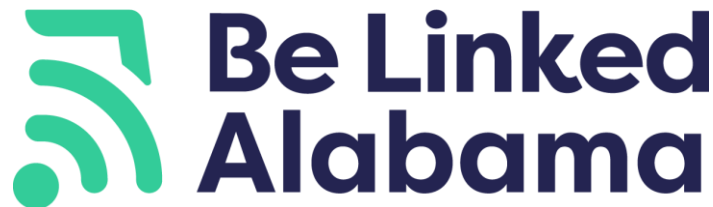


Initial Proposal Volume 1 (Requirements 3, 5–7) Broadband Equity, Access, and Deployment Program



Alabama Department of Economic and Community Affairs November 2023

This document is a draft of Volume I of the Broadband Equity, Access, and Deployment (BEAD) Program Initial Proposal and is being released for public comment in advance of its submission by the Alabama Digital Expansion Division of the Alabama Department of Economic and Community Affairs (ADECA) to the National Telecommunications and Information Administration (NTIA).

All are welcome to submit comments regarding this draft document. Comments regarding this draft should be submitted via the online form available on ADECA's website at <https://adeca.alabama.gov/alipv1v2/> by 11:59 p.m. on December 14, 2023. If you are unable to access the online form, you may contact us by email at broadband.fund@adeca.alabama.gov or call us at (334) 353-0767 for instructions on additional methods of submitting comments. After comments are received and considered, ADECA will submit the final version of Initial Proposal Volume I to NTIA for approval.

This project is sponsored by the National Telecommunications and Information Administration, U.S. Department of Commerce, under Assistance Listing 11.035. This document was prepared by the Alabama Department of Economic and Community Affairs using Federal funds under award 01-20-B093 from the National Telecommunications and Information Administration, U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the National Telecommunications and Information Administration or the U.S. Department of Commerce.

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I. Introduction

ADECA, the Eligible Entity for the State of Alabama, is pleased to present this first volume of the BEAD Initial Proposal in alignment with NTIA’s BEAD challenge guidance to propose how the State of Alabama will meet all requirements of Volume I of the Initial Proposal. ADECA reserves the right to update this Initial Proposal Volume I in response to comments received or additional guidance from NTIA.

This document represents one of four separate reports that ADECA is preparing for NTIA in compliance with the BEAD Notice of Funding Opportunity (BEAD NOFO).¹ The other documents include the Alabama BEAD Five-Year Action Plan,² forthcoming Initial Proposal Volume 2, and forthcoming Final Proposal.³

This document includes the following requirements outlined in the BEAD NOFO:

1. The document identifies existing efforts funded by the federal government or ADECA within the jurisdiction of the State of Alabama to deploy broadband and close the digital divide, including in Tribal Lands (Initial Proposal Requirement 3).
2. The document identifies each unserved location and underserved location within Alabama, including unserved and underserved locations in applicable Tribal Lands, using the most recently published National Broadband Map as of the date of submission of the Initial Proposal, and identifies the date of publication of the National Broadband Map used for such identification (Initial Proposal Requirement 5).
3. The document describes how ADECA applied the statutory definition of the term “community anchor institution” (CAI), identified all eligible CAIs in Alabama, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including what types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if ADECA proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Investment and Jobs Act (IIJA),⁴ the basis on which ADECA determined that such category of CAI facilitates greater use of broadband service by vulnerable populations (Initial Proposal Requirement 6).
4. The document proposes a detailed plan as to how ADECA will conduct a transparent, evidence-based, fair, and expeditious Challenge Process as required by NTIA and

¹ “Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program,” NTIA, <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf> (BEAD NOFO).

² “Alabama BEAD Five-Year Action Plan,” ADECA, <https://adeca.alabama.gov/beadplan/>.

³ For more details, please see NTIA’s BEAD Program timeline, available at <https://broadbandusa.ntia.doc.gov/funding-programs/broadband-equity-access-and-deployment-bead-program/timeline>.

⁴ 47 U.S.C. § 1702(a)(2)(E).



consistent with the Challenge Process guidance released by NTIA (Initial Proposal Requirement 7).

