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Total Changes

216

Text only comparison

Content

129 Replacements
57 Insertions
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Styling and Annotations

0 Styling
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Go to First Change (page 1)

Maryland
DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT

CONNECT Maryland
High Speed Internet For A Better Future.

State of Maryland
Office of Statewide Broadband
Initial Proposal Volume I
(Requirements 3, 5 – 7)
BEAD Program

April 2024

This document is a draft of Volume I of the Broadband Equity, Access, and Deployment (BEAD) Initial Proposal and is being released for public comment by the State of Maryland in advance of its submission by the Maryland Office of Statewide Broadband (OSB)) to the National Telecommunications and Information Administration (NTIA).

All comments are welcome on the combined draft and should be submitted via email to OSB.BEAD@maryland.gov by 11:59 p.m. on December 2, 2023.

Contents

1. Introduction

The Maryland Office of Statewide Broadband (OSB) hereby submits to NTIA this first volume of the BEAD Initial Proposal, which is in alignment with NTIA's BEAD Challenge Process guidance and meets all requirements of Volume I of the Initial Proposal[1].

This document includes the following requirements outlined in the BEAD Notice of Funding Opportunity (NOFO)[2]:

1. The document identifies existing efforts funded by the federal government or the State of Maryland within the jurisdiction of the State of Maryland to deploy broadband and close the digital divide (Initial Proposal Requirement 3).

2. The document identifies each unserved location and underserved location within Maryland, using the most recently published National Broadband Map[3] 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 OSB has applied the statutory definition of the term "community anchor institution" (CAI), identified all eligible CAIs in Maryland, 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 OSB 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 Act, the basis on which OSB 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 OSB will conduct a challenge process as required by NTIA and consistent with the draft challenge process guidance released by NTIA on June 28, 2023 (Initial Proposal Requirement 7).

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[1] This guidance document is intended to help BEAD Eligible Entities better understand the BEAD Program requirements set forth in the Infrastructure Act, the BEAD Notice of Funding Opportunity (NOFO), and the BEAD Challenge Process Policy Notice. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in this document.

[2] *See* BEAD NOFO at 31, Section IV.B.5.b

[3] The National Broadband Map, referred to as the Broadband DATA Map in the BEAD NOFO, is the fixed broadband availability map created by the Federal Communications Commission under Section 802(c)(1) of the Communications Act of 1934 (47 U.S.C. § 642(c)(1)).

OSB intends to run its challenge process after NTIA approves this first volume of the Initial Proposal, and to do so within the timeline required by NTIA for the BEAD program.

2. Existing broadband funding and resources (Requirement 3)

This first volume of the State of Maryland BEAD Initial Proposal includes, consistent with NTIA requirements, descriptions of existing funding for broadband in Maryland.

Attached as Appendix 1 is a 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 State of Maryland BEAD Initial Proposal includes, consistent with NTIA requirements, a list of all unserved and underserved locations in Maryland.

3.1 Locations IDs of all unserved and underserved locations

Attached as Appendix 2 and Appendix 3 are two CSV files with the location IDs of all unserved and underserved locations, respectively.

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 November 28, 2023, publication date of the National Broadband Map. Consistent with NTIA guidance, that publication date of the National Broadband Map does not predate the submission of the Initial Proposal by more than 59 days.[4]

[4] Maryland's actual challenge process will use the November 2023 publication of the National Broadband Map (or whichever version is most current as of the time of initiation of the challenge process).

4. Community anchor institutions (Requirement 6)

This first volume of the State of Maryland BEAD Initial Proposal includes, consistent with NTIA requirements, a definition of "community anchor institution," a list of CAIs, and an analysis of the connectivity needs of the institution.

4.1 Definition of "community anchor institution"

Based on the statutory definition of "community anchor institution" as defined in 47 USC 1702 (a)(2)(E), the broadband office applied the definition of "community anchor institution" to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals (including shelters for homeless, women's and halfway houses), children, the incarcerated, and aged individuals.

