

The State of Rhode Island

Rhode Island Commerce Corporation



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FAST & AFFORDABLE INTERNET FOR ALL

Broadband Equity, Access, and Deployment (BEAD) Program

Initial Proposal *Volume 1*

November 3, 2023

Preliminary Draft for Public Comment | Subject to Change

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Dear Fellow Rhode Islanders,

The Rhode Island Commerce Corporation (Corporation) is pleased to share Volume 1 of Rhode Island's Initial Proposal for the Broadband Equity, Access, and Deployment (BEAD) Program. Volume 1 articulates the Corporation's response to the third (3rd), fifth (5th), sixth (6th), and seventh (7th) requirements of the Initial Proposal, as articulated in the National Telecommunications and Information Administration's (NTIA) notice of funding opportunity. The Corporation will articulate its responses to NTIA's other Initial Proposal requirements in the forthcoming Volume 2.

The Corporation welcomes your input and comments – we invite all Rhode Islanders and other stakeholders to review this document and provide feedback during the public comment period, beginning November 3, 2023, and ending December 4, 2023. The Corporation will review and consider all feedback submitted via the comment form, available at <https://commerceRI.com/broadband>.

The Corporation created this document as part of its ConnectRI program, which is responsible for allocating federal broadband dollars from BEAD, the Digital Equity Act (DEA, which NTIA administers), and the Capital Projects Fund (CPF, which the Department of the Treasury administers). ConnectRI aims to achieve universal service and work toward digital equity, driven by the following principles (informed by the state's needs and federal guidance): expand fiber infrastructure in the state, eliminate cost as a barrier, and foster an inclusive digital advancement ecosystem.

Should you have any questions, please contact ConnectRI via email at broadband@commerceri.com (note that comments will not be accepted via email; all comments must be submitted via our online form). For more information about the Corporation and ConnectRI, please visit <https://commerceri.com/broadband>.

Sincerely,



Brian Thorn

Director of Broadband Strategy, Rhode Island Commerce Corporation

Definitions and Abbreviations

| | |
|----------------|---|
| ARPA | American Rescue Plan Act |
| BEAD | Broadband Equity, Access, And Deployment |
| BSL | Broadband Serviceable Location |
| CAIs | Community Anchor Institution |
| CPF | Capital Projects Fund |
| DEA | Digital Equity Act |
| DSL | Digital Subscriber Line |
| FCC | Federal Communications Commission |
| HFC | Hybrid Fiber-Coaxial |
| HIFLD | Homeland Infrastructure Foundation-Level Data |
| HUD | Housing And Urban Development |
| IP | Internet Protocol |
| IRS | Internal Revenue Service |
| ISBA | Independent Small Business Enterprise |
| ISP | Internet Service Provider |
| MDU | Multi-Dwelling Unit |
| NCES ID | National Center for Education Statistics Identification |
| NCOA | National Council on Aging |
| NHPD | National Housing Preservation Database |

| | |
|--------------------|--|
| NTIA | National Telecommunications and Information Administration |
| OCR | Optical Character Recognition |
| ONT | Optical Network Terminal |
| PII | Personally Identifiable Information |
| PSAPs | Public Safety Answering Points |
| Corporation | Rhode Island Commerce Corporation |
| USAC | Universal Service Administrative Company |

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1.1 Existing Broadband Funding (Requirement 3)

1.1.1 Attachment: Existing Broadband Funding

As a required attachment, submit the file identifying sources of funding, a brief description of the broadband deployment and other broadband-related activities, the total funding, the funding amount expended, and the remaining funding amount available. Eligible Entities may copy directly from their Five-Year Action Plans.

The State is set to receive a total of \$108.7 million from the National Telecommunications and Information Administration’s (NTIA) Broadband Equity, Access, and Deployment (BEAD) program for investments in last-mile broadband infrastructure to bring high-speed, reliable broadband service where it is needed the most. The State has also received a Digital Equity Planning Grant from the Digital Equity Act (DEA) to plan for digital equity efforts and will receive a Digital Equity Capacity Grant to implement digital equity and inclusion initiatives. These federal funding sources complement a \$25 million investment that the State has made to new broadband infrastructure from the Department of the Treasury’s Capital Projects Fund (CPF), part of the American Rescue Plan Act (ARPA). The Rhode Island Commerce Corporation (Corporation) will ensure throughout that funding provided by the BEAD program will not be duplicative to other funding sources.

Details of current broadband funding available are provided in the following table, a copy of which is available for download [here](#).

| Source | Purpose | Total | Expended | Available |
|-------------------|---|----------------------------|------------------------|---------------------------|
| NTIA BEAD Program | State planning and implementation grant for BEAD, | \$108,718,821 ¹ | \$199,896 ¹ | Available: \$4,800,104 |

¹ Current expenditure as of Sept. 13, 2023. While only about \$200,000 of the initial NTIA BEAD planning funds have been expended at this time, the remaining \$4.8M has been budgeted for administration, technical assistance, community engagement, vendor support, and other supports for our state planning process.

| Source | Purpose | Total | Expended | Available |
|-------------------------------------|--|--------------|------------------|--|
| | from Bipartisan Infrastructure Law | | | Forthcoming: \$103,718,821 Total: \$108,518,925 |
| NTIA DEA Program | State planning and implementation grant for Digital Equity, from Bipartisan Infrastructure Law | \$506,100 | \$0 ² | \$506,100 |
| U.S. Treasury Capital Projects Fund | ARPA Capital Projects Fund for broadband infrastructure and deployment. A portion of the state's aware is reserved for creating broadband infrastructure | \$24,956,500 | \$0 ³ | \$24,956,500 ⁴ |

² While no NTIA DEA funds have been expended at this time, the full \$506,100 has been budgeted or obligated for the Corporation's broadband personnel, vendor support, or community engagement activities.

³ While no US Treasury CPF funds have been expended at this time, \$798,002 has been budgeted for administration, technical assistance, and community engagement; \$1,000,000 has been budgeted or obligated for vendor support; and the remaining \$23,158,498 is budgeted for 100/100 Mbps broadband infrastructure subgrants.

⁴ The Corporation is responsible for administering Capital Projects Funds in Rhode Island. These funds will be awarded in early 2024. Where necessary, the Corporation will facilitate the deduplication of these funds through the Challenge Process.

| Source | Purpose | Total | Expended | Available |
|--|---|-------------|----------|-------------|
| FCC Rural Digital Opportunity Fund (RDOF) ⁵ | FCC Rural Digital Opportunity Fund (RDOF) for rural broadband development in remote or otherwise difficult to access rural areas. | \$1,273,784 | \$10,205 | \$1,263,579 |

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⁵ RDOF Funds in Rhode Island were granted to Hughes Network, a satellite provider, which does not conflict with Priority Broadband Projects.

1.2 Unserved and Underserved Locations (Requirement 5)

1.2.1 Attachment: Unserved Locations

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

A list of unserved locations, as defined by NTIA and FCC, is available [here](#).

1.2.2 Attachment: Underserved Locations

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

A list of underserved locations, as defined by NTIA and FCC, is available [here](#).

1.2.3 Date Selection

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

The Corporation identified unserved locations and underserved locations from v2 of the BSL Fabric released December 31, 2022, and BDC filings, updated on September 26, 2023.

1.3 Community Anchor Institutions (CAIs) (Requirement 6)

1.3.1 CAI Definition

Describe how the statutory definition of “community anchor institution” (e.g., schools, libraries, health clinics) was applied, how eligible CAIs were identified, and how network connectivity needs were assessed, including the types of CAIs that the Eligible Entity intends to serve.