ADECA intends to run its Challenge Process after (1) NTIA approves this first volume of the Initial Proposal and (2) ADECA submits the second volume of its Initial Proposal, addressing all remaining requirements of the Initial Proposal as described in the BEAD NOFO. This will enable ADECA to maintain the timeline required by NTIA for the BEAD Program. ADECA would like to avail subgrantees of the 2 C.F.R. Part 200 exceptions and adjustments NTIA applies in the BEAD Program. Should any revisions to this Initial Proposal be needed to accomplish this, ADECA would like an opportunity to make those revisions.



2. Existing broadband funding (Requirement 3)

This first volume of the BEAD Initial Proposal identifies, consistent with NTIA requirements, existing efforts funded by the federal government or ADECA within the jurisdiction of the State of Alabama to deploy broadband and close the digital divide, including in Tribal Lands.

[Appendix I](#) is a linked file that identifies:

1. Sources of funding
2. A brief description of the broadband deployment and other broadband-related activities
3. Total funding
4. Funding amount expended
5. Remaining funding amount available



3. Unserved and underserved locations (Requirement 5)

This first volume of the BEAD Initial Proposal identifies, consistent with NTIA requirements, each unserved location and underserved location within Alabama, including unserved and underserved locations in applicable Tribal Lands, using the most recently published National Broadband Map as of the date of submission of the Initial Proposal, and identifies the date of publication of the National Broadband Map used for such identification.

3.1 Location IDs of all unserved and underserved locations

[Appendices 2 and 3](#) are linked files with the location IDs of all unserved and underserved locations, respectively, including unserved and underserved locations in applicable Tribal Lands, using the National Broadband Map. Appendices 2 and 3 are draft documents and will be updated as necessary to reflect any new location data prior to ADECA's submission of Initial Proposal Volume I to NTIA and the initiation of the Challenge Process. Please note that the number of unserved and underserved locations differ from those in the Alabama BEAD Five-Year Action Plan. In order to more accurately estimate the cost of universal service, ADECA removed locations consistent with the process outlined in Section 5.2 Deduplication of Funding below. ADECA expects to adjust these figures again based on the latest National Broadband Map data prior to running the Alabama Challenge Process in 2024.

3.2 Publication date of the National Broadband Map used to identify unserved and underserved locations

The unserved and underserved locations identified in this document and its attachments are based on the October 10, 2023, publication date of the National Broadband Map. Consistent with NTIA guidance, Alabama's actual Challenge Process will use the most current version of the National Broadband Map as of the time of initiation of the Challenge Process.



4. Community anchor institutions (Requirement 6)

This first volume of the BEAD Initial Proposal describes, consistent with NTIA requirements, how ADECA applied the statutory definition of the term CAI, identified all eligible CAIs in Alabama, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including what types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if ADECA proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the IIJA, the basis on which ADECA determined that such category of CAI facilitates greater use of broadband service by vulnerable populations.

4.1 Definition of “community anchor institution”

Based on the statutory definition of “community anchor institution” as defined in 47 U.S.C. § 1702(a)(2)(E), ADECA defines a CAI to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency, HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater public use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals. Additionally, based on information received through ADECA’s outreach, some government buildings such as county courthouses that facilitate greater public use of broadband are also included in the definition of a CAI.

Based on the statutory definition above, the following criteria were used to determine the inclusion or exclusion of community support organizations not specifically listed in 47 U.S.C. § 1702(a)(2)(E): Whether the community support organization facilitates greater public use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

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

1. **Schools:** The list of schools includes all K-12 schools participating in the FCC E-Rate program or that have a National Center for Education Statistics (NCES) ID in the categories “public schools” or “private schools.”
2. **Libraries:** The list of libraries includes all those participating in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association.
3. **Health clinic, health center, hospital, or other medical providers:** The list of health clinics, health centers, hospitals, and other medical providers includes all institutions that have a Centers for Medicare and Medicaid Services certification number.
4. **Public safety entities:** The list of public safety entities includes fire houses, emergency medical service stations, and police stations, based on records maintained by the State of



Alabama and units of local government. Included in the list of public safety entities is also the list of public safety answering points (PSAPs) in the FCC PSAP registry.

