



Department of  
**Economic &  
Community Development**

# BEAD INITIAL PROPOSAL

*Volume 1*

## Overview of the Broadband Equity, Access, and Deployment (BEAD) Program

The Broadband Equity, Access, and Deployment (BEAD) Program was authorized by the Infrastructure Investment and Jobs Act of 2021 ('Infrastructure Act'), also known as the Bipartisan Infrastructure Law. The BEAD Program provides new federal funding to the National Telecommunications and Information Administration (NTIA) to grant to all fifty states, the District of Columbia, Puerto Rico, and the United States Territories for broadband planning, deployment, mapping, equity, and adoption activities.

The Infrastructure Act included \$42.45 billion to create the BEAD Program, and Tennessee was allocated \$813.3M. To learn more about the BEAD Program, read the Notice of Public Funding [here](#).

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### Volume One Initial Proposal Requirements Overview

*The State of Tennessee has drafted the following to meet the requirements for Volume One of the BEAD Initial Proposal:*

- *Requirement 3 – Identification of existing broadband funding/efforts*
- *Requirement 5 – Identification of existing unserved and underserved locations*
- *Requirement 6 – Identification, definition, and application of community anchor institutions*
- *Requirement 7 – Detailed challenge process plan*

*For the purposes of this proposal, “Eligible Entity” refers to the Tennessee Department of Economic and Community Development (TNECD), which is the department that houses the State Broadband Office. “The State” also refers to the Eligible Entity, TNECD.*

### Existing Broadband Funding (Requirement 3)

**In this section, TNECD must identify existing efforts to deploy broadband and close the digital divide funded by either the federal government or our state government within Tennessee's boundaries.**

In the below table, TNECD has identified and addressed the existing funding efforts by both the federal and state government for broadband deployment to close the digital divide within Tennessee, including the most recent Capital Projects Fund (CPF) Last and Middle Mile programs. This table and all efforts are also documented in the State's Five-Year Action Plan.

By leveraging key agencies within the State, consulting publicly available documentation, such as NTIA's [Investing in Internet for All Dashboard](#), and referencing internal and public TN metrics, the Broadband Office was able to compile a comprehensive list of all funding opportunities, whether those were allocated from the federal or state level.

Current or planned programs that are relevant to the State's BEAD timeline do not have an expended amount listed (shown as TBD) and will be updated respectively.

Source	Purpose	Total	Expended	Available
American Rescue Plan - Infrastructure	Distributed to grantees to develop broadband infrastructure to unserved areas via the Tennessee Emergency Broadband Fund.	\$446,770,282.00	\$9,027,145.77	\$437,743,136.23
American Rescue Plan - Non-infrastructure	Distributed grants to subdivisions to create broadband adoption and digital opportunity programming (planned) and created a Digital Skills and Workforce Development Grant Program (planned).	\$50,000,000.00	\$484,024.66	\$49,515,975.30
US Treasury Capital Projects Fund	Development of Middle Mile and Last Mile infrastructure (planned); creation of Connected Community Facilities (planned).	\$215,218,861.00	\$0.00	\$215,218,861
BEAD Planning Grant	Develop Tennessee's Broadband, Equity, Access, and Deployment Plan.	\$4,906,138.56	\$33,169.24	\$4,872,969.32
DE Planning Grant	Develop Tennessee's Digital Equity Plan.	\$1,083,814.06	\$106,287.00	\$977,527.06
Rural Digital Opportunity Fund (RDOF)	Reverse Auction Broadband Program administered by the Federal Communications Commission (FCC).	\$148,625,826.00	N/A - Federally administered program (often directly to providers)	N/A - Federally administered program (often directly to providers)
USDA Re-Connect	Provide funds for the costs of construction, improvement, or acquisition of facilities and equipment needed to provide broadband service in eligible rural areas.	\$36,222,864.00	N/A - Not Administered by States	N/A - Not Administered by States
NTIA Enabling Middle Mile (EMM) Program	Provides funding for vital middle-mile infrastructure to maintain high-speed networks. Project - Central Appalachian Broadband	\$20,350,934.40	In Process - recently announced	TBD - recently announced