The Corporation has included Community Anchor Institutions (CAIs) as defined by NTIA’s BEAD Program, including schools (including higher educational institutions), libraries, health care facilities, public safety entities, public housing (including any public housing agency, Housing and Urban Development-assisted housing organization, or Tribal housing organization), and community support organizations. Community support organizations – examples being senior centers, community action program centers, job and education centers, and non-profits – are understood to be those institutions that facilitate broadband use for covered populations⁶, as defined by the Digital Equity Act (DEA), such as unemployed or underemployed individuals, low-income individuals and/or aging individuals.

For each category of CAIs, the Corporation has expanded upon the definition of such category to include CAIs that serve local communities throughout Rhode Island. These expanded definitions include certain additional municipal buildings where public spaces and resources can be used and accessed by all, such as local town halls, and correctional facilities, where incarcerated individuals can utilize broadband resources to further their education, career, and other rehabilitative endeavors.

Community Anchor Institutions were identified by the Corporation through a large-scale public engagement process which began with an identification of CAIs through

⁶ “Covered Populations” include: (1) individuals who live in low-income households, (2) aging individuals, (3) incarcerated individuals, other than individuals who are incarcerated in a Federal correctional facility, (4) veterans, (5) individuals with disabilities, (6) individuals with a language barrier, including individuals who are English learners and have low levels of literacy, (7) racial and ethnic minorities, and (8) rural inhabitants. See Digital Equity Act Sec. 60302(8) and 47 U.S. Code 1702 (a)(2)(E) in the definition of “Community Anchor Institution.”

consultation with various state sources and databases containing lists of locations falling into those categories, such as schools, hospitals, public safety answering points (PSAPs), and homeless shelters. This work has been continuously updated through the Corporation’s Digital Equity Ecosystem Mapping Tool, linked [here](#). This online tool enumerates all CAIs within Rhode Island, and solicits input from each CAI regarding their programs, services, and eligibility to receive support from BEAD programs.

To identify CAIs on Tribal Lands, the Corporation sought input from the Narragansett Indian Tribe (Tribe), the only federally recognized tribe in Rhode Island. Attempts to contact the Tribe have thus far been unsuccessful; as such, the Corporation identified CAIs listed on the Tribe’s website and institutions found on public mapping websites (e.g., Google Maps).

To assess the connectivity needs of relevant CAIs, the Corporation used National Broadband Map data and the network maps of several ISPs to identify CAIs that lacked access to broadband infrastructure that can provide speeds of at least 1 Gbps (1000 Mbps) symmetrically. Those CAIs with available download and upload speeds of less than 1 Gbps were determined to have sufficient need for BEAD funding. CAIs that do not subscribe to 1 Gbps symmetrical service, even where it is available, are designated as “served” and therefore not included as an unserved or underserved CAI.

The following table enumerates all CAI categories the Corporation has identified:

| Code | CAI Category | Definition | Sources |
|------|--------------|--|---|
| S | Schools | K-12 public or private schools with a National Center for Education Statistics (NCES) ID or primary and secondary education facilities identified by the NCES or are a part of the FCC E-Rate program. | National Center for Educational Statistics, US Department of Education, Universal Service Administrative Company (USAC) |

| Code | CAI Category | Definition | Sources |
|------|------------------------|---|--|
| | | | Open Data |
| L | Libraries | All public libraries, including those participating in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association (ALA) | USAC Open Data |
| H | Health care facilities | Health clinics, health centers, hospitals, or other medical providers that have a Centers for Medicare and Medicaid Services (CMS) identifier. | Homeland Infrastructure Foundation-Level Data (HIFLD), US Department of Veteran Affairs, CMS |
| F | Public safety entities | Public safety entities may include fire houses, emergency medical service stations, police stations, among others, as well as public safety answering points (PSAPs) | HIFLD, US Geological Survey, Department of Justice, FCC PSAP registry |
| U | Higher education | Any higher educational institution whose NCES ID category is “College.” Examples include: Colleges and universities, junior colleges, community colleges, minority serving | NCES |

| Code | CAI Category | Definition | Sources |
|------|---------------------------------|--|--|
| | | institutions ⁷ , tribal colleges ⁸ , supplemental colleges ⁹ and other higher educational institutions | |
| P | Public housing facilities | Any public housing agency, HUD-assisted housing organization or Tribal housing organization. Homeless shelters and affordable housing common areas or community spaces are also included in this category. | US Department of Housing and Urban Development (HUD), National Housing Preservation Database (NHPD) |
| C | Community support organizations | Organizations which facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. The Corporation defines the following as community support organizations: <ul style="list-style-type: none"> - Community action agencies, including non-profits - Government buildings where residents gather, such as town halls, courthouses, and tribal administrative buildings | Department of Labor “American Job Center” database, National Council on Aging (NCOA), Internal Revenue Service (IRS), HIFLD, RI Department of Human Resources, RI Department of Corrections, Federal Bureau of |

⁷ The Corporation added this example, as it was not included by NTIA.

⁸ The Corporation added this example, as it was not included by NTIA.

⁹ The Corporation added this example, as it was not included by NTIA.

| Code | CAI Category | Definition | Sources |
|------|--------------|--|---------|
| | | <ul style="list-style-type: none"> - Correctional facilities - Cultural centers such as houses of worship, organizations around ethnic identity or immigration status, or other identity-based community centers - Community centers such as the Boys and Girls Club or the YMCA - Job training or workforce development centers - Senior centers - Transit centers¹⁰ | Prisons |

1.3.2 Attachment: CAIs

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.

For CAIs of type C, provide a brief explanation of how the institution facilitates greater broadband use and the population it serves, either as text or as a reference to a longer explanation accompanying the submission. For example, the submitter may define a set of sub-categories of CAI category C and describe how they meet the conditions.

¹⁰ The Corporation added the following examples, as they were not included by NTIA: community action agencies, cultural centers, community centers, transit centers.

A list of eligible community anchor institutions that require qualifying broadband service and do not currently have access to such service, to the best of the Corporation’s knowledge, is available for download as a CSV file [here](#). Please note that the Corporation created this list on a best-efforts basis, as directed by NTIA, and that additional CAIs may be added over time.

Community support organizations (CAIs of type C) identified by the Corporation are categorized into one of eight groups: (1) Community action agencies (2) government buildings, (3) correctional facilities, (4) cultural centers, (5) community centers, (6) workforce and job training centers, (7) senior centers, or (8) transit centers. A brief description of each group and a brief explanation of how each institution facilitates greater broadband use is contained within the following table:

| Institution | Description | How they facilitate greater broadband use |
|---------------------------|---|---|
| Community action agencies | Community action agencies serve the community through providing in-person social services and resources for vulnerable populations. These agencies serve a wide range of populations, including low-income families, seniors, and people with disabilities. | Community action agencies offer clients discounted internet service. They also provide digital literacy training and other resources to help clients learn how to use broadband to access essential services and information. Community action agencies also provide public computers and internet access in community rooms or other common areas. |
| Government buildings | Government buildings are the local, county, state, tribal, and federal government buildings where Rhode Island residents are likely to | Rhode Islanders of all backgrounds gather regularly at town halls and tribal administration buildings; access to high-speed broadband at these locations will improve digital equity, increase civic engagement, |

| Institution | Description | How they facilitate greater broadband use |
|-------------------------|--|---|
| | gather, such as town halls, courthouses or tribal administrative buildings. | improve transparency and accountability, and expand access to services. |
| Correctional facilities | Correctional facilities include residential detention centers or juvenile detention centers which house incarcerated individuals. | Correctional facilities require high-speed connectivity so incarcerated individuals can utilize online resources to further their education, career, and other rehabilitative endeavors. |
| Cultural centers | Cultural centers provide community around race, ethnicity, religion, or immigration status, serving members of those groups at a physical location for community gathering and services or programs. | Cultural organizations are a hub for religious and ethnic communities to gather. Some organizations offer classes in digital literacy and skills trainings, or provide a location for students to study or use computers provided in common spaces. |
| Community centers | Community centers serve all members of the community, regardless of age, income, or education level. | Community centers offer digital literacy classes, computer workshops, and other programs to help people learn how to use broadband. They also provide public computers and internet access to residents who may not have access at home, including children in after school programs. |