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

1. **Schools:** This category 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 (ALA).

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 & Medicaid Services (CMS) identifier.

4. **Public safety entity:** The list of public safety entities includes fire houses, emergency medical service stations, and police stations, based on records maintained by the State of Maryland and units of local government. Included in the list of public safety entities is also the list of public safety answering points (PSAP) 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 (MSI), the State's Historically Black Colleges and Universities (HBCU), other universities, and other educational institutions.

6. **Community facilities:** OSB included any organizations that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. OSB included senior centers and job training centers in this category. The Department of Labor maintains a database of "American Job Training" training centers, established as part of the Workforce Investment Act, and reauthorized in the Workforce Innovation and Opportunities Act of 2014. The database can be accessed at the American Job Center Finder. The National Council on Aging (NCOA) helped identify senior centers. Additional locations and facilities as part of the definition include public parks' publicly accessible main buildings (as parks can serve as a necessary resource of last resort for vulnerable populations to visit to access the internet), museums (both public and private), and shelters (as shelters facilitate use of broadband by vulnerable populations, particularly low-income populations, including those for the homeless, women's shelters, and halfway houses).

7. **Correctional facilities**: The list will include the Department of Public Safety and Correctional Services' 24 correctional facilities, as well as the Patuxent Institution, the Central Booking and Intake Center, and the Baltimore Pretrial Complex and Youth Detention Center,[5] as these locations represent the only way for incarcerated individuals to access the internet and would therefore increase public use of the internet by covered populations, specifically incarcerated individuals. These locations also offer adult education to assist the incarcerated individual's ability to gain digital skills to help them enter the workforce upon their release.

8. **Public housing organizations**: Public housing organizations were identified by contacting the Public Housing Agencies (PHAs) for the state or territory enumerated by the U.S. Department of Housing and Urban Development.[6] The nonprofit organizations Public and Affordable Housing Research Corporation (PAHRC) and National Low-Income Housing Coalition maintain a database of nationwide public housing units at the National Housing Preservation Database (NHPD).

[5] "Criminal Justice," Maryland Manual On-Line, https://msa.maryland.gov/msa/mdmanual/01glance/html/criminal.html.
[6] See https://www.hud.gov/program_offices/public_indian_housing/pha/contacts.

During the public comment process, commentors suggested that Maryland add correctional facilities to the list of institutions that qualify as CAIs, and as a result they have been included in the list above.

As mentioned above, some facilities were included as CAIs that are not explicitly addressed in Section 60102(a)(2)I of the Infrastructure Act, including public parks, museums, and shelters. These were included as they facilitate greater use of broadband service by vulnerable populations.

Public parks serve as a necessary resource of last resort for vulnerable populations to visit to access the internet, as they often have free digital access, are often conveniently located in population centers, are publicly accessible, and are run and maintained responsibly by local or state governments.

Museums are centers for education of the public, including digital access for vulnerable populations. Museums run literacy and other educational programs that often involve digital literacy, including virtual tours and digital platforms for education. They often have accessible computers for research and learning and publicly available wireless internet. They are publicly accessible and are either free or often offer discounted entrance for covered and/or vulnerable populations, including veterans, aging individuals, children, or low-income households. As such, they facilitate greater use of broadband for vulnerable populations.

Shelters facilitate use of broadband by vulnerable populations, particularly low-income populations, including those for the homeless, women's shelters, and halfway houses. Due to the societal intersections between different vulnerable populations, shelters also disproportionately serve many other covered populations. Shelters represent a unique opportunity to provide broadband access to those without consistent housing, who otherwise would be difficult to ensure have reliable access to broadband.

