



# Public Service Commission of Wisconsin

Rebecca Cameron Valcq, Chairperson  
Tyler Huebner, Commissioner  
Summer Strand, Commissioner

4822 Madison Yards Way  
P.O. Box 7854  
Madison, WI 53707-7854

Public Service Commission of Wisconsin  
RECEIVED: 9/29/2023 10:02:01 AM

September 29, 2023

To the Parties:

Re: Broadband and Digital Equity Planning 5-BP-2023

Broadband Equity, Access & Deployment (BEAD) Initial  
Proposal Volume 1

Comments Due:

**Monday, October 30, 2023 at 1:30 PM**

This docket uses the Electronic Records Filing  
system (ERF).

Address Comments To:

Public Service Commission  
P.O. Box 7854  
Madison, WI 53707-7854

The Broadband Equity, Access & Deployment (BEAD) Initial Proposal Volume 1 is being provided to the parties for comment. Comments must be received by 1:30 PM on Monday, October 30, 2023. The ERF system can be accessed through the Public Service Commission's [website](#). Members of the public may file comments using the ERF system or by mail at the Public Service Commission, 4822 Madison Yards Way, P.O. Box 7854, Madison, WI 53707-7854.

Please direct questions about this docket or requests for additional accommodations for persons with a disability to the Commission's docket coordinator, Matthew Marcus at (608) 575-1509 or [matthew.marcus@wisconsin.gov](mailto:matthew.marcus@wisconsin.gov).

Sincerely,

Joe Fontaine  
Administrator  
Division of Digital Access, Consumer and Environmental Affairs

JF:MM:kle DL: 01966925

Attachments: Commission Memorandum  
BEAD Initial Proposal, Volume 1

# **PUBLIC SERVICE COMMISSION OF WISCONSIN**

## **Memorandum**

September 29, 2023

### **FOR COMMISSION AGENDA**

TO: The Commission

FROM: Joe Fontaine, Administrator  
Tara Kiley, Deputy Administrator  
Alyssa Kenney, State Broadband and Digital Equity Director  
Rory Tikalsky, Broadband Expansion Manager  
Matthew Marcus, Broadband Policy Lead  
Josie Lathrop, Policy Analyst  
Katherine Mumm, GIS and Broadband Data Analyst  
Milena Bernardinello, Broadband Intelligence Product Owner and Program Manager  
Division of Digital Access, Consumer, and Environmental Affairs

RE: Broadband and Digital Equity Planning 5-BP-2023  
  
Broadband Equity, Access, and Deployment (BEAD)  
Program Initial Proposal Volume 1

#### Suggested Minute:

The Commission (approved/approved with modifications/did not approve) the Wisconsin Broadband Equity, Access, and Deployment (BEAD) Program Initial Proposal Volume 1.

#### **Background**

On November 16, 2021, the U.S. Congress enacted the Infrastructure Investment and Jobs Act (Infrastructure Act), also known as the Bipartisan Infrastructure Law, which includes the Broadband Equity, Access, and Deployment (BEAD) Program. The Infrastructure Act states that “[a]ccess to affordable, reliable, high-speed broadband is essential to full participation in modern life in the United States,” and that the digital divide “is a barrier to the economic competitiveness of the United States . . .” and “disproportionately affects communities of color,

lower-income areas, and rural areas.”<sup>1</sup> To provide access to high-speed broadband, the Infrastructure Act created the BEAD Program. The National Telecommunications and Information Administration (NTIA), which is a part of the U.S. Department of Commerce, administers the BEAD program and has delegated primary administration and implementation to states and other eligible entities.<sup>2</sup> Under Wis. Stat. § 16.54, Governor Tony Evers authorized the Public Service Commission of Wisconsin (Commission) to administer BEAD Program funds.