| Institution | Description | How they facilitate greater broadband use |
|---------------------------------------|---|---|
| Workforce development and job centers | Workforce development and job centers serve people who are looking to train for new jobs or advance their careers. These facilities are often used by unemployed and/or low-income individuals. | Workforce development centers can offer digital literacy training and other resources to help participants learn how to use broadband to find jobs, research training opportunities, and complete online courses. Job training or workforce development centers also provide public computers and internet access in community rooms or other common areas. |
| Senior center | Senior centers serve older adults, typically those aged 60 and over. | Senior centers offer digital literacy classes, computer workshops, and other programs to help older adults learn how to use broadband. They also provide public computers and internet access to older adults who may not have access at home. |
| Transit centers | Transit centers serve people who use public transportation to get around. | Transit centers can provide internet access to riders while they are waiting for their bus or train. Public transportation is typically used by low-income individuals compared to other populations. |

1.4 Challenge Process (Requirement 7)

1.4.1 NTIA BEAD Model Challenge Process Adoption

Select if the Eligible Entity plans to adopt NTIA Challenge Process Model for Requirement 7

The Corporation will modify NTIA Challenge Process Model to accommodate Rhode Island's Area Speed Test Pre-Challenge Reclassification process. Rhode Island's Challenge Process will be substantially similar to NTIA Challenge Process Model, but with several important modifications.

1.4.2 Modifications to Reflect Data Not Present in the National Broadband Map

If applicable, describe any modifications to classification of broadband serviceable locations in the Eligible Entity's jurisdiction as "served," "underserved," or "unserved," and provide justification for each modification.

Rhode Islanders from all parts of the state and from diverse groups have reported to the Corporation that they lack access to affordable, high-speed broadband. In listening sessions, workshops, round table discussions, survey responses, speed test submissions, and other forums, Rhode Islanders consistently report they are unable to access broadband with download speeds greater than or equal to 100 Mbps and/or upload speeds greater than or equal to 20 Mbps. These reports stand in stark contrast with the National Broadband Map, which classifies ~99.3 percent of locations as served (the National Broadband Map classifies only 2,895k locations in Rhode Island, ~0.7 percent of all locations, as either underserved or unserved).

To reflect the reality of broadband in Rhode Island, ensure the most accurate broadband data maps inform the ConnectRI program, and rectify the differences between the experiences of Rhode Islanders and the data within the National Broadband Map, the Corporation will the modify NTIA Challenge Process Model and

undertake a reclassification process to create the Rhode Island Broadband Map, following NTIA's approval of Rhode Island's Initial Proposal.¹¹ The Rhode Island Broadband Map will not (a) add or remove locations from the set of broadband serviceable locations the Federal Communications Commission has identified on the National Broadband Map, nor (b) change the definitions of "unserved" and "underserved" from those set forth in the Infrastructure Act. The Rhode Island Broadband Map, however, will modify the designation of a location as served, underserved or unserved on the National Broadband Map using the following approach:

1. **National Broadband Map:** First, as required by NTIA, the Corporation's identification of unserved and underserved locations started with the latest version of the FCC's National Broadband Map. Unserved locations are defined as those locations with access to download/upload speeds less than 25/3 Mbps. Underserved locations are defined as those locations with access to download/upload speeds greater than or equal to 25/3 Mbps and less than 100/20 Mbps.
2. **Optional Module 2 – DSL Modifications:** Second, the Corporation 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

¹¹ NTIA states in the Challenge Process Policy Notice that "[a]s part of Volume 1 of the Initial Proposal, an Eligible Entity may, upon approval of the Assistant Secretary, modify the set of locations it proposes to make eligible for BEAD funding to reflect data not present in the National Broadband Map." For example, an Eligible Entity may propose to NTIA that it modify the National Broadband Map before the challenge process by "treat[ing] as 'underserved' locations that the National Broadband Map shows to be 'served' if rigorous speed test methodologies demonstrate that the 'served' locations actually receive service that is materially below 100 Mbps downstream and 20 Mbps upstream." Once NTIA has approved an Eligible Entity's proposed methodology for modifying the National Broadband Map (as well as modifying the map to reflect the deduplication process), the Eligible Entity "will complete" such modification, and "[t]he set of eligible locations established after execution of these pre-challenge process requirements will then be the subject of the challenge process." - See National Telecommunications and Information Administration, U.S. Department of Commerce, Broadband Equity, Access and Deployment Program, BEAD Challenge Process Policy Notice at 9-10 ("Challenge Process Policy Notice").

and ensure the delivery of “future-proof” broadband service. This designation cannot be challenged or rebutted by the ISP.

3. **Optional Module 3 – Speed Test Modifications:** Third, the Corporation will treat as “underserved” locations that the National Broadband Map shows to be “served” if rigorous speed test methodologies (i.e., methodologies aligned to the BEAD Model Challenge Process Speed Test Module) demonstrate that the “served” locations actually receive service that is materially below 100 Mbps downstream and 20 Mbps upstream. This modification will better reflect the locations eligible for BEAD funding because it will consider the actual speeds at these locations. As described below, such speed tests can be challenged by the ISP during the Challenge Process.
4. **Area Speed Test Reclassification:** Fourth, the Corporation proposes to use the results of hundreds of thousands of speed tests conducted by Ookla (collected in a 12 month period – October 2022 to October 2023, as of the publication of this Proposal)¹² to identify those Broadband Service Locations (BSLs) in Rhode Island that are classified as “served” in the Federal Communication Commission’s (FCC’s) National Broadband Map, but which actually receive service that is materially below 100/20 Mbps (download/upload).¹³ Accordingly, Rhode Island will reclassify BSLs located in census blocks that speed tests show as lacking access to reliable, high-speed broadband service (download speeds of 100 Mbps or greater and upload speeds of 20 Mbps or greater) as underserved.

¹² The Corporation maintains a license to Ookla data, which is updated monthly. Upon NTIA approval of the Rhode Island Area Speed-Test Pre-Challenge Reclassification process, the Corporation will utilize the data set from the most recent 12-month period. The most recent data set available, as of the publication of this Proposal, is from October 2022 to October 2023.

¹³ Speed test data reveal that thousands of Rhode Island households and many businesses, which the FCC’s National Broadband Map currently classifies as served, experience download/upload speeds less than 100/20 Mbps. The results of these speed tests are aligned with information gathered through the Corporation’s Rhode Island Internet Connectivity Survey and scores of interviews with stakeholders from across the state.

- a. *Notification of Speed Test Reclassifications:* Rhode Island will notify ISPs that offer broadband service in census blocks that have been reclassified of the reclassified status of the BSLs in those census blocks. ISPs will be given the opportunity to rebut the area reclassifications by submitting speed tests of their own during the state-administered challenge process. Rhode Island hopes and expects that, by utilizing both the results of the Ookla speed tests in the pre-challenge area reclassification process and ISP-conducted speed tests during the challenge process (along with other information submitted in the state-administered challenge process), the final version of the Rhode Island broadband map will be an accurate and reliable basis for selecting and awarding last-mile broadband projects in the proposer selection process.
- b. *Details regarding the Ookla Broadband Performance Dataset:* The Broadband Performance Dataset is a raw dataset that includes attributes related to the speed tests captured. These attributes include, but are not limited to, date and time, unique test ID, ISP common name, upload and download speed, longitude and latitude, connection type (fixed or mobile), and a GPS reading indicator flag. The speed test data does not include some of the information that is included in the Optional Speed Test Module in the Model Challenge Process. In particular, the Ookla data does not include the address of the BSLs subject to Ookla speed tests, the name of the end user associated with each BSL, or the speed tier the customer subscribes to.¹⁴ The absence of the address of the BSLs does not undermine the reliability or usefulness of the tests because the Ookla data contains a GPS flag that ensures that the Ookla speed tests can be reliably associated with a

¹⁴ See National Telecommunications and Information Administration, U.S. Department of Commerce, Broadband Equity, Access and Deployment Program, BEAD Model Challenge Process at 19 (“Model Challenge Process”) (describing information to be provided with speed tests).