4.2 Connectivity needs of defined CAIs

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

1. **Engaged government agencies**. OSB communicated with relevant State agencies as well as Maryland's 23 counties and the City of Baltimore to understand what records they have available regarding relevant community anchor institutions with 1 Gbps broadband service availability. Specifically, OSB contacted the following agencies:

a. **Education:** OSB communicated with the Maryland State Department of Education to determine which schools do not currently have access to 1 Gbps symmetrical broadband service. OSB has determined that all but a few of these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO.

b. **Health care:** OSB communicated with the Maryland Department of Health to determine which public health facilities may lack 1 Gbps symmetrical broadband service. OSB has determined that these public CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO.

c. **Libraries:** OSB communicated with Maryland State Library Agency to determine which libraries lack 1 Gbps symmetrical broadband service. OSB has determined that these CAIs have the requisite symmetrical broadband speeds as identified by the BEAD NOFO.

d. **Public safety:** OSB communicated with the Maryland Department of Public Safety and Correctional Services to determine which facilities lack 1 Gbps symmetrical broadband service. The educational centers at some of these facilities may not have the requisite symmetrical broadband speeds as identified by the BEAD NOFO.

2. **Engaged relevant umbrella organizations and nonprofits**. OSB engaged with umbrella and nonprofit organizations that work with CAIs to coordinate and obtain 1 Gbps broadband service availability data.

3. **Listed CAIs that do not have adequate broadband service**. Using the responses received, OSB compiled a list of CAIs that do not have adequate broadband service. Attached as Appendix 4 is a CSV 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 OSB's knowledge.

5. Challenge process (Requirement 7)

This first volume of the State of Maryland BEAD Initial Proposal includes, consistent with NTIA requirements, a detailed and rigorous proposed challenge process for development of the map under which BEAD grants will be evaluated and awarded by OSB. The proposed challenge process, including all required elements, is described in detail below.

Adoption of NTIA Challenge Model

☐ No

☒ Yes

The State of Maryland plans to adopt the NTIA BEAD Model Challenge Process. Maryland will also adopt the BEAD Eligible Entity Planning Toolkit.[7]

5.1 Deduplication of funding: Use of BEAD Planning Toolkit for identifying enforceable commitments

☒ Yes

☐ No

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

5.2 Process description

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

- The Broadband Funding Map published by the FCC pursuant to IIJA § 60105
- Data sets from the State of Maryland broadband deployment programs that rely on funds from the State and Local Fiscal Recovery Funds and Capital Project Funds administered by the U.S. Treasury
- Data sets from the State of Maryland's broadband deployment programs that rely on State funds, as well as other local data collections of existing enforceable commitments

OSB will make its best effort to develop a list of broadband serviceable locations (BSLs) subject to enforceable commitments based on State or local grants or loans. If necessary, OSB will

[7] See https://www.internetforall.gov/sits/default/files/2023-04/BEAD_Model_Challenge_Process_-_Public_Comment_Draft_04.24.2023.pdf.

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

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

OSB will draw on these provider agreements, along with its existing database on State broadband funding programs' binding agreements, to determine the State's set of enforceable commitments.

OSB plans to deduplicate any funding from programs that will take effect after the challenge process begins but before the grant program is run, potentially including but not limited to CPF funding, or RDOF or USDA grants. OSB will monitor these and other programs in the State, both before and after the challenge process begins, to ensure the deduplication of all funding before the grant program is run.

5.3 List of programs analyzed

Attached as Appendix 5 is a CSV file with a list of the relevant federal programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding.

5.4 Challenge process design: Process description

This OSB plan is largely based on the NTIA BEAD Challenge Process Policy Notice and OSB's understanding of the goals of the BEAD program. The full process is designed to ensure a transparent, fair, expeditious, and evidence-based challenge process.

Permissible challenges

OSB will allow challenges on the following grounds:

- Identification of eligible CAIs, as defined by OSB in the Initial Proposal Volume I
- CAI BEAD eligibility determinations

- BEAD eligibility determinations for existing broadband serviceable locations (BSL) included in the FCC's National Broadband Map
- Enforceable commitments
- Planned service

Permissible challengers

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

Challenge process overview

The challenge process conducted by OSB will include four phases, spanning 90 calendar days[8].