The BEAD Program provides \$42.45 billion nationwide with the principal focus of deployment of broadband service through a state-administered competitive funding program. States and other eligible entities are allocated BEAD funds based on a nationwide location-by-location map of broadband service (the National Broadband Map<sup>3</sup>) compiled by the Federal Communications Commission (FCC) as required by the Broadband Data Improvement Act.<sup>4</sup> NTIA calculated BEAD funds for each state based on the sum of the minimum state initial allocation of \$100 million, the calculated high-cost allocation based on each state’s share of unserved locations<sup>5</sup> in high cost areas, and the final allocation calculation of any remaining funds. The remaining funds allocation is based on the number of unserved locations (residential and business) as a proportion of the national total. As a result of this allocation calculation process, the NTIA has determined Wisconsin’s BEAD funding allocation is \$1,055,823,573.71.<sup>6</sup>

---

<sup>1</sup> Sec. 60101. Infrastructure Investment and Jobs Act, Pub. L. No. 117-58 (2021), <https://www.congress.gov/117/plaws/publ58/PLAW-117publ58.pdf>.

<sup>2</sup> See Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

<sup>3</sup> See FCC National Broadband Map <https://broadbandmap.fcc.gov/home>

<sup>4</sup> See Broadband Data Improvement Act, Pub. L. No. 110-385 (2008), <https://www.govinfo.gov/content/pkg/PLAW-110publ385/pdf/PLAW-110publ385.pdf>.

<sup>5</sup> The term “unserved location” means a broadband-serviceable location that the Broadband DATA Maps show as (a) having no access to broadband service, or (b) lacking access to Reliable Broadband Service offered with – (i) a speed of not less than 25 Mbps for download; and (ii) a speed of not less than 3 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.

<sup>6</sup> See National Telecommunications and Information Administration BEAD Allocation Press Release <https://ntia.gov/press-release/2023/biden-harris-administration-announces-state-allocations-4245-billion-high-speed>

On February 1, 2023, the Commission established the design of two planning subgrant programs to support Wisconsin’s design and implementation of the BEAD program – the BEAD Local Planning Grant Program and the BEAD Workforce Planning Grant Program. ([PSC REF#: 458495](#).) The Commission awarded grants to all eligible recipients who applied for BEAD Local Planning Grants under an allocation formula established in the program design, and made Workforce Planning Grant awards in its order of April 17, 2023. ([PSC REF#: 464403](#).)

The NTIA required each state or other eligible entity to submit to the NTIA a Five-Year Action Plan informed by robust engagement and planning no later than 270 days after its receipt of Initial Planning Funds.<sup>7</sup> Wisconsin was allocated \$5 million from its total BEAD allocation for the initial planning phase, which included research, capacity building, and outreach and engagement to inform the BEAD Five-Year Action Plan. Commission staff detailed a roadmap for establishing broadband goals and priorities, and a plan for a comprehensive needs assessment to inform the BEAD Five-Year Action Plan, informed by the findings from the BEAD Local Planning Grant Program and the BEAD Workforce Planning Grant Program. Commission staff submitted the BEAD Five-Year Action Plan to the NTIA on August 27, 2023.<sup>8</sup>

Wisconsin must submit to the NTIA the BEAD Initial Proposal (Initial Proposal) by December 27, 2023. According to NTIA guidance, the Initial Proposal should describe the process in which Wisconsin intends to use BEAD funding to ensure that every resident and business has access to a reliable, affordable, and high-speed broadband connection.<sup>9</sup> The Initial Proposal should primarily detail the process for determining which locations are eligible for

---

<sup>7</sup> See Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

<sup>8</sup> See Wisconsin Public Service Commission, BEAD Five-Year Action Plan <https://psc.wi.gov/Documents/broadband/5YearActionPlan.pdf>

<sup>9</sup> See NTIA BEAD Initial Proposal Guidance [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

funding and the competitive process used to subaward implementation funding to subgrantees in Wisconsin. The Initial Proposal must be posted for public comment for a period of no less than 30 days prior to submission to the NTIA.