BSL with a 100-meter margin for error.¹⁵ The absence of information regarding the speed tier the customer subscribes to does not undermine the reliability or usefulness of the tests for purposes of download speeds because it is the Corporation’s understanding that all fiber and cable broadband service plans currently offered by ISPs in Rhode Island are advertised to provide download speeds of 100 Mbps or more. Finally, although ISPs offer several broadband service plans in Rhode Island with advertised upload speeds below 20 Mbps, the proposal discussed below addresses this issue by ensuring that ISPs can challenge the area reclassification results by relying solely on speed tests for BSLs where the subscriber subscribes to a broadband service plan with an advertised upload speed of 20 Mbps or more (“Qualifying Subscriptions”).

- i. The Corporation acknowledges that the speed test data does not contain information regarding subscribers’ plans and, therefore, the maximum download and upload speed subscribers are eligible to receive. Rhode Island’s Challenge Process, as described herein, accounts for the absence of subscriber plan information; see section 1.4 for further details regarding Rhode Island’s Challenge Process.

- c. *Methodology for Area Speed Test Reclassification:* Rhode Island will follow a methodology that is consistent with, but more rigorous than, the area challenge process set forth in NTIA’s model challenge process.

¹⁶ The following parameters will apply:

- i. Each Ookla speed test measurement will include:
 1. The time and date the test was conducted,
 2. The ISP-assigned internet protocol (IP) address,
 3. The ISP’s common name, and

¹⁵ Speed test data will be filtered to only include tests that have latitude and longitude data.

¹⁶ See National Telecommunications and Information Administration, U.S. Department of Commerce, Broadband Equity, Access and Deployment Program, BEAD Model Challenge Process at 17-18 (“Model Challenge Process”).

4. The device type.
 - ii. Only speed tests from laptop and desktop computers will be accepted.¹⁷ The Corporation otherwise will use all speed test data in the Broadband Performance Dataset; speed test data will not be “cherry picked” or culled in any way. Only one speed test per location is required.
 - iii. The Corporation will consider each technology and ISP separately. If an ISP offers broadband service utilizing multiple technologies, each technology will be treated separately. In the event that an ISP offers broadband service using multiple technologies to a BSL, that BSL is filtered out of the process and is not eligible to be reclassified even if located in a census block that is reclassified under the methodology described herein. As a result of this approach and the Corporation’s adoption of Optional Module 2: DSL Modifications, the Area Speed Test Reclassification will not apply to BSLs only served by DSL.
 - iv. The Corporation will reclassify all locations within a census block¹⁸ as unserved if six (6) or more locations within that census block experienced download speeds less than 25 Mbps and/or upload speeds less than 3 Mbps.¹⁹
 - v. The Corporation will reclassify all locations within a census block as underserved if six (6) or more locations within that census block experienced download speeds greater than or equal to 25 Mbps and less than 100 Mbps and/or upload speeds greater than

¹⁷ The data set categorizes speed tests into “Attribute Portal Categories,” which will be filtered to exclude “Mobile Broadband” and include “All Fixed” categories, which constitutes laptops or desktops.

¹⁸ NTIA’s Model Challenge Process is conducted at the Census Block Group level; the Corporation has selected conducting our methodology at the Census Block level to be more rigorous than NTIA approach.

¹⁹ Except, as noted, if an ISP offers broadband service to a BSL utilizing multiple technologies, in which case that BSL will not be reclassified.

- or equal to 3 Mbps and less than 20 Mbps.²⁰
- vi. The Corporation will follow the 80/80 rule. Under that rule, if 80 percent of census block locations or greater experienced download/upload speeds equal to or greater than 20/2.4 Mbps (i.e., 80 percent of 25/3 Mbps), the Corporation will not reclassify these locations as unserved. However, these locations remained available to be reclassified as underserved.²¹
 - vii. Similarly, pursuant to the 80/80 rule, if 80 percent of census block locations or greater experienced download/upload speeds equal to or greater than 80/16 Mbps (i.e., 80 percent of 100/20 Mbps), the Corporation will not reclassify these locations as underserved, leaving the National Broadband Map’s classification unchanged.²²
 - viii. The Corporation will specifically note the Location IDs of the BSLs that have been reclassified due to Speed Tests.

1.4.3 Deduplication of Funding – BEAD Eligible Entity Planning Toolkit

Select if the Eligible Entity plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

Yes, the Corporation plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

²⁰ Except, as noted, if an ISP offers broadband service to a BSL utilizing multiple technologies, in which case that BSL will not be reclassified.

²¹ See National Telecommunications and Information Administration, U.S. Department of Commerce, Broadband Equity, Access and Deployment Program, BEAD Model Challenge Process at 19 (“Model Challenge Process”) (describing information to be provided with speed tests).

²² *Ibid.*

1.4.4 Deduplication of Funding – Process

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

Where applicable, the Corporation will enumerate locations subject to enforceable commitments by leveraging the BEAD Eligible Entity Planning Toolkit, and plans to refer to at least the following data sources:

1. The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.8
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. Data sets from state broadband deployment programs that rely on funds from the Connect America Fund (CAF), Frozen High-Cost Support Fund, and Rural Digital Opportunity Fund (RDOF) administered by the Federal Communications Commission.
4. Data sets from state broadband deployment programs that rely on funds from the Tribal Broadband Connectivity Program and Digital Equity Act, administered by NTIA.
5. Rhode Island and local data collections of existing enforceable commitments.

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

The Corporation 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 cases where the broadband speed requirements were not clearly delineated by the State or Corporation, or when there was reason to believe an ISP deployed higher broadband speeds than required, the Corporation will reach out to the ISP to verify the deployment speeds of the binding

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

The Corporation will draw 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.

1.4.5 Attachment: Deduplication of Funding

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 Corporation has assembled a 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, which are also outlined in Section 1.1 Existing Broadband Funding, or Requirement 3 of the Initial Proposal. The file is available [here](#).

1.4.6 Plan to Conduct an Evidence-Based, Fair, Transparent, and Expedient Challenge Process.

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

Based on NTIA BEAD Challenge Process Policy Notice, as well as the Corporation's understanding of the goals of the BEAD program, the Corporation's Volume 1 proposal represents a transparent, fair, expeditious and evidence-based challenge process.

1.4.6.1 Permissible Challenges

The Corporation will only allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by the Corporation,
- Community anchor institution BEAD eligibility determinations,
- BEAD eligibility determinations for existing BSLs,²³
- Enforceable commitments, and
- Planned service.

1.4.6.2 Permissible Challengers

During the BEAD Challenge Process, the Corporation will only allow challenges from non-profit organizations, units of local and tribal governments, and ISPs.

1.4.6.3 Challenge Process Overview

The challenge process conducted by the Corporation will include four phases over 90 days or less, as required by NTIA. As noted below, the timeline for each phase is tentative, as the Challenge Process will not begin until Rhode Island receives approval from NTIA.