1. **Publication of Eligible Locations**: Prior to beginning the Challenge Phase, OSB 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). OSB will also publish locations considered served, as they can be challenged. OSB tentatively plans to publish the locations on or about January 22, 2024, dependent on NTIA approval of the Challenge Process.

2. **Challenge Phase**: During the Challenge Phase, challengers may submit the challenge through OSB's challenge portal. All challenges will be made visible to the service provider whose service availability and performance is being contested. OSB will notify the provider of the challenge after a review of the challenge by OSB, 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

        ii. That the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service

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

iii. That the email address from which the challenge was sent is verifiable and reachable by sending a confirmation message to the listed contact email

iv. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR)

b. OSB 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.

c. **Timeline**: Challengers will have 30 calendar days to submit a challenge from the time the initial lists of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted. OSB tentatively plans to begin this phase on or about February 19, 2024, dependent on NTIA approval of the Challenge Process.

3. **Rebuttal Phase**: For challenges related to location eligibility, only the challenged service provider may rebut the reclassification of a location or area with evidence. If a provider claims gigabit service availability for a CAI or a unit of local government disputes the CAI status of a location, the CAI may rebut. All types of challengers may rebut planned service (P) and enforceable commitment (E) challenges. Providers must regularly check the challenge portal notification method (e.g., email) for notifications of submitted challenges.

a. **Provider Options**: Challenged service providers will have the following options for action at this time.

i. **Rebut:** Rebuttals must be provided with evidence, at which time the challenged location or locations will 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:** In the event the challenged service provider signals agreement with the challenge, the challenge will be considered conceded and sustained. This will result in transition of the challenged location(s) to the "sustained" state.

b. **Timeline**: Providers will have 30 calendar days from notification of a challenge to provide rebuttal information to OSB. The rebuttal period begins once the provider is notified of the challenge, and thus may occur concurrently with the challenge phase. OSB tentatively plans to begin this phase on or about March 20, 2024, dependent on NTIA approval of the Challenge Process

4. **Final Determination Phase**: During the Final Determination phase, OSB 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**: OSB 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. OSB tentatively plans to begin this phase on or about April 19, 2024, dependent on NTIA approval of the Challenge Process

Evidence and review approach

To ensure that each challenge is reviewed and adjudicated in a way that is fair to all participants and relevant stakeholders, OSB will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. OSB 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

Unless otherwise noted, "days" refers to calendar days.

Table of challenge types, evidence examples, and permissible rebuttals

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple-dwelling unit (MDU).	• Screenshot of provider webpage. • A service request was refused within the last 180 days (e.g., an email or letter from provider). • Lack of suitable infrastructure (e.g., no fiber on pole). • A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.[9] • A letter or email dated within the last 365 days indicating that a provider requested more than the	• Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill. • If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability. • The provider submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location.

[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."

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
			standard installation fee to connect this location or that a provider quoted an amount in excess of the provider's standard installation charge in order to connect service at the location.	
S	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds.[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]
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,

[10] 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. 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.

[11] 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.

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

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
				e.g., from their own network management system or the 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]	• 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.

[13] *Ibid*.

[14] An unreasonable capacity allowance is defined as a data cap that falls below the capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022, see also "BEAD Model Challenge Process," NTIA, November 1, 2023). 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 of required evidence	Permissible rebuttals
B	Business service only	The location is residential, but the service offered is marketed or available only to businesses.	Screenshot of provider webpage.	Provider has documentation that the service listed in the BDC is available at the location and is marketed to consumers.
E	Enforceable commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.	Enforceable commitment by service provider (e.g., authorization letter).	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).

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
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.	• Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained. • Contracts or a similar binding agreement between the State or SBO 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.