The Initial Proposal must be submitted in two parts, Volumes 1 and 2, which may be submitted together or separately. Wisconsin has opted to submit Volume 1 ahead of Volume 2. Submitting the volumes separately may expedite the review process for Volume 1 and allow Wisconsin to complete the required challenge process prior to the approval of Volume 2. The approval of Volume 2 would trigger the 365-day sub-awarding process and submitting the volumes separately may allow the challenge process to be complete prior to the sub-awarding timeline. This memorandum addresses Wisconsin’s BEAD Initial Proposal Volume 1.

## **Discussion**

The goal of the Initial Proposal Volume 1 is for Wisconsin to submit a proposal that will result in the determination of the locations and community anchor institutions (CAI) that are eligible for BEAD funding and conduct a challenge process to validate and finalize those determinations.<sup>10</sup> Of the 19 total requirements of the BEAD Initial Proposal,<sup>11</sup> Volume 1 addresses the following four:

- Identification of existing broadband funding in Wisconsin (Requirement 3)
- Identification of all unserved and underserved<sup>12</sup> locations in Wisconsin (Requirement 5)

---

<sup>11</sup> See Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

<sup>11</sup> See Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

<sup>12</sup> The term “underserved location” means a broadband-serviceable location that is (a) not an unserved location, and (b) that the Broadband DATA Maps show as lacking access to Reliable Broadband Service offered with—(i) a speed of not less than 100 Mbps for downloads; and (ii) a speed of not less than 20 Mbps for uploads; and (iii) latency less than or equal to 100 milliseconds.

- A proposed definition and identification of Community Anchor Institution (CAI) types (Requirement 6)
- Challenge Process (Requirement 7)

The NTIA has provided the BEAD Model Challenge Process as an example for how eligible entities such as the Commission can meet the requirement.<sup>13</sup> The Initial Proposal Volume 1 must indicate whether Wisconsin plans to adhere to the NTIA Model Challenge Process for purposes of compliance with requirement 7, and whether they will choose to adopt any optional modules provided in the model, make modifications to reflect data not in the National Broadband Map and not provided in the model. The BEAD Model Challenge Process also provides example responses (for Requirement 6) and templates for submission of data (for requirements 3 and 5).

In its draft of Initial Proposal Volume 1, Commission staff utilized the examples for requirement 6 to the extent applicable to Wisconsin and compiled a list of CAI locations based on its drafted definitions. ([PSC REF#: 480753](#).) Commission staff used the NTIA provided model templates for submitting data under requirements 3 ([PSC REF#: 480754](#)) and 5. ([PSC REF#: 480749](#).) ([PSC REF#: 480750](#).) Commission staff's draft Initial Proposal Volume 1 would adopt the BEAD Model Challenge Process along with the following optional modules and modifications:

- Digital Subscriber Line (DSL) Pre-Challenge Modifications [Optional module 2 from BEAD Model Challenge Process]: Proposes to treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location

---

<sup>13</sup> See NTIA BEAD Challenge Process Policy Notice [https://ntia.gov/sites/default/files/2023-09/bead\\_challenge\\_process\\_policy\\_notice.pdf](https://ntia.gov/sites/default/files/2023-09/bead_challenge_process_policy_notice.pdf)

that is “served”) delivered via DSL as “underserved”. This modification would better reflect the locations eligible for BEAD funding because it would facilitate the phase-out of legacy copper facilities and ensure the delivery of “future-proof” broadband service.

- Licensed Fixed Wireless Pre-Challenge Modifications: Proposes to treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is “served”) delivered via licensed fixed wireless as “underserved.” This proposal was informed by multiple analyses of performance data that have indicated that, for many of the approximately 25,500 locations for which the only advertised 100/20 Mbps or greater broadband service is a licensed fixed wireless technology, actual performance falls materially below the 100/20Mbps threshold used to define locations as “served.” First, recently, Commission staff recently obtained broadband speed test analysis for 25 percent of these locations, approximately 6,400 locations. Further analysis confirmed with medium to high confidence that 84 percent of these locations are experiencing speeds at materially below the 100/20 Mbps used to define locations as served.