The Corporation proposes that Rhode Island's Challenge Process contains the following phases:

1. **Publication of Eligible Locations:** Prior to beginning the Challenge Phases, the Corporation will publish the set of locations eligible for BEAD funding, which consists of the locations resulting from the activities outlined in Sections 5

²³ Including evidence contradicting the Corporation's area speed test reclassifications (applicable only to locations that the Corporation reclassified using speed tests).

and 6 of NTIA BEAD Challenge Process Policy Notice (e.g., administering the deduplication of funding process). The Corporation will also publish locations considered served, as they may be challenged. At the time of publication of eligible locations, the Corporation will notify ISPs of locations they provide service to that are impacted by Speed Test reclassifications. The Corporation will provide an explanation as to how an ISP may utilize its own speed tests to submit a challenge during the next phase of the Rhode Island Challenge Process.

- a. *Timeline:* The Corporation intends to have eligible locations published 7 to 14 calendar days following NTIA's approval of this document (Rhode Island's Volume 1 of the Initial Proposal). The exact dates for the Challenge Process are dependent on NTIA's approval of this document. However, as the Corporation expects NTIA to approve the Initial Proposal on approximately March 4, 2024, the Corporation anticipates it will publish Eligible Locations by March 18, 2024.
2. **Challenge Phase:** A challenger (a non-profit organization, a unit of local and tribal governments, or an ISP) will submit a challenge through the Corporation's challenge portal. This challenge will be visible to all permissible challengers and to the ISP whose service availability and performance is being contested via the challenge portal. 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.
- a. During this phase, ISPs that provide service to locations reclassified because of the Corporation's Area Speed Test Pre-Challenge Reclassification may present evidence using the Corporation's challenge portal to rebut the Corporation's reclassifications based on the speed test modification. For details regarding permissible challenges to the Corporation's Area Speed Test Pre-Challenge Reclassification, see "Evidence & Review Approach – Reclassification Challenges" below.
 - b. In this phase, permissible challengers may submit challenges – based either on speed tests or another permissible challenge approach – to

further support the Corporation’s reclassification of locations because of the Area Speed Test Pre-Challenge Reclassification.

- c. Permissible challengers may submit area or Multi-Dwelling Unit (MDU) challenges during this phase, as described below (see “General Area Challenge and General MDU Challenge” below).
 - d. The Corporation will support non-profit organizations and units of local and tribal governments in aggregating individual challenges via the Corporation’s challenge process portal. This portal will allow individuals to draft challenges and share such challenges with non-profit organizations and units of local and tribal governments. Via the portal, non-profit organizations and units of local and tribal governments will be able to easily review, aggregate, and submit these challenges. Prior to the start of the Challenge Process, the Corporation will provide technical assistance to non-profit organizations and units of local and tribal governments on this element of the portal.
 - e. *Timeline:* Challengers will have thirty (30) calendar days to submit a challenge from the time the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted by the Corporation. The exact dates for the Challenge Process are dependent on NTIA’s approval of this document. However, the Corporation anticipates the Challenge Phase will take place between March 18, 2024, and April 17, 2024.
3. **Rebuttal Phase:** Any permissible challenger may rebut a Challenge 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, and the area or location will be updated to the “sustained” state. A permissible challenger may also agree with the challenge and thus transition the location to the “sustained” state. Permissible challengers must regularly check the challenge portal for notifications of submitted challenges.
- a. *Timeline:* Permissible challengers will have thirty (30) calendar days from the submission of a challenge to provide rebuttal information to

the Corporation. The rebuttal period begins once the ISP is notified of the challenge, and thus may occur concurrently with the challenge phase. The exact dates for the Challenge Process are dependent on NTIA's approval of this document. However, the Corporation anticipates the Rebuttal Phase will take place between April 18, 2024, and May 18, 2024.

4. **Final Determination Phase:** During the Final Determination phase, the Corporation 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 Corporation will make a final challenge determination within thirty (30) calendar days of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received. The exact dates for the Challenge Process are dependent on NTIA's approval of this document. However, the Corporation anticipates the Final Determination Phase will take place between May 19, 2024, and June 18, 2024.

1.4.6.4 Evidence & Review Approach – Challenges to Area Speed Test Reclassification

As described in section 1.4.2 ("Modifications to Reflect Data Not Present in the National Broadband Map"), the Corporation proposes to modify NTIA Challenge Process Model to accommodate Rhode Island's Area Speed Test Pre-Challenge Reclassification process. This modification is primarily in the form of the inclusion of the Area Speed Test Reclassification (see 1.4.2, list item 4). An ISP is eligible to challenge a BSL or a group of BSLs modified by the Corporation because of its Area Speed Test Reclassification via one of the following approaches:

Download Reclassification Area Challenge: If the ISP currently provides service to 12 or more BSLs in a census block that was reclassified due to insufficient download speed results in from Ookla's speed tests (i.e., download speeds less than 100 Mbps), the ISP may seek to reclassify all locations within the census block by providing

speed tests that demonstrate sufficient download speeds (i.e., 100 Mbps or greater) for at least 75²⁴ percent of the BSLs that are currently ISP customers. Requirements of a Download Reclassification Area Challenge:²⁵

1. The ISP must provide the total number of BSLs in the census block that they currently serve and the total number of BSLs in the census block that currently subscribe to service.

²⁴ In the Model Challenge Process, NTIA recommends that census block group-based area speed test challenges permit ISPs to rebut an area speed test challenge by submitting speed tests for ten percent of the BSLs in a census block group. See Model Challenge Process at 19 (“A service provider may rebut an area speed test challenge by providing speed tests, in the manner described above, for at least 10% of the customers in the challenged area.”) The Corporation has deviated from this recommendation because:

1. Rhode Island is the smallest state in the nation, and therefore requires a surgical approach at the smallest geographic unit available (census blocks are smaller than census block groups).
2. The Corporation can be substantially more confident in the reliability of its reclassification based on Ookla speed tests because its reclassification is more narrowly targeted, using census blocks rather than census block groups, and is, therefore, more rigorous than the model process.
3. Since census blocks are smaller than census block groups, the ten percent of total BSLs threshold applied to census blocks would result in too few tests and is therefore inappropriate. For example, the median census block in Rhode Island contains 26 BSLs, ten percent of which is only three BSLs; as the Corporation used six or more samples to reclassify a census block, samples from only three BSLs is insufficient to accurately challenge the Corporation’s larger volume of evidence.
4. The Corporation requires highly reliable evidence that ISPs provide high-speed service to specific census blocks. The Corporation requires ISPs with 12 or more subscribers in a census block to submit speed tests for at least 75 percent of the BSLs that are currently ISP customers in the census block to meet this evidence requirement. The Corporation selected 75 percent of BSLs that are currently ISP customers in the census block as the threshold to ensure ISPs use a greater number of samples than the Corporation used to reclassify BSLs in census block. To illustrate this, consider that the median number of BSLs in a census block in Rhode Island is 26. In this median census block, as most BSLs in the state have one or two established providers, we would expect an ISP to have at least 12 customers (having a market share of approximately 45 percent), 75 percent of which is nine BSLs. This is a similar, albeit larger, quantity to the six (6) samples that the Corporation used to reclassify census blocks. The Corporation proposes to require ISPs to provide a slightly greater number of samples than the Corporation because: (a) ISPs have established relationships with their customers, which makes it easier for them to obtain customer consent where needed to conduct speed tests, (b) ISPs have access to network data that the Corporation does not have access to and (c) ISPs must provide highly reliable evidence that high-speed service is available within the entire census block.

²⁵ An ISP that submits a Download Reclassification Area Challenge must provide an Affidavit from an authorized officer, certifying under oath, that it has complied with each of the enumerated 5 criteria.

2. The BSLs subject to the speed tests must be randomly chosen by the ISP (i.e., ISP may not “cherry pick” or cull speed test data in any way).
3. ISPs must follow the same 80/80 rule that applies to the area speed test reclassification methodology, as described in section 1.2.
4. All speed tests must meet the requirements set forth below (see section 1.4.6.7 Speed Test Requirements”).
5. If the Corporation reclassified a location due to both insufficient download and upload speeds, an ISP must submit both a Download Reclassification Area Challenge and an Upload Reclassification Area Challenge.