5. **Institutions of higher education:** Institutions of higher education include all institutions that have an NCES ID in the category “college”, including junior colleges, community colleges, minority serving institutions, Historically Black Colleges and Universities, other universities, and other educational institutions.
6. **Public housing organizations:** Public housing organizations were identified by contacting the Public Housing Agencies for Alabama enumerated by the U.S. Department of Housing and Urban Development, as well as by contacting nonprofit organizations Public and Affordable Housing Research Corporation and National Low Income Housing Coalition, which maintain a nationwide database of public housing units at the National Housing Preservation Database.
7. **Community support organizations:** The list of community support organizations includes organizations identified by ADECA, in the context of its multi-year broadband engagement work, that facilitate greater public use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals.
8. **Other sources of data:** ADECA also drew on state, county, and municipal resources to identify additional eligible CAIs that were not contained in the data sources listed above. In addition, ADECA will use the Initial Proposal Volume I public comment process to ensure that all relevant institutions meeting the CAI criteria are included.

4.2 Connectivity needs of defined CAIs

To assess the network connectivity needs of the types of eligible CAIs listed above, ADECA undertook the following activities:

- I. **Engaged government agencies.** ADECA communicated with relevant state agencies to understand what records they have available regarding Gigabit per second (Gbps) symmetrical broadband service availability for CAIs. Specifically, ADECA contacted the following agencies:
 - a. **Education.** ADECA coordinated with the Alabama State Department of Education to determine which schools do not currently have access to 1 Gbps symmetrical broadband service. ADECA has determined that many of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO; however, ADECA *preliminarily presumes as unserved* any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.



- b. **Libraries:** ADECA coordinated with the Alabama Public Library Service to determine which libraries lack 1 Gbps symmetrical broadband service. ADECA has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and *preliminarily presumes as unserved* any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.
 - c. **Healthcare:** ADECA communicated with the Alabama Department of Public Health to determine which public health facilities lack 1 Gbps symmetrical broadband service. ADECA has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and *preliminarily presumes as unserved* any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.
 - d. **Public safety.** ADECA communicated with the Alabama Office of Information Technology and the Alabama Law Enforcement Agency Department of Public Safety to obtain 1 Gbps broadband service availability data. ADECA has determined that only some of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO and *preliminarily presumes as unserved* any CAI in this category that is located in a census block that does not have access to 1 Gbps symmetrical service.
2. **Engaged relevant umbrella organizations and nonprofits.** ADECA engaged with umbrella and nonprofit organizations that work with CAIs to determine CAI locations and obtain 1 Gbps symmetrical broadband service availability data. Specifically, ADECA requested information related to needs from relevant umbrella member organizations that represent all geographic regions of Alabama, including the following organizations: AARP, Alabama Association of Regional Councils, Alabama Community Action Agencies, Alabama Hospital Association, Alabama League of Municipalities, Association of County Commissions of Alabama, Community Action Association of Alabama, and the United Way.⁵
3. **Compiled a list of CAIs that do not have adequate broadband service.** Using the responses received, ADECA compiled a list of those CAIs that do not have adequate broadband service. [Appendix 4](#) is a linked file with the relevant list of eligible CAIs that require qualifying broadband service and do not currently have access to such service, to the best of ADECA’s knowledge and based on the presumptions described above. Appendix 4 is a draft document and ADECA will use the public comment period and any new CAI data to update Appendix 4 as necessary.

⁵ For a full list of partner organizations, see “Alabama BEAD Five-Year Action Plan,” Section 3.2 “Partnerships,” <https://adeca.alabama.gov/beadplan/>, pp. 26-34.



5. Challenge process (Requirement 7)

This first volume of the BEAD Initial Proposal proposes a detailed plan as to how ADECA will conduct a transparent, evidence-based, fair, and expeditious Challenge Process as required by NTIA and consistent with the Challenge Process guidance released by NTIA. The proposed Challenge Process, including all required elements, is described in detail below.