Connecting Minority Communities Pilot Program	The Connecting Minority Communities Pilot Program (CMC) provided \$268 million to help colleges and institutions that serve minority and Tribal communities.	\$3,464,254.00	N/A - Awarded directly to colleges and institutions	N/A - Awarded directly to colleges and institutions
Connect America Fund Phase II Auction (CAF II Auction)	Auction following awards of CAF II Model providing additional support to price cap carriers up to Gigabit broadband service.	\$8,334,476	N/A - Not all funding went to 100/20 speed tier - bids accepted in 4 tiers	N/A - CAF II auction carriers have until end of 2025 to complete deployment
Federal Communications Commission (FCC) E-Rate	Allows schools and libraries to receive discounts on telecommunications, internet access, and related services	\$88,876,011.41	N/A - Federally administered program (often directly to providers)	N/A - Federally administered program (often directly to providers)
Enhanced Alternative Connect America Model (E-ACAM)	Broadband benefit that provides eligible households with a monthly discount of up to \$30 per month and a one-time \$100 discount toward a laptop, desktop computer, or tablet	\$8,424,000.00	Recently announced/acceptance announced	Recently announced/acceptance announced
TEBF-CARES (Tennessee Emergency Broadband Fund - Coronavirus Aid, Relief, and Economic Security)	Direct economic assistance for workers, families, small businesses, and industries and implemented a variety of programs to address issues related to the onset of the COVID-19 pandemic, including broadband access	\$ 61,058,467.85	\$ 61,058,467.85	\$0
Telephone Loan Program	Provided additional support to telephone providers to offset or supplement costs of deployment or deployment related expenses.	\$45,216,000	N/A - Awarded to two providers but funding did not explicitly go to infrastructure.	N/A - Awarded to two providers but funding did not explicitly go to infrastructure.

## Unserved and Underserved Locations (Requirement 5)

**In this section, TNECD must identify each unserved location and underserved location in Tennessee using the most recently published Broadband DATA Maps and identify the date of publication of the Broadband DATA Maps used for such identification.**

To satisfy this requirement, two .csv files have been downloaded from the most recent version of the FCC Broadband ahead of TNECD's formal submission of Volume One to NTIA. The State broadband office has ensured the most recent and accurate version of this data is represented, by using the first publication of September dated 9/12/2023. These .csv files will list Broadband Serviceable Locations (BSLs) per the FCC Map. The data sourced from the FCC maps will not predate the submission of Volume One by more than 59 days.

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

**In this section, TNECD must describe how they applied the statutory definition of the term "community anchor institution," identify all eligible CAIs in its jurisdiction, and assess the needs of eligible CAIs. (This includes the types of CAIs TNECD intends to serve and if it proposes service to additional CAIs because it deems they facilitate greater use of broadband service by vulnerable populations.)**

In the paragraph below, Tennessee has defined how it interprets the definition of a CAI. While it is initially unclear how much funding will be left over after fulfilling the obligation to serve all identified unserved and underserved BSLs, TNECD remains dedicated to exploring options to connect all eligible CAIs.

Based on the statutory definition of "community anchor institution" as defined in 47 USC 1702 (a)(2)(E), TNECD applied the definition of "community anchor institution" to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency, HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals. TNECD, through extensive review, has compiled a comprehensive list of organizations that meet the statutory definition of a Community Anchor Institution. The data represented in the attached file (cai.csv) includes labels (present in column A) that are a generalization of the type of facility represented in column D. For example, Convenient Care Clinic is labeled as an Urgent Care Facility, even though it's a clinic, and falls into the much broader type H (column D). TNECD did not categorically decline any CAIs from the list, and will allow organizations not currently represented in the list who meet the NTIA definition of a CAI to opt-in during the state challenge process as outlined below:

### Qualifying as an Additional CAI

In addition to the identified CAIs, the State will run an opt-in process through a separate form within the Challenge Portal during the State challenge process, to allow community support organizations not specifically listed in 47 USC 1702(a)(2)(E) to demonstrate they meet the requirements and wish to participate as an eligible CAI.