Download Reclassification Location Challenge: If an ISP serves fewer than the minimum number of BSLs described in the Download Reclassification Area Challenge (12 BSLs with current subscriptions in a census block), an ISP may challenge the classification of individual BSLs that the Corporation reclassified using speed test. To challenge an individual reclassified BSL, an ISP must provide speed tests that demonstrate a sufficient download speed (i.e., 100 Mbps or greater). All speed tests must meet the requirements set forth below (see Section 1.4.6.7 Speed Test Requirements). If the Corporation reclassified a location due to both insufficient download and upload speeds, an ISP must submit both a Download Reclassification Location Challenge and an Upload Reclassification Area Challenge.

Upload Reclassification Area Challenge: An ISP may challenge the upload reclassification of all locations in a census block group via this challenge method if, based on ISP data, at least 200 BSLs in the census block group are current customers of the ISP and at least 20 percent of those customers subscribe to “Qualifying Subscriptions” (the “200/20 test”) (a “Qualifying Subscription” is a subscription in which the subscriber has purchased a broadband service with download speeds equal to 100 Mbps or greater and upload speeds equal to or greater

than 20 Mbps).²⁶ If an ISP meets these qualifications, the ISP may seek to reclassify all locations within the census block group by providing speed tests that demonstrate sufficient upload speeds for at least 75 percent of the BSLs that the ISP

²⁶ The methodology for challenging Ookla speed test results showing insufficient upload speeds is complicated by the fact that, as mentioned, some ISPs offer broadband service plans that include upload speeds of less than 20 Mbps in Rhode Island (i.e., they are not Qualifying Subscriptions). ISP challenges to Ookla speed tests showing insufficient upload speeds must be based on ISP speed tests conducted solely on BSLs with Qualifying Subscriptions. Given that there are likely many fewer BSLs with Qualifying Subscriptions than total BSLs, Rhode Island proposes to use census block groups rather than census blocks for challenging upload Ookla speed test results.

In addition, Rhode Island proposes to use the 200/20 test to ensure that the ISP submitting an upload reclassification area challenge offers internet access service in a meaningful way throughout the census block group, that it has more than a *de minimis* number of customers with Qualifying Subscriptions in the census block group, and that its test results will be sufficiently reliable.

1. By requiring that the ISP have at least 200 customers in the census block group, this test will ensure that the ISP submitting the challenge provides at least some form of internet access service to customers throughout the census block group. The median census block group in Rhode Island has 926 BSLs. An ISP with 200 or more customers in such census block groups provides internet service to at least 21.5 percent of the BSLs in the census block group. This means that the ISP has at least a meaningful presence as a provider of internet access in the census block group.
2. By requiring that at least 20 percent of the ISP's customers in the census block group have Qualifying Subscriptions, the test ensures that the ISP's qualifying service is sufficiently robust to attract more than a *de minimis* number of customers in the census block group. Again, the median census block group in Rhode Island has 926 BSLs. An ISP with at least 200 customers in the census block group of whom at least 20 percent have Qualifying Subscriptions has at least 40 customers with qualifying service, or just over four (4) percent of the BSLs in census block group. Rhode Island believes that this is a bare minimum threshold for Qualifying Subscriptions in a census block group to show that the ISP makes high-speed broadband internet service with 100/20 speed in the census block group.
3. The requirement that an ISP provide a qualifying service to just over four (4) percent of BSLs in a census block group is also necessary to ensure that the ISP's tests are sufficiently reliable. Rhode Island will require at least six (6) speed tests in each census block in its pre-challenge reclassification process. The median number of BSLs in a census block is 26. Six speed tests represent more than twenty-three (23) percent of the BSLs in the median census block. Requiring that ISPs provide qualifying service to slightly more than four (4) percent of BSLs a median census block is a far lower threshold than Rhode Island applies itself. Moreover, given that the ISP need only provide tests for 75 percent of the 40 BSLs with Qualifying Subscriptions, i.e., 30 BSLs, the ISP threshold is even lower.

currently provides qualifying service to in the census block group.²⁷ Requirements of an Upload Reclassification Area Challenge include:²⁸

1. The ISP must provide (1) a list of all broadband service plans to which its customers in the census block group subscribe, identifying those plans currently offered to new customers and those that are not currently offered to new customers, and (2) the total number of BSLs in the census block group that subscribe to each broadband service plan reported in (1).
2. The BSLs with Qualifying Subscriptions subject to the speed tests must be randomly chosen.
3. ISPs must follow the same 80/80 rule that applies to the area speed test reclassification methodology, as described in section 1.2.
4. All speed tests must meet the requirements set forth below (see section 1.4.6.7 Speed Test Requirements).
5. If the Corporation reclassified a location due to both insufficient download and upload speeds, an ISP must submit both a Download Reclassification Area Challenge and an Upload Reclassification Area Challenge.

If an ISP cannot demonstrate that it can meet the 200/20 test in a census block group, as described above, the ISP may not challenge the classification of the BSLs within that census block group. This is because consumers “lack[] access” to an ISP’s broadband service where the ISP’s Qualifying Subscriptions are purchased by fewer than 20 percent of the subset of consumers it serves in the census block group.²⁹

²⁷ Some ISPs in Rhode Island offer broadband service plans that include upload speeds of less than 20 Mbps (these plans are not Qualifying Subscriptions). As a result, there are likely many fewer BSLs with Qualifying Subscriptions than total BSLs with subscriptions. Thus, the Corporation proposes to use a larger geographic footprint – census block groups rather than census blocks – for Upload Reclassification Area Challenges.

²⁸ An ISP that submits an Upload Reclassification Area Challenge must provide an Affidavit from an authorized officer, certifying under oath, that it has complied with each of the enumerated 5 criteria.

²⁹ See National Telecommunications and Information Administration, U.S. Department of Commerce, Broadband Equity, Access and Deployment Program Notice of Funding Opportunity at 16, 17 (defining “underserved location” and “unserved location” as “lacking access” to broadband of the specified speeds).

1.4.6.5 Evidence & Review Approach – Other Challenges

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

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 Rhode Island Broadband Map and meets the definition of reliable broadband service. The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR). For availability challenges, the Corporation will manually verify that the evidence submitted falls within the categories stated in NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated.

The following table details permissible challenge types and permissible 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 (MDU). | <ul style="list-style-type: none"> • Time-stamped screenshot of ISP webpage. • A service request was refused within the last 180 days (e.g., an email or | <ul style="list-style-type: none"> • ISP shows that the location subscribes to or has subscribed within the last 12 months, e.g., with a copy of a customer bill. |

| Code | Challenge Type | Description | Specific Examples | Permissible rebuttals |
|------|----------------|-------------|--|---|
| | | | <p>letter from ISP).</p> <ul style="list-style-type: none"> • Lack of suitable infrastructure (e.g., no fiber on pole as evidenced, for example, by network diagrams or recent photos). • A letter or email dated within the last 365 days that an ISP failed to schedule a service installation, offer an installation date within 10 business days of a request, or required an installation fee above normal rate.³⁰ • A letter or email dated within the last 365 days indicating that an ISP requested more than the standard installation fee to | <ul style="list-style-type: none"> • If the evidence was a screenshot and believed to be in error, a time-stamped screenshot that shows service availability. • The ISP submits evidence that service is now available as a standard installation, e.g., network design diagrams. |

³⁰ A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as “[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider.”

