services.
- **Public safety entity:** The list includes EMS, fire stations, emergency communication centers, and law enforcement.
- **Institutions of higher education.** The list includes public and private colleges, community colleges, and technology centers.
- **Public housing organizations**
- **Community support organization:** The list includes places of worship, community centers, senior centers, workforce centers, veteran centers, economic opportunity entities, YMCAs, etc.

Data for CAI locations was obtained from the Oklahoma GIS Department, Ready.Net, and the FCC Broadband Map.

### 1.3.2 CAI list

One .csv file is available for download (titled "OK-cai.csv") with the current list of CAI locations, location ID, and /or latitude and longitude, and eligibility. Given the timing of this Volume I comment period, the OBO encourages internet service providers (ISPs) to use the public comment process to populate available service speeds. Other information received during the public comment period may be in the form of additional CAI locations, recommended deletions, or a confirmation from CAIs if a 1 Gbps symmetrical service is desired. Any entities requiring clarification or detail will be pursued by the OBO following the public comment period for updates prior to the submission of Volume I to include validations that this list of eligible CAI locations is complete and that 1 Gbps is required at each CAI location. Additionally, during Oklahoma's Digital Promise listening tour dates, where applicable, individuals representing CAI were encouraged to examine the proposed CAI list.

## 1.4 Challenge Process (Requirement 7)

NTIA BEAD Model Challenge Process Adoption

The state of Oklahoma has elected to adopt NTIA's challenge process for BEAD funding.

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<sup>1</sup> Criminal Justice System Statistics in Oklahoma 2020, National Institute of Corrections (2020).

The OBO will treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is “served”) delivered via DSL as “underserved.” This modification will better reflect the locations eligible for BEAD funding because it will facilitate the phase-out of legacy copper facilities and ensure the delivery of “future-proof” broadband service.

The state of Oklahoma has also elected to adopt the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments. Additionally, the OBO will put the challenge process opportunity out for bid via an RFP. It is anticipated that potential vendors will be requested to fulfill the requirement of the BEAD Eligible Entity Planning Toolkit, along with building a challenge submission portal, challenge process management software, and assisting the OBO with managing and adjudicating challenges. The OBO will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult at least the following data sets:

1. The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.
2. 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.
3. Oklahoma and local data collections of existing enforceable commitments.

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

The OBO 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 an ISP deployed higher broadband speeds than required, the OBO will reach out to the provider to verify the deployment speeds of the binding commitment.

The OBO will document this process by requiring ISPs to sign a binding agreement certifying the actual broadband deployment speeds.

The OBO drew on these ISP agreements, along with its existing database on state and local broadband funding programs’ binding agreements, to determine the set of state and local enforceable commitments.

Oklahoma has created a list of federal, state, and local enforceable commitments, which can be found in the table in Section 1.1.

## **1.4.6 Challenge Process Design**

### **1.4.6.1 Challenge Process: Overview**

Oklahoma has developed a plan for implementing the BEAD challenge process. In addition to the federal BEAD guidance from the NTIA, the OBO must also implement state statutes that require a broadband mapping portal informed by a challenge process. Oklahoma’s HB 3363 of 2021, entitled the Rural Broadband Expansion Act, established the state broadband office’s responsibilities, which include broadband mapping, and the following requirement:

The OBO shall establish policy as needed to implement a process whereby impacted parties may challenge or protest data and information published on the OBO's mapping system. The process shall include, but not be limited to, features that:

1. Are heard and ruled on at the OBO level;
2. Provide for a ruling by the OBO within sixty (60) days of the submitted challenge or protest; and
3. Upon successful protest action, result in a timely correction of the map.

Both the state statute and the BEAD guidance indicate that there be a challenge process to verify the accuracy of broadband coverage data. The BEAD guidance indicates that valid challengers are local governments, community organizations, which include CAIs and nonprofit organizations, and ISPs. In contrast, HB 3363 of 2021 requires that impacted parties, including residents and businesses, may challenge the map.

The OBO developed a challenge process for the state broadband map that satisfies both state and federal requirements.

The OBO challenge process will start with a broadband mapping portal, where Oklahoma citizens and entities can view the state's best information about the status of broadband coverage at every location in the state. This data will be based on the FCC map.