The requirements for community support organizations that are not specifically listed in 47 USC 1702(1)(2)(E) to qualify as an eligible CAI include:

- Lacks access to a 1 Gig upload/ 1Gig Download broadband internet connection.
- Has community members that identify with at least one of the following covered populations AND/OR the institution serves at least one of the covered populations.
  - Aging Individuals
  - Incarcerated or Recently Incarcerated Individuals
  - Individuals with a Language Barrier
  - Individuals with a Disability
  - Low-Income Households
  - Racial/Ethnic Minorities
  - Rural Residents
  - Veterans
- Provides at least one of the following digital services for their community's use:
  - Has a process for offering community members access to laptops, desktops, tablets, hotspots, and/or other digital devices.
  - Hosts digital skills training for their community.
  - A staff member that serves as a digital navigator, technical support, and/or broadband adoption support.

The State will review these surveys to ensure compliance and will rule on each survey accordingly. The needs of all CAIs in the final list will be assessed based on location and proximity to service based on TN Broadband Accessibility Map (TNBAM) and the National Broadband accessibility Map (NBAM) datasets.

## Needs Assessment

In the past, TNECD has engaged with numerous counties and their leadership to discuss broadband access issues. This has included direct engagement with stakeholders, including those wishing to be considered as a CAI. Throughout this process, the broadband office has adhered to NTIA requirements and language, and in doing so, TNECD has determined the level of access needs for CAIs, or those who opt-in as additional CAIs, is a symmetrical 1Gbps connection. This speed was determined to be necessary for the facilitation of greater broadband use and current/future needs. The broadband office has access to **estimated**, rather than exact data, and has reviewed its initial list to ensure only those lacking the symmetrical gigabit connections are included. During the public comment period, TNECD did not receive additional input on CAIs, their access, or their availability. Additional CAIs will be reviewed similarly, as described below.

## Final CAI List

Tennessee is in the process of creating its CAI list by primarily pulling data from its own State Broadband Accessibility map. The layered functionality of the map allows the broadband office to see the relevant CAIs and their broadband speeds to ensure those locations who do not

have access to a 1 Gbps availability are included in the list. At the conclusion of the State Challenge Process, all additional identified CAIs within the State (i.e., those who choose to engage in the opt-in process that meet the requirements and any additional locations added through the challenge process), will be included in the final CAI list.

## **Challenge Process (Requirement 7)**

In this section, TNECD must include a detailed plan to conduct a challenge process as described in Section IV.B.6 of the BEAD Notice of Public Funding.

### **NTIA BEAD Model Challenge Process Adoption:**

The State of Tennessee has chosen to adopt NTIA's model challenge process with minor modifications that add specificity in certain areas as detailed below.

### **Modifications to Reflect Data Not Present in the National Broadband Map:**

The State of Tennessee elects not to adopt additional pre-challenge modules.

### **Deduplication of Funding:**

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

1. The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.8
2. Data sets from state broadband deployment programs that rely on funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury.
3. Tennessee and local data collections of existing enforceable commitments or obligations.

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

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

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

The State of Tennessee has compiled a list of federal, state, and local enforceable commitments. The state used internal metrics as well as USAspending.gov to identify, to the best of the State's ability, those contained within the list.

### **Challenge Process Design:**

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

### **Permissible Challenges**

The broadband office will only allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by Tennessee,
- Community anchor institution BEAD eligibility determinations,
- BEAD eligibility determinations for existing broadband serviceable locations (BSLs),
- Enforceable commitments, or
- Planned service.

### **Permissible Challengers**

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

### **Challenge Process Overview**

The challenge process conducted by the broadband office will include four phases, spanning 75 days. Implementation efforts around the challenge process will be facilitated through a capable contractor and support teams that provide GIS capabilities, data analytics and technical audit skills. These subcontractors will assist in development and implementation of the State challenge portal, intake process, and adjudication methods. The broadband office staff will directly review challenges and verify for accuracy of submission. Decisions will ultimately be made by the State Broadband Director, and Broadband Infrastructure Coordinator.