| Code | Challenge Type | Description | Specific Examples | Permissible rebuttals |
|------|----------------|--|---|--|
| | | | <p>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.</p> | |
| U | Affordability | <p>The non-promotional price of the lowest cost broadband service plan that delivers at least 100/20 Mbps (inclusive of all taxes, fees, and charges) exceeds \$53.09, which is 2% of the lower limit of the second quintile of monthly Rhode Island Household Income, as reported by the Census Bureau³¹</p> | <ul style="list-style-type: none"> • Time-stamped screenshot of provider webpage or marketing materials. • Service description provided to consumer. • Details from a customer bill relating to the cost of service. | <ul style="list-style-type: none"> • If the evidence was a screenshot and believed to be in error, a time-stamped screenshot that shows service availability. • The provider submits evidence that service 100/20 Mbps or above is provided for less than \$53.09 per month, e.g., with a copy of a customer bill. |

³¹ The Census Bureau, in the 2022 American Community Survey (its most recent vintage), reports the lower limit of the second quintile of annual Rhode Island household income to be \$31,854 (the upper limit of the lowest quintile

| Code | Challenge Type | Description | Specific Examples | Permissible rebuttals |
|------|----------------|--|---|---|
| S | Speed | The actual speed of the service tier falls below the unserved or underserved thresholds. ³² | <ul style="list-style-type: none"> Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests, as detailed below. | <ul style="list-style-type: none"> ISP has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system.³³ |
| L | Latency | The round-trip latency of the broadband service exceeds 100 milliseconds ³⁴ . | <ul style="list-style-type: none"> Speed test by subscriber, showing the excessive latency. | <ul style="list-style-type: none"> ISP has countervailing speed test evidence showing latency at or below 100 milliseconds, e.g., from their own network |

plus one dollar). Two (2) percent of the equivalent monthly income is \$53.09. Two (2) percent of monthly income is a commonly accepted threshold for broadband affordability, endorsed by the FCC (see page 151 of [FCC 16-38](#)), the Alliance for Accessible Internet, the Broadband Commission for Sustainable Development, and the World Bank. As most households with annual incomes less than \$31,854 will be eligible for the ACP (e.g., a two-person household is eligible for the ACP if its annual income is equal to or less than \$39,440), the Corporation selected the lower limit of the second quintile of annual Rhode Island household income as its income baseline, so as to ensure all Rhode Islanders can access affordable, high-speed Broadband.

³² The challenge portal has to gather information on the subscription tier of the household submitting the challenge. Only locations with a subscribed-to service of 100/20 Mbps or above can challenge locations as underserved, while only locations with a service of 25/3 Mbps or above can challenge locations as unserved. Speed challenges that do not change the status of a location do not need to be considered. For example, a challenge that shows that a location only receives 250 Mbps download speed even though the household has subscribed to gigabit service can be disregarded since it will not change the status of the location to unserved or underserved.

³³ As described in the NOFO, a provider's countervailing speed test should show that 80 percent of a provider's download and upload measurements are at or above 80 percent of the required speed. See *Performance Measures Order*, 33 FCC Rcd at 6528, para. 51. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.

³⁴ *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).

| Code | Challenge Type | Description | Specific Examples | Permissible rebuttals |
|------|----------------|--|--|---|
| | | | | management system or the CAF performance measurements. ³⁵ |
| D | Data cap | The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. ³⁶ | <ul style="list-style-type: none"> • Time-stamped screenshot of ISP webpage. • Service description provided to consumer. | <ul style="list-style-type: none"> • 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. | <ul style="list-style-type: none"> • Manufacturer and model number of residential gateway (Customer Premise(s) Equipment) that demonstrates the service is delivered via a specific technology. | <ul style="list-style-type: none"> • ISP has countervailing evidence from their network management system showing an appropriate residential gateway that matches the provided service. |

³⁵ *Ibid.*

³⁶ An unreasonable capacity allowance is defined as a data cap that falls below the monthly capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022). Alternative plans without unreasonable data caps cannot be business-oriented plans not commonly sold to residential locations. A successful challenge may not change the status of the location to unserved or underserved if the same provider offers a service plan without an unreasonable capacity allowance or if another provider offers reliable broadband service at that location.

| Code | Challenge Type | Description | Specific Examples | Permissible rebuttals |
|------|------------------------|---|--|---|
| B | Business service only | The location is residential, but the service offered is marketed or available only to businesses. | <ul style="list-style-type: none"> Time-stamped screenshot of ISP webpage. | <ul style="list-style-type: none"> ISP documentation that the service listed in the BDC is available at the location and is marketed to consumers. |
| E | Enforceable Commitment | The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation. | <ul style="list-style-type: none"> 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 (see Section 6.2 above). | <ul style="list-style-type: none"> 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 broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or an ISP is building out | <ul style="list-style-type: none"> Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained. | <ul style="list-style-type: none"> Documentation showing that the ISP 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 |

| Code | Challenge Type | Description | Specific Examples | Permissible rebuttals |
|------|-------------------------------------|--|--|--|
| | | broadband offering performance beyond the requirements of an enforceable commitment. | <ul style="list-style-type: none"> • Contracts or a similar binding agreement between the Eligible Entity and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source (i.e., a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2024. | 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 percent of locations and the | <ul style="list-style-type: none"> • Declaration by ISP subject to the enforceable commitment. | |

| Code | Challenge Type | Description | Specific Examples | Permissible rebuttals |
|------|-----------------------|--|--|--|
| | | location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.) | | |
| C | Location is a CAI | The location should be classified as a CAI. | <ul style="list-style-type: none"> Evidence that the location falls within the definitions of CAIs set by the Eligible Entity.³⁷ | <ul style="list-style-type: none"> Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation. |
| R | Location is not a CAI | The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation. | <ul style="list-style-type: none"> Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation. | <ul style="list-style-type: none"> Evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational. |

The information contained within the above table may also be found [here](#).

³⁷ 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.

1.4.6.6 Area Challenge and MDU Challenge

This section does not apply to ISPs seeking to present a challenge to locations reclassified during the Corporation's Area Speed Test Pre-Challenge Reclassification. ISPs seeking to present a challenge to locations reclassified during the Corporation's Area Speed Test Pre-Challenge Reclassification should refer to the section "Evidence & Review Approach – Reclassification Challenges" above.

The Corporation will administer area and MDU challenges for challenge types A, S, L, D, and T. An area challenge reverses the burden of proof for availability, speed, latency, data caps and technology if a defined number of challenges for a particular category, across all challengers, have been submitted for 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 (6) or more broadband serviceable locations using a particular technology and a single ISP within a census block group are challenged during the Challenge Phase.

A **MDU challenge** is triggered if at least three (3) units or 10 percent of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger, using a particular technology and a single ISP within a census block group are challenged during the Challenge Phase.

Each type of challenge and each technology and ISP is considered separately. For instance, an availability challenge does not count towards reaching the area threshold for a speed 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.

Area challenges for availability need to be rebutted with evidence that service is available for all BSL within the census block group (e.g., by network diagrams that show fiber or Hybrid Fiber-Coaxial (HFC) infrastructure or customer subscribers). For fixed wireless service, the challenge system will offer representative random, sample

of the area in contention, but no fewer than 10, where the ISP has to demonstrate service availability and speed (e.g., with a mobile test unit).³⁸

1.4.6.7 Speed Test Requirements

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

Speed tests can take any of the following forms:

1. A reading of the physical line speed provided by the residential gateway, (e.g., DSL modem, cable modem [for HFC]).
2. A reading of the physical line speed provided by the Optical Network Terminal (ONT) (for Fiber-to-the-Home), or fixed wireless subscriber module.
3. A reading of the speed test available from within the residential gateway web interface.
4. A reading of the speed test found on the ISP's web page.
5. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using a commonly used speed test application to be specified by the Corporation.