Adoption of NTIA BEAD Model Challenge Process

Yes

No

ADECA plans to adopt the NTIA BEAD Model Challenge Process issued on September 7, 2023, to satisfy Requirement 7.⁶

5.1 Modifications to reflect data not present in the National Broadband Map

ADECA proposes the following modifications to classification of broadband serviceable locations (BSLs) in Alabama as “served,” “underserved,” or “unserved” to reflect data not present in the National Broadband Map and provides justification for each modification.

5.1.1 DSL modifications

ADECA 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. This designation cannot be challenged or rebutted by the provider.

5.2 Deduplication of funding

Adoption of BEAD Eligible Entity Planning Toolkit

Yes

No

ADECA will use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

⁶ “BEAD Model Challenge Process,” NTIA, <https://www.ntia.gov/sites/default/files/2023-09/beam-model-challenge-process.zip>.



5.2.1 Process description

ADECA will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult at least the following datasets:

- The Broadband Funding Map published by the FCC pursuant to IIJA § 60105
- Data sets from the state’s 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
- Data sets from the state’s broadband deployment programs that rely on state funds, as well as other local data collections of existing enforceable commitments

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

ADECA will review its repository of existing state broadband grant programs to validate the upload and download speeds of existing binding agreements to deploy broadband infrastructure. In situations in which the state program did not specify broadband speeds, or when there was reason to believe a provider deployed higher broadband speeds than required, ADECA will reach out to the provider to verify the deployment speeds of the binding commitment. ADECA will document this process by requiring providers to sign a binding agreement certifying the actual broadband deployment speeds deployed.

ADECA will draw on these provider agreements, along with its existing database on state broadband funding programs’ binding agreements, to determine the set of state enforceable commitments.

5.2.2 List of programs analyzed

[Appendix 5](#) is a linked file with the relevant list of the federal and state programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding. [Appendix 6](#) is a linked file containing a proposed partial waiver request of the prior enforceable commitments rule under the BEAD Program concerning locations currently subject to Rural Digital Opportunity Fund (RDOF) commitments that would be submitted to NTIA.

5.3 Challenge process design

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



5.3.1 Permissible challenges

ADECA will only allow challenges on the following grounds:

- The identification of eligible CAIs, as defined by ADECA
- CAI BEAD eligibility determinations
- BEAD eligibility determinations for existing BSLs included in the FCC’s National Broadband Map
- Enforceable commitments
- Planned service

5.3.2 Permissible challengers

During the BEAD Challenge Process, ADECA will only allow challenges from nonprofit organizations, units of local and tribal governments, and broadband service providers.⁷

5.3.3 Challenge process overview

The Challenge Process conducted by ADECA will include four phases, potentially spanning 90 calendar days, per the schedule of the NTIA BEAD Model Challenge Process:

1. **Publication of Eligible Locations:** Prior to beginning the Challenge Phase, ADECA 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). ADECA will also publish locations considered served, as they can be challenged. ADECA will establish the date for the publication of location information upon approval of the Challenge Process by NTIA.
2. **Challenge Phase:** During the Challenge Phase, challengers will submit the challenge through ADECA’s challenge portal. The challenge will be visible to the service provider whose service availability and performance is being contested. The provider will be notified of the challenges through an automated process, which will include related information about timing for the provider’s response. At this time, the location will enter the “challenged” state.
 - a. **Minimum Level of Evidence Sufficient to Establish a Challenge:** The challenge portal will verify the following:
 - i. That the address provided in the challenge can be found in the Fabric and is a BSL

⁷ Citizens may work directly with any of these entities to submit their challenge data during this process.