- 1. Publication of Eligible Locations:** Prior to beginning the Challenge Phase, the broadband office 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). A set of eligible locations would be tentatively published in early February 2024.
- 2. Challenge Phase:** During the Challenge Phase, the challenger will submit the challenge through the broadband office challenge portal. This challenge will be visible to the service provider whose service availability and performance is being contested. The portal will notify the provider of the challenge through an automated email, which will include related information about timing for the provider's response. After this stage, the location will enter the "challenged" state.
  - a. Minimum Level of Evidence Sufficient to Establish a Challenge:** The challenge portal will verify that the address provided can be found in the Fabric and is a BSL. The challenge portal will confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service. [The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email.] For scanned images, the challenge portal will determine whether the quality is sufficient to

enable optical character recognition (OCR). For availability challenges, the broadband office will manually verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated.

b. **Challenge Phase Window:**

Challengers will have a 25-calendar day window to submit a challenge from the time the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted. This window will tentatively open early February 2024 and close late February 2024. After this window closes, no additional challenges will be accepted; this is not a rolling process.

3. **Rebuttal Phase:** Only the challenged service provider may rebut the reclassification of a location or area with evidence, causing the location or locations to enter the “disputed” state. If a challenge that meets the minimum level of evidence is not rebutted, the challenge is sustained. A provider may also agree with the challenge and thus transition the location to the “sustained” state.

a. **Rebuttal Phase Window:**

Challengers will have a 25-calendar day window to respond to challenges after the Challenge Phase has closed. This window will tentatively open late February and conclude mid-March 2024. After this window closes, no additional rebuttals will be accepted; this is not a rolling process.

4. **Final Determination Phase:** During the Final Determination phase, the broadband office will make the final determination of the classification of the location, either declaring the challenge “sustained” or “rejected.”

a. **Timeline:**

Following intake of challenge rebuttals, the broadband office will make a final challenge determination during the final 25-calendar day window, after the Rebuttal Phase Window has closed. This window will tentatively open Mid-March 2024, and close early April 2024; this is not a rolling process. After this window has closed, the broadband office will publish a list of accepted challenges and maps reflecting the change, after which will conclude the challenge process in its entirety.

b. **Public Notice:** Upon completion of the Final Determination window, TNECD will compile a list of all accepted challenges and post publicly on its website at least 60 days prior to making award announcements. The broadband office will also provide updated area maps reflecting these changes. TNECD will also send out information to all stakeholders through email/newsletters.

*After the challenge process concludes, TNECD will publicly post the final list of eligible BSIs, in addition to the above approved challenges, on its website at least 60 days prior to awarding grants, which will include the final classification of each unserved and underserved location, or eligible CAI.*

### **Evidence & Review Approach**

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, the broadband office will review all applicable challenge and rebuttal

information in detail without bias, using a uniform process to log, verify/validate, and ultimately sustain or reject a challenge. The broadband office will document the standards of review to be applied in a Standard Operating Procedure document and will require reviewers to document their justification for each determination. The broadband office plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. The broadband office will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.

*\*TNECD will never publish any Personal Identifying Information (PII) or proprietary data to the public. All data put forth for public comment, challenges, and general consumption will not contain the locations of electronics, middle mile infrastructure, or any proprietary information shared in confidence.*

The State has expanded on the types of supplemental evidence to be accepted. Noted and highlighted in the table below, specificity has been added to the following areas:

- **To challenge Availability**, a challenger can supplement “lack of suitable infrastructure” with a geotagged photograph at location (using a free survey tool like Dioptra or leveraging location based meta data already present in most devices). **A proper Rebuttal for Availability** may include proof that a RoE (Request of Entry) has been denied by the property owner, manager, or supervisor (infrastructure exists to or within reasonable serviceable distance of property)
- **To challenge Data Cap**, a challenger may also provide proof of throttling, unreasonable data cap (Under 600GB/month) or inability to access network (data limit exceeded). These are often presented as a provider-branded web or gateway-based message, through an email, via a note in your account or bill, etc.
- **To challenge Technology**, a challenger may supplement their challenge with a geotagged photograph at location (using a free survey tool like Dioptra or leveraging location based meta data already present in most devices) proving different technology deployed, lack of technology deployed, damage to network suggesting speeds have diminished, etc. They may also provide a letter, note, or other form of communication from subscriber location suggesting they subscribe to other technology or do not receive what the location shows. Finally, a challenger may provide a plant map if the location is within their territory. All proprietary information and personal identifying information are protected.
- **When claiming Commitments or Planned Service**, a challenger may also supply the State with a Bill of Ladings proving purchase, shipment, or delivery of technology/assets for planned build, or an engineering design file showing planned commitment to the challenged area.

For all challengers supplying plant maps, as-builts, or engineering design files – Please consider accessibility when submitting these files. The State can accept .KMZ, .KML, Shape File folders (all inclusions - .shp, .shx, .prj) Geo JSON files, SPATIALLY attributed location based data files (.csv), and .dbf filetypes. The State will not accept image files (.png, .jpg, .jpeg, etc) of service area, static PDF maps, freehand plant routes, etc. The state can be contacted prior to submitting a challenge to inquire about acceptable filetypes.

Table 1 - Examples of Acceptable Evidence for BEAD Challenges and Rebuttals

Code	Challenge Type	Description	Specific Examples	Permissible Rebuttals
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).	<p>Screenshot of provider webpage.</p> <p>A service request was refused within the last 180 days (e.g., an email or letter from provider).</p> <p>Lack of suitable infrastructure (e.g., no fiber on pole).</p> <p>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.<sup>11</sup></p> <p>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 more than the providers standard installation charge to connect service at the location.</p> <p>Appropriately Geo-tagged photo of infrastructure or lack thereof at location (Dioptra, Theodolite, or existing meta data)</p>	<p>Provider shows that the location subscribes or has subscribed within 12 months, e.g., with a copy of a customer bill. 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.</p> <p>Provider supplies proof of denied Request of Entry (if service has been built to property)</p> <p>Provider submits plant map including or emphasizing area of challenge, proving availability</p>

D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. <sup>14</sup>	Screenshot of provider webpage. Service description provided to consumer. Proof of Throttling, unreasonable data cap, or inability to access (as described prior in this section)	Provider has terms of service showing that it does not impose a data cap.
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T	Technology	The technology indicated for this location is incorrect.	Manufacturer and model number of residential gateway that demonstrates the service is delivered via a specific technology. Appropriately Geo-tagged photo of infrastructure or lack thereof at location (Dioptre, Theodolite, or existing meta data) Letter or note from resident stating technology subscribed to	Provider has countervailing evidence from their 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.

E	Enforceable Commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.	<p>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 Section 6.2 above).</p> <p>Bill of Ladings demonstrating purchases/delivery of equipment/assets.</p> <p>Engineering design/plant design demonstrating commitment (.shp file, .kmz/.kml, GeoJSON file, etc)</p>	Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer an ongoing concern).
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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.	<p>Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained.</p> <p>Contracts or a similar binding agreement between the Eligible Entity and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source (i.e., a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2024.</p> <p>Bill of Ladings demonstrating purchases/delivery of equipment/assets.</p>	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.
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			Engineering design/plant design demonstrating commitment	
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 Eligible Entity.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.

R	Location is not a CAI	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational.
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## Area and MDU Challenge Module

The broadband office will administer area and MDU challenges for challenge types A, D, and T. An area challenge reverses the burden of proof for availability, data caps and technology if a defined number of challenges for a particular technology, across all challengers, have been submitted for a provider. Thus, the provider receiving an area challenge or MDU must demonstrate that they are indeed meeting the availability, data cap and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. It is not the State's plan or intention to fund older technology in areas where superior infrastructure exists, such as a Multi Dwelling Unit. TNECD will consider an MDU as "serviceable", or otherwise available for service, where applicable superior infrastructure exists, given a successful challenge is awarded, and the commitment of said provider to connect within a reasonable amount of time, should the property supervisor or owner choose to obtain service. The challenged provider can use any of the permissible rebuttals listed above.