The portal will allow Oklahomans to report any incorrect information concerning broadband coverage and identification of CAIs. As the reports come in, local public officials will be alerted about the need to take action in the portal in order to submit the challenges. Information for portal users will be provided when the tool goes live that will elucidate how the challenge process will work, the initial description of which is provided in narrative form here. These local public officials, specifically municipal, county and tribal, will then be classified as the "challenger" for purposes of a BEAD-compliant process and are encouraged but not required to participate in this BEAD challenge process. Citizen challenges on which the local government declines to act will not be considered by the OBO. Local governments will not be required to conduct independent evidentiary reviews before submitting challenges but may choose to trust that citizens have used the challenge portal properly.

A user-friendly form will allow users to initiate a correction (or challenge) to the map. The form will mark the address with incorrect information, input a proposed correction, and provide evidence to support the challenge. The challenge may be in response to coverage or CAI. All the information submitted will be retained and organized in the back end of the mapping portal. A notification or receipt will be provided to the user submitting the claim. At this stage in the process, no alteration in the public map will occur.

The OBO foresees a possibility, given that multiple organizations have standing to submit challenges for any given location, it may receive multiple overlapping challenges that utilize the same evidence. As we do not expect this to occur frequently, no safeguards have been built into the process to ensure that providers do not receive redundant challenges. However, (a.) the OBO may consolidate challenges, on a discretionary basis, if they appear clearly duplicative, and (b.) providers may submit the same rebuttal information in response to multiple challenges that are based on the same evidence. Citizen-originated challenges through the portal are not expected to result in any duplicative challenges since they will be channeled through local governments in a rule-based way.

In compliance with the BEAD guidance, a proposed correction must be channeled through a select set of valid challengers, namely (a.) local governments as represented by duly constituted officials, (b.) community organizations, and (c.) internet service providers (ISPs). Citizen-originated corrections to the map are not processed as challenges until local governments are notified, review the evidence provided, endorse, and submit the challenge. All local public officials with potential to be valid challengers will be contacted. When local public officials see incoming citizen-originated supporting evidence for a challenge, they will be able to immediately endorse the challenge evidence, and initiate the challenge process case.

Once a challenge is submitted, the appropriate respondent will be notified and invited to sustain or rebut the challenge by providing evidence. If a rebuttal with evidence is received, the OBO will review the evidence and determine whether to sustain or dismiss the challenge.

More details about the challenge process, illustrating alignment with the BEAD Model Challenge Process as proposed by the NTIA, are listed in the following sections.

#### **1.4.6.2 The BEAD Model Challenge Process: Oklahoma Implementation**

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

#### **Permissible Challenges**

The OBO will allow challenges only on the following grounds:

- The identification of eligible CAIs, as defined by the OBO,
- CAI BEAD eligibility determinations,
- BEAD eligibility determinations for existing broadband serviceable locations (BSLs),
- Enforceable commitments, or
- Planned service.

#### **Permissible Challengers**

During the BEAD Challenge Process, the OBO will allow challenges from only nonprofit organizations, units of local and tribal governments, and ISPs.

#### **Challenge Process Phases**

The challenge process conducted by the broadband office will include four phases, spanning 120 calendar days:

1. **Publication of Eligible Locations:** Prior to beginning the Challenge Phase, the OBO 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 OBO will also publish locations considered served, as they may be challenged. (This event should occur shortly after the approval of the Initial Proposal, and the event will trigger Day 0 of the Challenge Process)
2. **Challenge Phase:** During the Challenge Phase, which will last for 30 calendar days, the challenger will submit the challenge through the OBO challenge portal. This challenge will be visible to the ISP whose service availability and performance is being contested. The portal will notify the ISP of the challenge through an automated email, which will include

related information about timing for the ISP's response. After this stage, the location will enter the "challenged" state. (Planned for Day 0 to Day 45 of the Challenge Process, including the OBO initial assessment of the evidence.)