- ii. That the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service
 - iii. That the email address from which the challenge was sent is reachable by sending a confirmation message to the listed contact email
 - iv. For availability challenges, ADECA will verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated
 - b. **Timeline:** Challengers will have 30 calendar days to submit a challenge from the time the initial lists of unserved and underserved locations, CAs, and existing enforceable commitments are posted. ADECA will establish the dates of the Challenge Phase once the plan has been approved by NTIA.
3. **Rebuttal Phase:** Only the challenged service provider may rebut the reclassification of a location or area with evidence. The provider will be notified of the challenges through an automated process; however, providers must regularly check the challenge portal notification for notifications of submitted challenges.
- a. **Provider Options:** Challenged service providers will have the following options at this time:
 - i. **Rebut:** rebut the reclassification of a location or area with evidence, causing the location or locations to enter the “disputed” state.
 - ii. **Leave Unrebutted:** If a challenge that meets the minimum level of evidence is not rebutted, the challenge will be considered conceded and sustained. This will result in transition of the challenged location(s) to the “sustained” state.
 - iii. **Concede the Challenge:** A provider may also agree with the challenge and thus transition the location to the “sustained” state.
 - b. **Timeline:** Providers will have 30 calendar days from notification of a challenge to provide rebuttal information to ADECA. The rebuttal period begins once the provider is notified of the challenge, and thus may occur concurrently with the Challenge Phase. ADECA will establish the dates of the Rebuttal Phase once the plan has been approved by NTIA.
4. **Final Determination Phase:** During the Final Determination Phase, ADECA will make the final determination of the classification of the location(s) that remain in the “disputed” state, either declaring the challenge “sustained” or “rejected.”



- a. **Timeline:** Following intake of challenge rebuttals, ADECA will make a final challenge determination within 30 calendar days of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received. ADECA will establish the dates of the Final Determination Phase once the plan has been approved by NTIA.

5.3.4 Evidence and review approach

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant partners, ADECA will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. ADECA will:

- Document the standards of review to be applied in a Standard Operating Procedure
- Require reviewers to document their justification for each determination
- Ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted
- Require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations



TABLE I: CHALLENGE TYPES, EVIDENCE EXAMPLES, AND PERMISSIBLE REBUTTALS⁸

| Code | Challenge type | Description | Specific examples | Permissible rebuttals |
|------|----------------|--|--|---|
| A | Availability | The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU). | <ul style="list-style-type: none"> • Screenshot of provider webpage. • A service request was refused within the last 180 days (e.g., an email or letter from provider). • Lack of suitable infrastructure (e.g., no fiber on pole). • A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.⁹ • A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation fee to connect this location or that a provider quoted an amount in excess of the provider’s standard installation charge in order to connect service at the location. | <ul style="list-style-type: none"> • Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill. • If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability. • The provider submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location. |
| S | Speed | The actual speed of the service tier falls below the unserved or underserved thresholds. ¹⁰ | Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests. | Provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system. ¹¹ |

⁸ Unless otherwise noted, “days” refers to calendar days.

⁹ 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.”

¹⁰ Only locations listed as having service of 100/20 Mbps available or above can challenge locations as underserved, while only locations listed as having 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 will be disregarded in this Challenge Process because it will not change the status of the location to unserved or underserved.

¹¹ As described in the BEAD 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.



| Code | Challenge type | Description | Specific examples | Permissible rebuttals |
|------|-----------------------|--|--|--|
| L | Latency | The round-trip latency of the broadband service exceeds 100 ms. ¹² | Speed test by subscriber, showing the excessive latency. | Provider has countervailing speed test evidence showing latency at or below 100 ms, e.g., from their own network management system or the Connect America Fund (CAF) performance measurements. ¹³ |
| D | Data cap | The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. ¹⁴ | <ul style="list-style-type: none"> • Screenshot of provider webpage. • Service description provided to consumer. | Provider has terms of service showing that it does not impose an unreasonable data cap or offers another plan at the location without an unreasonable cap. |
| T | Technology | The technology indicated for this location is incorrect. | Manufacturer and model number of residential gateway (CPE) that demonstrates the service is delivered via a specific technology. | Provider has countervailing evidence from 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 marketed or available only to businesses. | Screenshot of provider webpage. | Provider documentation that the service listed in the BDC is available at the location and is marketed to consumers. |

¹² *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).

¹³ *Performance Measures Order*.