An area challenge is triggered if 6 or more broadband serviceable locations using a particular category 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.

Area challenges for availability need to be rebutted with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer representative, random samples of the area in contention, but no fewer than [10], where the provider must demonstrate service availability.

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.

*\*TNECD will not be accepting challenges based on Speed (S) or Latency (L) and have therefore removed those categories from the above chart. It is worth noting that while TNECD is largely adopting the model language for the Area and MDU challenge module, categories S and L have been removed accordingly.*

## Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, the broadband office will, upon approval from NTIA, publicly post an overview of the challenge process phases, challenge timelines, and instructions on how to submit and rebut a challenge. This documentation will be posted publicly for at least a week prior to opening the challenge submission window. The broadband office also plans to actively inform all stakeholders 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. TNECD plans to leverage its' existing network for newsletters and regular information feeds, ensure interested and relevant third parties are directed to the proper avenues, and all workshop, office hours, and speaking sessions are documented, recorded, and announced ahead of time. Relevant stakeholders can sign up on the broadband office website, [TN.gov/ECD](http://TN.gov/ECD) or [tn.gov/broadband](http://tn.gov/broadband) for challenge process updates and newsletters. They can engage with the broadband office by reaching out to [ECD.Broadband@tn.gov](mailto:ECD.Broadband@tn.gov). The broadband office will notify all challengers of respective rebuttals and/or final determination directly, and the accepted challenges will be posted on the above website.

Beyond actively engaging relevant stakeholders, the broadband office 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 planned service), and
- a summary of the challenge, including whether a provider submitted a rebuttal.

The broadband office will not publicly post any personally identifiable information (PII) or proprietary information, including subscriber names, street addresses and customer IP addresses. To ensure all PII is protected, the broadband office will review the basis and summary of all challenges and rebuttals to ensure PII is removed prior to posting them on the website. Additionally, guidance will be provided to all challengers as to which information they submit may be posted publicly.

The broadband office will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law and in alignment with Tennessee revised statute. 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.

### **Initial Proposal Volume 1 Public Comment**

During the State's Public Comment period, which ran no shorter than 30 days (8/29/23 to 9/28/23 at 5:00PM CST, TNECD received 8 submissions on the Initial Proposal Volume 1.

The State posted their IPV1 on the TNECD website, sent out an email to all stakeholders and stakeholder groups, and provided instruction on how to complete and submit a public comment. Prior to posting for public comment, TNECD ensured that a tentative submission date was provided to stakeholders during ISP listening sessions, provider workshops, and steered web traffic using banners, marquees, and noticeable links within the website.

After closing the 30-day comment window, the following topics were of concern and will be addressed below:

Pre-Challenge Modifications

Challenge Modules

Challenge Methodology

Transparency and Fairness Plan

MDU Access/Service to MDU/Denied ROE

CAI Qualifications/Consideration

For those who expressed interest in **identifying additional qualifying CAIs**, or those who may meet the requirements to qualify as a Community Anchor Institution, the state would like to encourage these organizations, non-profits, etc. to participate in the Opt-In process to be ran during the challenge process. This will allow the org in question to fill out a short survey and narrative explaining as such, and an opportunity to provide the state with potential missed or uncollected information regarding your organization. This Opt-In process will be explained in detail within the Initial Proposal, on our website, and likely in an email from [ECD.Broadband@tn.gov](mailto:ECD.Broadband@tn.gov).

For those who raised the **Challenge Process Timeline** as a concern: The state had originally set 60 days for the entirety of the Challenge Process, in phases of 20 calendar days each (20/20/20) without the caveat of a rolling window. This would mean that each phase is gated to those days and once closed, the next phase is initiated.

For example, after the initial 20 days have closed for challenges, the state moves into the Rebuttal phase window of 20 days. Concerns were raised that 60 days would be too short for some provider and organization's comfort.