Furthermore, during the FCC’s challenge processes, the FCC received 14,637 challenges to fixed wireless internet service in Wisconsin between September 2022 and May 2023. Of these accepted challenges the provider conceded 1,205 service offerings. The remaining 13,432 challenges were adjudicated by the FCC and the FCC upheld the challenge for 8,219 service offerings and overturned 5,119 challenges.<sup>14</sup> In total 65

---

<sup>14</sup> See Dataset of BDC service challenges for Wisconsin, total fixed challenges-resolved, downloaded August 31, 2023 <https://broadbandmap.fcc.gov/data-download/challenge-data?version=dec2022>

percent of the challenged fixed wireless service offerings were found to not offer service as initially reported to the FCC.

Finally, Wisconsin Internet Self Report (WISER) survey responses from 984 respondents at fixed wireless locations with advertised 100/20 Mbps found that 72 percent described their speeds as “poor” and 53 percent described their connections as “unreliable”. Of this group of WISER respondents, 85 percent of those reporting they do not use internet at their location reported that it is because the internet is not available. This modification would better reflect the locations eligible for BEAD funding because it would minimize overstatement of wireless coverage and transmission capacity in light of the findings above. The challenge process would still allow providers to demonstrate existing service at specified locations do meet performance standards.

- Multi-dwelling Unit (MDU) Pre-Challenge Modifications: The National Broadband Map treats MDUs as a single location with a single service designation. This modification proposes to treat as underserved a subset of MDU locations that contain 50 or more housing units and are located within high-poverty, highly unconnected census tracts. This modification is intended to recognize that even if the MDU location is listed as served, not all of the housing units within the MDU location may be receiving qualifying broadband service, due to many potential factors that are outlined in the Initial Proposal Volume 1. In its draft Volume 1, Commission staff included the optional attachment of MDU locations that meet the criteria of this pre-challenge modification. ([PSC REF#: 480751.](#))
- Affordability challenge type: Proposes to create an affordability challenge for instances where the only service plans available to a location imposes an unreasonable subscription



cost, defined as exceeding 250 percent of the average minimum broadband monthly subscription price for an urban census block, as analyzed by the Wisconsin Broadband Office and published in the Wisconsin BEAD Five- Year Action Plan.<sup>15</sup> Successful challenges to locations that meet this criteria and are found to have unreasonable broadband subscription costs, making service inaccessible in practice, would be designated as eligible underserved locations.

- Area and MDU Challenge: An area challenge reverses the burden of proof for availability, data caps, technology, and affordability challenge types if a provider receives numerous challenges for a particular category within a specific geographic area. Whereas the burden of proof is for other challenges is placed on the challenger, the burden of proof is placed on the provider receiving an area challenge or MDU challenge to demonstrate that they are indeed meeting the availability, data cap, technology requirement or affordability, respectively, for all (served) locations within the area or all units within an MDU.

Commission staff's draft Initial Proposal Volume 1 does not include the speed test pre-challenge optional module 3 provided in the NTIA BEAD Model Challenge. Due to the variability of numerous broadband network factors that affect the accuracy of speed tests – such as network traffic and demand, end-user technology (modems and routers), and lack of knowledge of user service adopted – Commission staff has found that speed tests are not an effective way to ensure correct identification of all eligible locations. Communities with more resources may be better able to collect and submit speed test challenges, while smaller and less

---

<sup>15</sup> Average minimum broadband monthly subscription price for an urban census block in Wisconsin is \$60.88. Thus, if a location only has access to 100/20 Mbps or above broadband service that exceeds \$152.20 per month, this challenge is applicable.

resourced communities may have less capacity. Staff suggest using the pre-challenge modules, as supported by robust data to ensure a challenge process that results in a more equitable list of eligible locations. Further, given that locations indicated as served by copper and fixed wireless technologies are proposed to be moved into the underserved category, it is expected many speed test-related challenges will be unnecessary. It is uncommon for fiber or cable technologies to consistently provide speed tests below 100/20 Mbps, staff anticipate that most speed tests would come from locations with technologies already eligible for BEAD funding.