¹⁴ 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, <https://www.fcc.gov/document/2023-urban-rate-survey-posting-data-and-minimum-usage-allowance>). Alternative plans without unreasonable data caps cannot be business-oriented plans not commonly sold to residential locations. A 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 |
|------|------------------------------------|--|--|---|
| E | Enforceable Commitment | The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation. | Enforceable commitment by service provider (e.g., authorization letter). In the case of Tribal Lands, the challenger must submit the requisite legally binding agreement between the relevant Tribal Government and the service provider for the location(s) at issue (See BEAD Challenge Process Policy Notice, v.1.1, Section 6.2, “Deduplication of Funding”). | Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer a going concern). |
| P | Planned service | The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment. | <ul style="list-style-type: none"> • Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained. • Contracts or a similar binding agreement between ADECA 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. | Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern) or that the planned deployment does not meet the required technology or performance requirements. |
| N | Not part of enforceable commitment | This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.) | Declaration by service provider subject to the enforceable commitment. | |



| Code | Challenge type | Description | Specific examples | Permissible rebuttals |
|-------------|-----------------------|--|--|--|
| 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 ADECA. ¹⁵ | Evidence that the location does not fall within the definitions of CAIs by ADECA 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 ADECA or is no longer in operation. | Evidence that the location falls within the definitions of CAIs set by ADECA or is still operational. |

¹⁵ 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 ADECA may rely on other reliable evidence that is verifiable by a third party.



5.3.5 Area and MDU challenges

ADECA 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 a provider. Thus, the provider receiving an area challenge or MDU challenge 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 provider can use any of the permissible rebuttals listed above.

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

An MDU challenge requires challenges by at least three units or 20 percent of the unit count listed in the Fabric within the same BSL, whichever is larger.

Each type of challenge and each technology and provider is considered separately, i.e., an availability challenge (A) does not count towards reaching the area threshold for a speed (S) challenge. If a provider offers multiple technologies, such as DSL and fiber, each will be treated separately because 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 BSLs 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 must be rebutted with representative, random samples of the area in contention, but no fewer than 10 data points in which the provider has to demonstrate service availability and speed (e.g., with a mobile test unit).¹⁶

5.3.6 Speed test requirements

ADECA will accept speed tests as evidence for substantiating challenges and rebuttals. Each speed test must consist 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 the following forms:

1. A reading of the physical line speed provided by the residential gateway (i.e., DSL modem, cable modem (for HFC)), ONT (for fiber-to-the-premises), or fixed wireless subscriber module
2. A reading of the speed test available from within the residential gateway web interface

¹⁶ 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.



3. A reading of the speed test found on the service provider’s web page
4. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using the speed test provided by ADECA on the Be Linked Alabama website¹⁷

Each speed test measurement must include:

- The time and date the speed test was conducted
- The provider-assigned internet protocol (IP) address, either IP version 4 or IP version 6, 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 to which the customer subscribes (e.g., a copy of the customer’s last invoice)
- An agreement, using an online form provided by ADECA, that grants access to these information elements to ADECA, any contractors supporting the Challenge Process, and the service provider

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 speed-based (S) 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 qualify the location for a challenge, since the measured upload speed marks the location as underserved.

Speed tests may be conducted by subscribers, but speed test challenges must be gathered and submitted by units of local government, nonprofit organizations, or a broadband service provider.

Subscribers providing 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.

¹⁷ “Survey,” Be Linked Alabama, <https://broadband.alabama.gov/survey/>.



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.

A service provider may rebut an area speed test challenge by providing speed tests, in the manner described above, for at least 10 percent of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule,¹⁸ 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 meet the 100/20 Mbps speed tier. Only speed tests conducted by the provider between the hours of 7 p.m. and 11 p.m. local time will be considered as evidence for a challenge rebuttal.