- a. **Minimum Level of Evidence Sufficient to Establish a Challenge:** The challenge portal will verify that the address provided can be found in the Fabric and is a BSL. The challenge portal will confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service. The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email. (Note: The portal will not have any OCR capability.) For availability challenges, the OBO 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. (The OBO review of evidence is planned to be completed during Day 30 to Day 45 of the Challenge Process)
  - b. **Timeline:** Challengers will have 30 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, CAls, and existing enforceable commitments are posted. (Planned for Day 0 to Day 30 of the Challenge Process)
3. **Rebuttal Phase:** Only the challenged ISP 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. An ISP may also agree with the challenge and thus transition the location to the "sustained" state. ISPs must regularly check the challenge portal notification method (e.g., email) for notifications of submitted challenges.
- a. **Timeline:** ISPs will have 30 calendar days from notification of a challenge to provide rebuttal information to the OBO. (Planned for Day 45 to Day 59 of the Challenge Process)
4. **Final Determination Phase:** During the Final Determination phase, the OBO will make the final determination of the classification of the location, either declaring the challenge "sustained" or "rejected."
- a. **Timeline:** Following intake of challenge rebuttals, the OBO will make a final challenge determination within 76 calendar days of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received. (Planned for Day 59 to Day 120 of the Challenge Process)

## **Evidence & Review Approach**

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

A classification of challenge types is presented in the table below. Note that, in some cases, the intended provider of evidence for rebuttal is not clear, so the task of providing rebuttals where appropriate will fall on the OBO itself.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).	<ul style="list-style-type: none"> <li>- Screenshot of ISP webpage.</li> <li>- A service request was refused within the last 180 days (e.g., an email or letter from ISP).</li> <li>- Lack of suitable infrastructure (e.g., no fiber on pole).</li> <li>- 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 business days of a request.<sup>2</sup></li> <li>- 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.</li> </ul>	<ul style="list-style-type: none"> <li>- ISP shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill.</li> <li>- If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</li> <li>- The ISP submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location.</li> </ul>
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap") on the consumer. <sup>3</sup>	<ul style="list-style-type: none"> <li>- Screenshot of ISP webpage.</li> <li>- Service description provided to consumer.</li> </ul>	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 (CPE) that demonstrates the service is delivered via a specific technology.	ISP has countervailing evidence from its network management system showing an appropriate residential gateway that matches the provided service.
B	Business service only	The location is residential, but the service offered is	Screenshot of ISP webpage.	ISP documentation that the service listed in the BDC is

<sup>2</sup> A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as "[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider."

<sup>3</sup> An unreasonable capacity allowance is defined as a data cap that falls below the monthly capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022). 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.

		marketed or available only to businesses.		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.	Documentation of an enforceable commitment by ISP. In general, while an authorization letter might in some cases suffice, OBO encourages challengers to supply evidence as amply as possible, including contact info of government officials who can speak to the status of a project, construction contracts for work underway, lists of targeted locations, receipts for supplies purchased, and other evidence validating that a deployment commitment is still in force and work is being done to complete it. OBO's ability to conduct independent research if challengers' evidence is inconclusive is limited, and OBO may stay with its original diagnosis that there is an unmet broadband need, if evidence of deployment commitments leaves room for doubt. In addition, the OBO intends to require, as a portion of burden of proof, an affidavit in support of every enforceable commitment challenge. Affidavit language will be provided. In addition, as described below, OBO may allow ISPs with preexisting enforceable deployment commitments at <i>less than 100/20</i> speeds to escalate their service commitments to 100/20 so that the areas affected can qualify as "served." 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 ISP 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	- Construction contracts or similar evidence of ongoing	Documentation showing that the ISP

		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.	deployment, along with evidence that all necessary permits have been applied for or obtained. - Contracts or a similar binding agreement between the OBO 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 January 1, 2025.	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 covered by that commitment. (See BEAD NOFO at 36, n. 52.)	Declaration by ISP subject to the 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 OBO <sup>4</sup> .	Evidence that the location does not fall within the definitions of CAIs set by the OBO 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 OBO or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by the OBO or is still operational.

The idea of giving ISPs with existing funded service commitments the option to escalate their service commitments to 100/20 comes from the NTIA’s [Challenge Process Policy Notice](#), page 11:

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 may, but are not required to, enter into a binding agreement with the provider that reflects the new, higher speed commitment and consider

<sup>4</sup> For example, eligibility for FCC E-rate or Rural Health Care program funding or registration with an appropriate regulatory agency may constitute such evidence, but the Eligible Entity may rely on other reliable evidence that is verifiable by a third party.

the locations in that area served with the higher speed.