TNECD has elected to add **5 days to each phase**, for a total of **75 days (25/25/25)**. This will give an additional work week/5 calendar days for each phase to be carried out to completion, ensuring that all participants have enough time to move through Challenge and Rebuttal phases comfortably and allow additional time on the State's end for adjudication and resolution.

For those who addressed **Pre-Challenge Modifications** as a point of concern: TNECD will not be adopting pre-challenge modifications, which include DSL Modifications (where the State would treat areas served by DSL/Legacy Copper as Underserved) and Speed Test Modifications (Where the State would require extensive testing to be done, in compliance with the outline, to submit speed test challenges)

The state has determined Speed Testing to be hit-or-miss in terms of relevant challenge materials, in that superior evidence for challenges exists and, in some cases, is easier to access and adjudicate. Adding the Speed Testing module would put an undue amount of burden on the providers/challengers to conduct the "extensive" testing to qualify as relevant or acceptable supplemental evidence. TNECD has removed all indications of "speed testing" from its' challenge process in entirety and will not be accepting Speed Tests as challengeable evidence.

TNECD is also amidst rolling out CPF programs – to facilitate eligibility maps for both CPF (current) and BEAD (future), the State will be relying on provider supplied information, evidence, and narrative for all challenges, so conflicting or heavily modified information is not introduced in the middle of any steps. This means, if an area exists where only legacy copper is available, a challenger must identify and challenge those locations if they wish to be able to serve them.

The above decisions were made based on the election of the following **Challenge Modules**:

TNECD has elected to adopt **the Area and MDU Challenge Module**. An **area challenge** is triggered if 6 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 by at least 3 units or 10% of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

For those who had concerns regarding **MDU access/Service to property/denied ROE request**:

The state recognizes the need for reliable, robust, and scalable internet connections in multi dwelling units. The state also recognizes that "adoption" cannot be forced and in the event of denied ROE to such units, the state will consider these MDUs "served/serviceable" if the network infrastructure exists within a reasonable distance and could be activated and connected within a reasonable amount of time if the property owner requested service. The state does NOT plan to allow for upgrades to service where superior service already exists, and it is important that the ISP(s) with service to a property line participate actively in the challenge process to ensure these MDUs are accounted for properly. TNECD relies on ISP participation to provide evidence of service or infrastructure where applicable, and greatly appreciate the shared concern on this topic. TNECD has allowed for these types of challenges during the state challenge process and hopes to effectively address all MDUs where this is a concern.

Additionally, for those who had concerns on **service or access within MDUs**, the state is dedicated to ensuring, where applicable and available, ISPs that have superior service than what is currently wired or offered at BEAD eligible MDUs have a plan to provide access to all units in an MDU rather than simply focusing on the single identified BSL. This can include Wi-Fi Access Points, Extenders, whole-home or whole-building mesh, or the standard "apartment Wi-Fi" approach. We recognize that providing access to the building does not necessarily provide access to each unit within the building.

For those who posed **Challenge Methodology** as a concern, including feedback on **Acceptable Challenge Types, Allowable Supplemental Evidence, and Transparency/Fairness Plan**: The State recognizes the need for options when it comes to allowable supplemental evidence for a challenge or rebuttal, and in identifying

that need, has elaborated on additional allowable submission types, including **Geotagged photographs, Proof of Throttling**, etc. TNECD does not wish to place undue stress or burden by constraining the types of submittable documentation and wishes to thank those who supported the additions.

TNECD also remains dedicated to ensuring the training and knowledge of all review team members is up to date to allow for uniform review, protecting the safety of proprietary or personal information, and documenting all justification in a brief narrative along the way. The broadband office will treat all challenges and applications alike in that they are approached without bias, looked at from a technical, managerial, and community feasibility standpoint, and that all members of the respective review teams sign affidavits ensuring no conflict of interest is present.

TNECD wishes again to thank all participants who lodged public comments for Tennessee's Initial Proposal Volume 1, and look forward to an exciting BEAD program.