5.3.7 Transparency plan

To ensure that the Challenge Process is transparent and open to public and partner scrutiny, ADECA 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. ADECA also plans to actively inform all units of local government of its Challenge Process and set up regular touchpoints to address any comments, questions, or concerns from local governments, nonprofit organizations, and internet service providers. ADECA will conduct extensive Challenge Process engagement with local governments, nonprofit organizations, and internet service providers, who have been part of ADECA's ongoing community outreach efforts over the past year. Such engagement will include targeted Challenge Process outreach to the Alabama League of Municipalities and the Association of County Commissioners of Alabama to disseminate information to their members across the state. ADECA also will leverage its existing Broadband Alabama Mailing List to publish information regarding the Challenge Process requirements and timeframes.¹⁹ Relevant partners will be given an opportunity to sign up for notifications. Additionally, relevant partners can engage with ADECA through a designated email address (broadband.fund@adeca.alabama.gov). Because of the state's robust mapping efforts, ADECA already has contact information for most, if not all, broadband service providers in Alabama. If any providers receive a challenge that ADECA does not have current contact

¹⁸ 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.

¹⁹ "Broadband Alabama Mailing List," ADECA, <https://adeca.alabama.gov/broadband-alabama-mailing-list/>.



information for, ADECA will work with industry associations, confer with the FCC, and review all publicly available contact information to ensure that the provider is contacted in an expeditious manner. Additionally, relevant partners will be encouraged to check the challenge portal for updates.

Beyond actively engaging relevant partners, ADECA will also post all submitted challenges and rebuttals before final challenge determinations are made, including:

- The provider, nonprofit, or unit of local government that submitted the challenge
- The census block group containing the challenged BSL
- The provider being challenged
- The type of challenge (e.g., availability or speed)
- A summary of the challenge, including whether a provider submitted a rebuttal

ADECA will not publicly post any PII or proprietary information, including subscriber names, street addresses, and customer IP addresses. To ensure all PII is protected, ADECA 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.

ADECA will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law. If any of these responses do contain information or data that the submitter deems to be confidential commercial information that should be exempt from disclosure under state open records laws or is protected under applicable state privacy laws, that information should be identified as privileged or confidential. Otherwise, the responses will be made publicly available. ADECA will adhere to all relevant state laws and regulations pertaining to the protection of PII—as well as confidential, trade secret, or otherwise proprietary information—in its administration of the BEAD Program. This includes but is not limited to the protections provided under the Alabama Open Records Act,²⁰ Alabama Trade Secrets Act,²¹ and related Alabama Attorney General guidance. In addition, ADECA employees are subject to standards of conduct that prohibit the unauthorized disclosure of confidential or proprietary information and ADECA adheres to the state’s privacy policy that provides protections for users accessing its website.²²

²⁰ See Ala. Code § 36-12-40, et seq.

²¹ See Ala. Code § 8-27-1, et seq.

²² See “Privacy Policy,” Alabama.gov, <https://www.alabama.gov/privacy-policy>.



Appendix I: Descriptions of existing funding for broadband in Alabama

[Appendix I](#) is a draft document and will be updated as necessary to reflect any new funding data prior to ADECA's submission of Initial Proposal Volume I to NTIA and the initiation of the Challenge Process.



Appendix 2: Location IDs of all unserved locations

[Appendix 2](#) is a draft document and will be updated as necessary to reflect any new location data prior to ADECA's submission of Initial Proposal Volume I to NTIA and the initiation of the Challenge Process.



Appendix 3: Location IDs of all underserved locations

[Appendix 3](#) is a draft document and will be updated as necessary to reflect any new location data prior to ADECA's submission of Initial Proposal Volume I to NTIA and the initiation of the Challenge Process.



Appendix 4: List of eligible CAIs that do not currently have qualifying broadband service (1/1 Gbps)

[Appendix 4](#) is a draft document and will be updated as necessary to reflect any new CAI data prior to ADECA's submission of Initial Proposal Volume I to NTIA and the initiation of the Challenge Process.



Appendix 5: List of federal and state programs analyzed to remove enforceable commitments from the locations eligible for BEAD funding

[Appendix 5](#) is a draft document and will be updated as necessary to reflect any new enforceable commitment data prior to ADECA's submission of Initial Proposal Volume I to NTIA and the initiation of the Challenge Process.



Appendix 6: RDOF waiver request

[Appendix 6](#) is a draft document and will be updated as necessary prior to ADECA's submission of Initial Proposal Volume I to NTIA and the initiation of the Challenge Process.