Code	Challenge type	Description	Specific examples of required evidence	Permissible rebuttals
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.	
C	Location is a CAI	The location should be classified as a CAI.	Evidence that the location falls within the definitions of CAIs set by the State.	Evidence that the location does not fall within the definitions of CAIs set by the State or is no longer in operation.
R	Location is not a CAI	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.	Evidence that the location does not fall within the definitions of CAIs set by the State or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by set by the State or is still operational.

Area and MDU Challenge

OSB 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 locations it serves within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed above.[15]

An area challenge is triggered if six or more broadband serviceable locations using a particular technology and a single provider within a census block group are challenged.

An MDU challenge requires challenges for one unit for MDUs having fewer than 15 units, for two units for MDUs of between 16 and 24 units, and at least three units for larger MDUs. Here, the MDU is defined as one broadband serviceable location listed in the Fabric.[16] An MDU challenge counts towards an area challenge (i.e., six successful MDU challenges in a census block group may trigger an area challenge).

Each type of challenge and each technology and provider is considered separately, e.g., 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 is treated separately since they are likely to have different availability and performance.

Area challenges for availability need to be rebutted in whole or by location with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or by subscriber information. For fixed wireless service, the challenge system will offer representative random, sample of the area in contention, but no fewer than 10, where the provider must demonstrate service availability and speed (e.g., with a mobile test unit).[17] For MDU challenges, the rebuttal must show that the inside wiring is reaching all units and is of sufficient quality to support the claimed level of service.

Speed test requirements

OSB 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 four forms:

[15] A successful MDU challenge converts the status of the location to the lowest level of service across all units. For example, the location is considered unserved if one unit is found to be unserved, even if other units within the MDU reach the underserved or served speed thresholds.
[16] For example, a complex of apartment buildings may be represented by multiple BSLs in the Fabric.
[17] 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.

1. A reading of the physical line speed provided by the residential gateway, (i.e., DSL modem, cable modem (for HFC), ONT (for FTTH), or fixed wireless subscriber module
2. A reading of the speed test available from within the residential gateway web interface
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 connected to a residential gateway, using speedtest.net or other Ookla-powered front ends or M-Lab's speed test services

Each speed test measurement must include:

- The time and date the speed test was conducted
- The provider-assigned internet protocol (IP) address, either version 4 or 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 OSB, that grants access to these information elements to OSB, 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 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 or underserved. 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% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule,[18] i.e., 80% of these locations must experience a speed that equals or exceeds 80% of the speed threshold. For example, 80% of these locations must have a download speed of at least 20 Mbps (that is, 80% 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. 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.

Transparency plan

To ensure the challenge process is transparent and open to public and stakeholder scrutiny, OSB 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.

[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.

OSB also plans to actively inform all units of local government of its challenge process and set up regular touchpoints to address any comments, questions, or concerns from local governments, nonprofit organizations, and internet service providers. Relevant stakeholders can sign up on DHCD's website at for challenge process updates and newsletters. They can engage with OSB through a designated email address: OSB.BEAD@maryland.gov. Providers will be notified of challenges by email through OSB.BEAD@maryland.gov.

Beyond actively engaging relevant stakeholders, OSB 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 broadband serviceable location
- 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

OSB will not publicly post any personally identifiable information (PII) or proprietary information, including subscriber names, street addresses, and customer IP addresses, in accordance with the federal Personally Identifiable Information policy and Privacy Act of 1974, and with Maryland's Personal Information Protection Act, which protects consumers' personally identifiable information and restricts such information from being released or disclosed without consumers' consent, and Maryland's Public Information Act, which restricts state agencies from disclosing personal information. To ensure all PII is protected, OSB 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.

OSB will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal and State 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.

6. Public comment process

This section describes the public comment period conducted for the Initial Proposal Volume I and provides a high-level summary of the comments received as well as how they were addressed by OSB.