The proposed pre-challenge modules included by Commission staff in Volume 1 – DSL, Licensed Fixed Wireless, and MDU– will re-classify these locations from served to underserved locations, rather than unserved. An unserved location is location without reliable broadband service with 25 Mbps download and 3 Mbps upload. An underserved location is a location without reliable broadband service with 100 Mbps download and 20 Mbps upload speed that is not an unserved location. BEAD requires Wisconsin to prioritize and reach all the unserved locations, while maintaining underserved locations as also eligible for program funding. The pre-challenge modules proposed do not affect the prioritized unserved locations but are intended to more accurately identify and make eligible all underserved locations in Wisconsin.

In addition to implementing eligibility definitions associated with the BEAD challenge process, NTIA requires eligible entities to remove any locations that have existing enforceable funding commitments to provide qualifying broadband service of 100/20 Mbps or greater before publishing the list of eligible unserved and underserved locations that would be considered for challenge. Commission staff, per the outlined requirements, have identified existing enforceable broadband funding commitments in Wisconsin. ([PSC REF#: 480754](#).) Prior to the start of the challenge process, Commission staff would analyze these enforceable funding commitments

from the set of locations eligible for BEAD funding to remove locations with enforceable funding commitments, referred to as “deduplication of funding.” ([PSC REF#: 480752.](#))

Commission staff’s draft Initial Proposal Volume 1 would represent a transparent, fair, expeditious and evidence-based challenge process that complies with the NTIA’s requirements. By adopting the NTIA BEAD Model Challenge Process, Initial Proposal Volume 1 as drafted by staff would allow permissible challengers to include 501(c)(3) nonprofit organizations, units of local and Tribal governments, and broadband service providers with facilities currently in the Wisconsin or planned to be in the Wisconsin by June 30, 2024. According to the Initial Proposal Volume 1 as drafted, Commission staff would utilize the Commission’s Electronic Record Filing (ERF) system to conduct the challenge process and fulfill the transparency requirements.

The NTIA’s BEAD Challenge Process design requirements include four phases, as shown in the table below, as well as evidence requirements for challengers and fairness and transparency requirements for eligible entities.<sup>16</sup> Commission staff plans to begin the challenge process in January 2024, after submitting Initial Proposal Volume 2 by its due date of December 27, 2023. The final determination phase would be adjudicated by Commission staff to determine the list of eligible locations for the BEAD program to be submitted to NTIA for final review and determination. The following table outlines the timeline for the 90-day challenge period, with tentative dates for each challenge phase:

---

<sup>16</sup>See NTIA BEAD Challenge Process Policy Notice [https://ntia.gov/sites/default/files/2023-09/bead\\_challenge\\_process\\_policy\\_notice.pdf](https://ntia.gov/sites/default/files/2023-09/bead_challenge_process_policy_notice.pdf)

<b>One week prior to start of challenge process</b> <i>[estimated 1/16/2024]</i>	Phase 1 - Publish a list of eligible locations and overview of challenge process, timeline, and instructions for using ERF to submit challenges and rebuttals.
<b>Day 0</b> <i>[estimated 1/23/2024]</i>	Publish BEAD eligibility map and location set by broadband serviceable location identification number
<b>Day 0 – Day 30</b> <i>[estimated 1/23/2024 – 2/22/2024]</i>	Phase 2 - Challenge Phase
<b>Day 31 – Day 60</b> <i>[estimated 2/23/2024 – 3/25/2024]</i>	Phase 3 – Rebuttal Phase
<b>Day 60 up to Day 90</b> <i>[estimated 3/24/2024 – 4/26/2024]</i>	Phase 4 – Final Determination Phase completed by Commission staff
<b>After April 30, 2024</b>	NTIA reviews and may modify the final eligibility determinations made by Wisconsin following the challenge process.

### Commission Alternatives

**Alternative One:** Approve the Wisconsin BEAD Initial Proposal Volume 1 as drafted by Commission staff, without modifications, for submission to NTIA and implementation.

**Alternative Two:** Approve the Wisconsin BEAD Initial Proposal Volume 1 with modifications pursuant to its discussion, for submission to NTIA and implementation.