Each speed test measurement must include:

- The time and date the speed test was conducted.
 - o ISPs that submit speed tests must conduct speed tests between the hours of 7pm and 11pm local time.
- The ISP-assigned internet protocol (IP) address, either version 4 or version 6,

³⁸ A mobile test unit is a testing apparatus that can be easily moved, which simulates the equipment and installation (antenna, antenna mast, subscriber equipment, etc.) that would be used in a typical deployment of fixed wireless access service by the provider.

identifying the residential gateway conducting the test.

Each group of three speed tests must include:

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

The IP address and the subscriber's name and street address are considered personally identifiable information (PII) and thus are not disclosed to the public (e.g., as part of a challenge dashboard or open data portal).

Each location must conduct three speed tests on three different days; the days do not have to be adjacent. The median of the three tests (i.e., the second highest (or lowest) speed) is used to trigger a challenge, for either upload or download. For example, if a location claims a broadband speed of 100 Mbps/25 Mbps and the three speed tests result in download speed measurements of 105, 102 and 98 Mbps, and three upload speed measurements of 18, 26 and 17 Mbps, the speed tests used in the challenge will be 102 Mbps for download and 18 Mbps for upload.

Speed tests may be conducted by subscribers, but speed test challenges must be gathered and submitted by units of local government, nonprofit organizations, or an ISP. Subscribers submitting a speed test must indicate the speed tier they are subscribing to. Since speed tests can only be used to change the status of locations from "served" to "underserved", only speed tests of subscribers that subscribe to tiers at 100/20 Mbps and above are considered. If the household subscribes to a speed tier of 100/20 Mbps or higher and the speed test yields a speed below 100/20 Mbps, this service offering will not count towards the location being considered served. However, even if a particular service offering is not meeting the speed threshold, the eligibility status of the location may not change. For example, if a location is served by 100 Mbps licensed fixed wireless and 500 Mbps fiber, conducting a speed test on the fixed wireless network that shows an effective speed of 70 Mbps

does not change the status of the location from served to underserved.

An ISP may rebut an Area Challenge lodged with speed tests as evidence by providing speed tests, in the manner described above, for at least 75 percent of the customers in the challenged area.³⁹ The customers must be randomly selected. ISPs must apply the 80/80 rule⁴⁰, i.e., 80 percent of these locations must experience a speed that equals or exceeds 80 percent of the speed threshold. For example, 80 percent of these locations must have a download speed of at least 20 Mbps (that is, 80 percent of 25 Mbps) and an upload speed of at least 2.4 Mbps to meet the 25/3 Mbps threshold and must have a download speed of at least 80 Mbps and an upload speed of 16 Mbps to be meet the 100/20 Mbps speed tier.

1.4.6.8 Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, the Corporation 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 Corporation also plans to actively inform non-profits, units of local and tribal governments, and ISPs of its challenge process and set up regular touchpoints to address any comments, questions, or concerns. The Corporation will take the following approach to ensure it has the appropriate contact information for eligible challengers:

- Non-Profits: As noted in section 1.3, the Corporation has developed a list of CAIs in Rhode Island. The Corporation will make reasonable efforts via email

³⁹ See section 1.4.6.4 Evidence & Review Approach – Challenges to Area Speed Test Reclassification for further justification of the 75 percent threshold.

⁴⁰ The 80/80 threshold is drawn from the requirements in the CAF-II and RDOF measurements. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.

(based on information posted online) to contact each CAI to inform them of the challenge process. For CAIs without an online presence, the Corporation will make a reasonable effort to make contact either via mail or phone.

- *Units of local and tribal governments:* The Corporation maintains a list of local governmental stakeholders and will inform them via email and newsletter of the Challenge Process. Additionally, the Corporation will advertise the Challenge Process via the Rhode Island League of Cities and Towns and the monthly municipal leaders call hosted by the Governor's office. The Corporation will also make every reasonable effort to engage with the Narragansett Indian Tribe, the only federally recognized tribe in Rhode Island.
- *ISPs:* The Corporation has an existing working relationship with each ISP currently operating in the state; the Corporation will work through these relationships to ensure each an appropriate email address is on file for each ISP for challenge notifications.
- Stakeholders can sign up on the Corporation's website <https://commerceri.com/broadband> for challenge process updates/newsletters and will be eligible to apply there for access to the Challenge Process Portal.
- Stakeholders can also engage with the Corporation via email at broadband@commerceri.com to request to be notified of the Challenge Process.

The Corporation will notify ISPs that offer broadband service in census blocks that have been reclassified as a result of the Corporation's Area Speed Test Pre-Challenge Reclassification. The Corporation will notify ISPs of Challenges to locations they service both via email and via the Corporation's challenge portal. The Corporation will provide further information regarding the challenge portal prior to the start of the Challenge Process.

Beyond actively engaging relevant stakeholders, the Corporation 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 broadband serviceable

location,

- 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 Corporation 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 Corporation 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 Corporation will treat information submitted by an ISP and expressly designated as proprietary and/or confidential as confidential information, consistent with applicable federal law and state law, including Rhode Island's Access to Public Records law, R.I. Gen. Laws section 38-2-2. If an ISP response does contain information or data that it deems to be confidential commercial information that should be exempt from disclosure under state open records laws or other applicable state privacy laws, that information should be expressly identified as privileged or confidential. Otherwise, the responses will be made publicly available.

The Corporation is committed to protecting PII and preserving the confidentiality of data proprietary to challengers. To this end, the Corporation will adhere with all applicable state and federal laws and regulations pertaining to the protection of PII and proprietary information. The approach to safeguarding challenge-related data involves multiple layers of security protocols and measures. This ensures that data is protected from various angles, making it significantly more difficult for unauthorized individuals to gain access. Beginning from a data access standpoint, any individuals who are accessing evidence submitted as part of a challenge must be authenticated. Authenticated accounts are created or approved by a state broadband office. Any action taken on a challenge (i.e., accepting or rejecting evidence) is logged. The specific credentials used to access the dashboard are encrypted. Additionally, all traffic to/from the system is encrypted via HTTPs protocol. Challenge-related data and credentials are also encrypted at rest. This comprehensive strategy ensures that

challenge-related data always remains confidential and secure, meeting best practices for data protection and privacy.

1.4.7: Optional Attachment: Challenge Process

As a required attachment only if the Eligible Entity is not using NTIA BEAD Model Challenge Process, outline the proposed sources and requirements that will be considered acceptable evidence.

Not Applicable. The Corporation sufficiently relies upon NTIA Bead Model Challenge Process, such that this attachment is not required.

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1.5 Volume 1 Public Comment

1.5.1: Public Comment

Describe the public comment period and provide a high-level summary of the comments received during the Volume I public comment period and how they were addressed by the Eligible Entity. The response must demonstrate:

- a. The public comment period was no less than 30 days; and*
- b. Outreach and engagement activities were conducted to encourage feedback during the public comment period.*

The Corporation will solicit input and comments regarding this document from all Rhode Islanders and other stakeholders. The Corporation will post this Proposal to its website, <https://commerceri.com/broadband>, and will announce its release. Feedback is to be provided during the public comment period, beginning November 3, 2023, and ending December 4, 2023. The Corporation will carefully review and consider all feedback submitted through our online comment form, available at <https://commerceri.com/broadband>.

Following the public comment period, the Corporation will update this document prior to its submission to NTIA. This updated document will include a high-level summary of the comments received and details regarding how the Corporation addressed these comments.

1.5.2: Optional Attachment: Supplemental Materials

As an optional attachment, submit supplemental materials to the Volume I submission and provide references to the relevant requirements. Note that only content submitted via text boxes, certifications, and file uploads in sections aligned to Initial Proposal requirements in NTIA Grants Portal will be reviewed, and supplemental materials submitted here are for reference only.

For further details regarding the Area Speed Test Reclassification (see Section 1.4.2), please see *Rhode Island Pre-Challenge Area Reclassification Proposal*, available [here](#).