OSB made Volume I available for public comment for a period of 30 days ending on December 2, 2023, to gather feedback from stakeholders and promote transparency in the development of the Proposal. OSB posted Volume I and Volume II of the Initial Proposal for comment at the same time, making both volumes available for 30 days.

The drafts were posted publicly on OSB's website with a description of their role in the BEAD program and an invitation to submit comments on the content to a dedicated email address or in writing by mail. The inbox was monitored by OSB for the duration of the comment period.

To encourage broad awareness, participation, and feedback during the public comment period, OSB conducted outreach and engagement activities to solicit participation by a diverse range of stakeholders, with a particular focus on local community organizations, unions and worker organizations, and other underrepresented groups. The Office of Governor Wes Moore issued a press release on November 20, 2023, explaining the role of the State's plans prepared for the BEAD and Digital Equity programs in advancing equitable access to high-speed internet in the State, and encouraging Marylanders to submit their feedback during the public comment period.[19] OSB also conducted a presentation for the membership of the Maryland Broadband Cooperative, which includes most ISPs operating in the State.

OSB received comments on the Initial Proposal Volume I from nonprofits, unions, ISPs, individual residents, and trade associations.

At a high level, these comments addressed a range of aspects of the Proposal, including the challenge process timeline, evidentiary standards, CAI categorizations, and pre-modifications. and they confirmed the general direction of OSB's Initial Proposal Volume I. Some commenters suggested changes that, while they have merit, cannot be incorporated into this Initial Proposal because the suggestions run contrary to NTIA's guidance, interfere with the NTIA Model Challenge Process, or were already incorporated in other ways into the Initial Proposal. Others noted that the NTIA has released updated guidance as OSB was preparing the draft Initial

[19] "State of Maryland Seeking Public Comment on Draft Plans to Achieve Digital Equity and Connect All Marylanders to High-Speed Internet Access," Office of the Governor press release, November 20, 2023, https://governor.maryland.gov/news/press/pages/state-of-maryland-seeking-public-comment-on-draft-plans-to-achieve-digital-equity-and-connect-all-marylanders-to-highspeed-.aspx.

Proposal for public comment and requested that the Initial Proposal be revised to reflect that guidance.

Several commenters asked for changes to the definition of Community Anchor Institution (CAI). Ameelio, a nonprofit that builds technology for prison systems, designed to prioritize rehabilitation, asked that prisons be classified as CAIs. Maryland has decided to classify correctional institutions as CAIs based on this comment as well as comments received regarding the Digital Equity Plan. Education Superhighway asked that the definition of public housing be expanded to include publicly-funded and nonprofit multiple dwelling units (MDUs). Public Housing was not included as a community anchor institution category as OSB will address such locations through the unserved and underserved tiered process.

Commenters also requested changes to the challenge process. For example, a member of the Communications Workers of America union District 2-13 requested that OSB adopt the optional DSL modification and treat locations served by DSL as underserved and do the same for Fixed Wireless. Verizon asked that the "planned service" challenge category be removed or modified, and WISPA also asked that the "planned service" challenge category be modified and that more detail be provided now. Comcast asked that the challenge process be extended. OSB chose not to modify the challenge process but will take all comments into consideration as it develops the details of the process.

OSB carefully considered the feedback it received from a variety of stakeholders to inform this Proposal. The comments received, as well as the State's responses to those comments, are documented in the Local Coordination Tracker Tool, which is attached to the Initial Proposal Volume II as Appendix A.

OSB will continue to take this input into account as it implements the Challenge Process and develops the Final Proposal and will conduct ongoing communications to inform and engage the public through this process.

Appendix 1: Broadband funding sources

This appendix is presented as a separate file.

Appendix 2: Location IDs of all unserved locations

This appendix is presented as a separate file.

Appendix 3: Location IDs of all underserved locations

This appendix is presented as a separate file.

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

This appendix is presented as a separate file.

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

This appendix is presented as a separate file.