A helpful footnote clarifies the contemplated scenario using an example:

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.

The OBO recognizes the merit of this policy suggestion since there could be opportunities to secure commitments to deploy 100/20 service at no cost in BEAD program outlay. Because we cannot foresee with confidence whether such opportunities will exist, it is premature to elaborate on the details for how such commitments to escalate service commitments would be negotiated and legally secured. But the OBO encourages any ISPs that may find themselves threatened with overbuilding by BEAD-subsidized competitors to reach out to the OBO and discuss their options for escalating existing service commitments to 100/20 speeds through an agreement with the OBO, and thereby preventing BEAD competition for the areas of those commitments.

#### **1.4.6.3 Optional Challenge Module: Area and MDU Challenge**

NOTE: The state of Oklahoma plans to adopt and implement the optional challenge module referred to in the Initial Proposal Guidance as “Area and MDU Challenges,” and described as follows:

The OBO plans to administer area and multi-dwelling units (MDU) challenges for challenge types A, D, and T. An area challenge reverses the burden of proof for availability, speed, latency, data caps and technology if a defined number of challenges for a particular category, across all challengers, have been submitted for an ISP. Thus, the ISP receiving an area challenge or MDU must demonstrate that they are indeed meeting the availability, speed, latency, data cap and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. The ISP can use any of the permissible rebuttals listed above.

An area challenge is triggered if six or more BSLs using a particular technology and a single ISP within a census block group are challenged.

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

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

#### **1.4.6.4 State Challenge Modifications to Leverage FCC Challenge Process**

##### **1.4.6.4.1 State Modification: Tract Challenges**

Area challenges for availability need to be rebutted with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer representative random samples of the area in contention, but at least 10, where the ISP has to demonstrate service availability and speed (e.g., with a mobile test unit). While the OBO anticipates that challenges may become a part of both described area challenges, the OBO plans

to use an automated system to ensure that duplicative efforts are kept to a minimum during the rebuttal period.

In addition, a tract area challenge is triggered if 30 or more BSLs using a particular technology and a single ISP within a census tract, including at least one location in every census block group within that census tract, are challenged.

Explanation for the OBO amendment: This amendment to the area challenge extends its logic to encompass cases of more geographically extensive misreporting. Because two locations in a census block group will generally be more similar than two locations in a census tract, a higher standard of evidence will be required to establish the likelihood that the location is underserved in terms of the number of locations.

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

The OBO will treat locations within a census block group that the National Broadband Map shows to be served as unserved or underserved if (1.) six or more broadband serviceable locations using a particular technology and a single ISP within a census block group were subject to successful availability challenges through the FCC's challenge process and (2.) the location would be unserved or underserved if not for the challenged service. The location's status would change to the status that would have been assigned to the location without the challenged service. Challenge records will be taken from [broadbandmap.fcc.gov/data-download/challenge-data](https://broadbandmap.fcc.gov/data-download/challenge-data).

It should be noted that scenarios may arise in which *some* FCC challenges in a census block group will be upheld, while others were not. In this case, challengers are *not* obligated, although they are encouraged, to notify the OBO of challenges that were not upheld, and which might therefore tend to weigh against the validity of the challenge. However, if an ISP is rebutting an area challenge in a census block group where many challenges previously made to its coverage claims in that area were not upheld by the FCC, it can include that information in its rebuttal, and the OBO may deem that it justifies a decision not to reverse the burden of proof with respect to coverage claims in that area.

The following entries in the outcome field will be treated as a successful challenge:

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

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

Explanation for the OBO amendment: This modification applies the logic of the area challenge module to challenges already filed through the FCC challenge process. FCC challenges reflect relatively recent cases, in which ISPs and challengers had an opportunity to provide evidence about the service available at a given location, subject to adjudication by a third party (the FCC). Cases in which six FCC challengers were successful in a single census block likely reflect more extensive mapping inaccuracies (just as six successful challenges through the state challenge process justify changes under the area challenge module).

#### **1.4.6.4.3 State Modification: Eligibility Status Changes based upon FCC Challenge Data**

BSLs where successful challenges were filed through the FCC challenge process will be counted toward availability or technology area challenges against the challenged ISP, technology, and challenge type. For instance, in a census block group where an FCC challenge was upheld for one location against a given provider and technology, five — rather than six — state challenges against that provider and technology in the same census block group would trigger an area challenge. Again, successful FCC challenges do not need to be balanced against unsuccessful FCC challenges in the same areas for purposes of compiling and submitting an area challenge, but unsuccessful challenges are relevant information to include in a rebuttal and may be a reason to reject the area challenge. Challenge records will be taken from [broadbandmap.fcc.gov/data-download/challenge-data](https://broadbandmap.fcc.gov/data-download/challenge-data) The following entries in the outcome field will be treated as a successful challenge:

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

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

#### 1.4.6.4 Transparency Plan

To ensure the challenge process is transparent and open to public and stakeholder scrutiny, the OBO 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 OBO 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. Relevant stakeholders can sign up on the OBO’s website (<https://oklahoma.gov/broadband.html>) for challenge process updates and newsletters. They can also engage with the OBO by a designated email address ([broadband@broadband.ok.gov](mailto:broadband@broadband.ok.gov)). Currently, the OBO is in the process of collecting contact information for all local government officials, including both phone and email. Additionally, the OBO has been iteratively building contact lists for all CAI entities as defined by the OBO. Over the coming months and during the duration of the grant’s life, the OBO will be in monthly communication with stakeholders to ensure that transparency and communication is consistent.

Beyond actively engaging relevant stakeholders, the OBO will also post 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 census block group containing the challenged BSL,
- the ISP being challenged,
- the type of challenge (e.g., availability or speed), and
- a summary of the challenge, including whether an ISP submitted a rebuttal.

The OBO 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 OBO will review the basis and summary of all challenges and rebuttals to ensure PII is removed prior to posting them on the website. Additionally, guidance will be provided to all challengers as to which information they submit may be posted publicly.

- The OBO will treat information submitted by an existing ISP 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, as outlined by the Oklahoma Administrative Code 93:10-3-2, that information should be identified as privileged or confidential. Otherwise, the responses will be made publicly available. Additionally, the OBO will uphold the Code of Federal Regulations Title 10/Chapter1/Part 51/Subpart A/ § 51.16, which outlines the management of propriety information.

### 1.5.1 Public Comment

*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.*

*The Eligible Entity must describe how it conducted a public comment period for no less than 30 days, provide a high-level summary of the comments received, and demonstrate how the Eligible Entity incorporated feedback in its Initial Proposal submission, as applicable. The Eligible Entity is not required to respond to all individual comments but must capture where public comments impacted the contents of the Initial Proposal submission.*

The OBO posted the Initial Proposal Volume I for public comment from September 20 – October 20, 2023. The posting included the current list of CAIs. Both documents were publicly available for Oklahomans to access on the OBO website. Comments on the Initial Proposal Volume I, including the CAI list, were submitted to [BEAD@broadband.ok.gov](mailto:BEAD@broadband.ok.gov).

The OBO promoted the public comment period for the Initial Proposal Volume I to ensure that residents, CAIs, industry, local government, community-based organizations, and other entities were aware of the document and could provide feedback.

Key outreach activities included:

- [Press release](#) on September 20, 2023
- Promotion of public comment period at *Oklahoma's Digital Promise* listening tour stops
- Hobart – October 3, 2023
- Muskogee – October 5, 2023
- Krebs – October 11, 2023
- Burns Flat – October 12, 2023
- Atoka – October 17, 2023
- Oklahoma City – October 19, 2023
- Miami – October 20, 2023
- Announcement at Oklahoma Broadband Governing Board meeting on October 10, 2023
- Promotion during regular stakeholder meetings
- Emails to stakeholder groups and tribal governments

- Social media promotion, including LinkedIn

The OBO received 12 public comments from organizations and individuals representing ISPs, state agencies, residents, and community-based organizations. These comments provided support for key decisions in the Initial Proposal Volume I, and offered feedback on proposed changes. The OBO engaged in substantive review of these public comments and made updates to the Initial Proposal Volume I as appropriate. The key themes from the public comments and impacts on the content of the Initial Proposal Volume I are discussed below.

Several respondents provided comments about CAIs, including updated broadband availability and speed data for some institutions listed. The OBO has made updates to the CAI list based on provided broadband availability information and will continue to partner with commenters, including the Oklahoma Universal Service Fund administrator, to ensure accurate representation of broadband availability. The OBO will keep the current definition of CAI as noted in Section 1.3.

A few commenters provided updated information about existing broadband funding sources. The table in Section 1.1 has been updated to include a more comprehensive list of existing sources of funding to deploy broadband infrastructure and close the digital divide.

One commenter provided detailed feedback and analysis about MDUs, citing several scenarios where the availability of broadband services at an MDU BSL does not equate to the same availability across all units within the location, including challenges with DSL, fixed wireless installation, and location of ISP equipment. The OBO has accepted the DSL modification to underserved, as described in Section 1.4, and has adopted the Area and MDU challenge, as described in Section 1.4.1.3. While the commenter recommended some changes that, in their view would improve the process, the OBO declines to make those changes because it prefers to stay aligned with the NTIA and other states that are likely to adopt the Area and MDU challenge process as suggested in the guidance.

Commenters provided feedback on the reclassification of served, underserved, and unserved locations by various technology types. Two main reclassifications were addressed:

- DSL reclassification  
Commenters provided mixed feedback, with one commenter asking for DSL locations to be classified as “unserved” and another classified as “served.” A third commenter affirmed the proposed classification as “underserved.” The OBO will maintain the reclassification of DSL from “served” to “underserved,” as described in Section 1.4.

To the claim that the initial reclassification of DSL as “underserved” is incompatible with the language of the IIJA statute, it is the OBO’s understanding that (a.) DSL service that is actually capable of delivering 100/20 service *does* still qualify as “served,” but (b.) the NTIA deems it reasonable for states to make a general judgment call that since DSL often struggles to meet the 100/20 standard, they can transfer the burden of proof of 100/20 coverage by DSL back to the ISPs making the coverage claims, for them to vindicate in the challenge process. The OBO finds this reasonable and is choosing to follow the NTIA’s lead, but will correct course if the NTIA reverses its determination and advises that reclassification of DSL as underserved is not allowable. ISPs who believe they are providing 100/20 coverage using DSL technology are welcome to use the challenge process to provide evidence in support of their claims and seek to remove the locations thus served from the BEAD eligible list.

To other commenters who advised the OBO to reclassify DSL as *unserved* — i.e., as lacking in

25/3 coverage — the OBO responds that (a.) it is not clear from available guidance that the NTIA favors this modification or deems it allowable, and (b.) 25/3 service, unlike 100/20 service, does not seem beyond the reach of what DSL commonly achieves, therefore a general dismissal of provider-reported claims of 25/3 DSL coverage does not seem epistemically well-motivated. However, the OBO strongly encourages Oklahomans whose best-available service is DSL that offers less than 25/3 to check the map and make sure they qualify as unserved, and if not, to challenge any providers whose coverage claims are getting in the way of the unserved tier of prioritization for BEAD funding to which their degree of broadband need entitles them.

- **Fixed wireless reclassification**  
Commenters provided feedback on reclassifying fixed wireless from “served” to “unserved” or “underserved,” citing median cellphone speed test data being under 100/20 and the difficulties predicting wireless performance. The OBO, however, will continue to classify fixed wireless access as “served.” Two reasons for this decision are: (a.) the lack of official guidance from NTIA clarifying that a general reclassification of licensed fixed wireless coverage locations as underserved is allowable, and (b.) the large extent of the broadband coverage gaps in the state, relative to available funding, makes it inadvisable to overbuild licensed fixed wireless coverage that can plausibly claim 100/20 speeds. However, as with DSL, the OBO urges Oklahomans whose best-available internet service is licensed fixed wireless that provides inadequate speeds to check their BEAD eligibility status, make sure they are entitled to proper prioritization based on their degree of broadband need, and if not, utilize the challenge process to provide evidence that they ought to be reclassified as underserved or unserved.

Most commenters provided feedback on the challenge process. The table in Section 1.4.1.2 is exhaustive of all accepted challenge types. These comments included:

- **Planned service challenge**  
Commenters raised concerns about a June 30, 2024, cut-off date for the planned service challenge, given unknown dates about the start of the challenge process and other delays that may occur, and asked for a revision. The OBO considered these comments and updated the date to January 1, 2025, which is reflected in Section 1.4.1.2.

This change makes excellent sense in one way, since the OBO can leverage existing, privately funded plans to make progress toward statewide goals. When ISPs are already building networks, making grants for projects that would overbuild them is not a good use of BEAD funds.

On the other hand, to allow non-binding plans to deploy broadband service to affect locations’ BEAD eligibility creates a risk that ISPs will (a.) make planned service challenges, thereby (b.) causing some locations that are unserved or underserved and otherwise lack deployment commitments to be removed from the BEAD eligibility list, but then (c.) the ISPs who make the planned service challenges will delay or entirely fail to carry out their deployment plans, resulting in broadband needs being left unmet. That is why the OBO is not moving the deadline forward for completing projects that were the basis for planned service challenges, as much as some commenters desired. If ISPs promise to build by January 1, 2025, but do not accomplish this, the OBO will still be in the midst of BEAD subgrantee selection, and may be able to find other solutions to bridge the coverage gaps.

The OBO strongly discourages ISPs from making planned service challenges unless they are highly confident that they can deploy by January 1, 2025, and then make sure to get the

projects done. The OBO has some authority for clawbacks and fines, depending on the circumstances, and may exercise such authority in cases where planned service challenges unduly disrupt BEAD subgrantee selection and disadvantage the populations of the locations affected.

- **Area and MDU challenges**  
Some changes were suggested, but OBO chose to align closely with the NTIA guidance to monitor and implement best practices being utilized in other states.
- **Speed test challenge**  
Some comments related to speed test challenges reflected confusion resulting from a failure to update some language from the NTIA's model challenge process. To address this, the OBO removed the speed and latency rows in the table in Section 1.4.1.2, to reflect that those are not acceptable challenges.
- **Enforceable commitment challenge**  
A commenter raised concern about the types of evidence that would be acceptable for challenges and rebuttals of this category. This comment relates to a scenario in which locations have been mistakenly included in the BEAD eligible location list, even though legally enforceable funded commitments to deploy broadband, using reliable technologies at speeds of 100/20 or faster, already exist. The OBO expects that it will not be difficult to establish the existence of broadband funding commitments using reliable technologies at 100/20 or faster speeds. Nonetheless, the OBO advise challengers who find that existing deployment commitments have failed to be reflected in OBO's definition of BEAD eligibility lists to supply evidence that is as ample as possible in support of the commitments, including current status, technology and speed standards, and specific locations targeted. The explanatory text in connection with enforceable commitments in the Challenge Types table has been updated to include this warning.

Commenters raised concerns about the process for citizen-originated corrections during the challenge process. The OBO will serve as facilitator to support local municipalities and/or community-based organizations collecting challenge information, as described in Section 1.4.6.1. Citizen-originated corrections in the challenge portal will be directed to the appropriate local or tribal government contact to review the challenge. If the local or tribal government chooses to participate in the process and endorses the challenge, they are classified as the challenger and can submit the challenge. The OBO believes the evidence criteria for submission are sufficient to not require certification, as recommended by one commenter. Additional details to clarify the process have been added to the section.

Additionally, commenters provided feedback on the 14-day window for ISP rebuttals to proposed challenges. The OBO has updated the rebuttal window discussed in Section 1.4.1.2 to reflect a 30-day window to rebut challenges.

Commenters asked for clarification on whether the OBO intends to use the most recent FCC mapping data for location and funding decisions. The OBO has updated Section 1.2 to reflect the use of the November 2023 FCC National Broadband Map (or most current version) for the challenge process and funding decisions.

To add further clarity to the document, based on comments received, the OBO has added footnotes with definitions, citations, and clarifications from the NTIA BEAD Model Challenge Process document to ensure clarity for readers.

Some other updates to Oklahoma's Initial Proposal Volume I have been made in response to questions and feedback from the NTIA. These changes include language about the possibility of multiple challenges based on the same evidence, in section 1.4.6.1, and language explaining that unsuccessful FCC challenges do not automatically invalidate area challenges yet may affect the determination of whether area challenges warrant a reversal of the burden of proof in census block groups subject to these challenges.