**Alternative Three:** Do not approve the Wisconsin BEAD Initial Proposal Volume 1 and direct Commission staff to modify the proposal pursuant to its discussion and return the revised proposal to the Commission.

JF:TK:AK:RT:MM:KM:MB:kle DL: 01966900

Attachments: BEAD Initial Proposal Volume I ([DL: 1966892](#))



---

# INTERNET FOR ALL WISCONSIN

---

## Initial Proposal Volume 1



Public Service Commission  
of WISCONSIN





## Table of Contents

Introduction.....	2
Requirement 3: Existing Broadband Resources and Funding .....	3
Requirement 5: Unserved and Underserved Locations .....	4
Requirement 6: Community Anchor Institutions.....	5
Requirement 7: Challenge Process .....	8
Appendix 1: BEAD Initial Proposal Volume 1 Attachments .....	23

DRAFT FOR COMMENT

## Introduction

The Public Service Commission’s (Commission) Wisconsin Broadband Office has drafted this Volume 1 to meet the following requirements of the Broadband Equity, Access, and Deployment (BEAD) Initial Proposal per the Notice of Funding Opportunity (NOFO)<sup>1</sup> and guidance provided by NTIA<sup>2</sup>:

- Requirement 3: Existing Broadband Funding
- Requirement 5: Unserved and Underserved Locations
- Requirement 6: Community Anchor Institutions
- Requirement 7: Challenge Process, including the adoption of the following modifications:
  - DSL Modifications
  - Fixed Wireless Modifications
  - Multi-Dwelling Unit (MDU) Modifications

See Appendix 1 for a comprehensive list of all the attachments required by NTIA that are cited throughout this Initial Proposal Volume 1.

Following a 30-day public comment period and review and consideration of the plan by the Commission, the Wisconsin Broadband Office will submit this Volume 1 to NTIA.

Volume 2 of the Initial Proposal, which will address the remaining NOFO requirements, will be released for public comment at a later date. The Wisconsin Broadband Office intends to run the challenge process following the submission of Volume 2, and receipt of NTIA approval of Volume 1.

---

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

<sup>2</sup> See NTIA BEAD Initial Proposal Guidance [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

## Requirement 3: Existing Broadband Resources and Funding

Submitted on August 27, 2023, [Wisconsin's BEAD Five-Year Action Plan](#) details the state's existing broadband funding. Consistent with NTIA requirements, a description of existing broadband funding has been adapted and updated for the Volume 1 and includes:

- Sources of funding;
- A brief description of the broadband deployment and other broadband-related activities;
- The total funding of broadband activities;
- The funding amount expended; and
- The remaining funding amount available.

This list of existing broadband funding is provided in the attachment required by NTIA [WI\_ExistingFunding.xlsx] ([PSC REF#: 480754](#)) and Appendix 1 (*requirement 1.1.1*).<sup>3</sup>

---

<sup>3</sup> See NTIA BEAD Initial Proposal Guidance, page 11 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)



## Requirement 5: Unserved and Underserved Locations

Consistent with NTIA requirements, this Volume 1 includes as attachments, lists of all unserved locations [WI\_Unserved.csv] ([PSC REF#: 480749](#)) (*requirement 1.2.1*) and underserved locations [WI\_Underserved.csv] ([PSC REF#: 480750](#)) (*requirement 1.2.2*) in Wisconsin, using the Federal Communications Commission's (FCC) National Broadband Map (fabric 3) which includes availability data as of August 9, 2023 (*requirement 1.2.3*).<sup>4</sup> The Commission may elect to use a future version of the National Broadband Map to update the list of unserved and underserved locations.

The definitions of unserved and underserved locations are taken from the BEAD NOFO, published May 13, 2022.<sup>5</sup>

---

<sup>4</sup> See NTIA BEAD Initial Proposal Guidance, page 13 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

<sup>5</sup> See BEAD NOFO, page 16-17 <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

## Requirement 6: Community Anchor Institutions

To identify eligible locations, based on the statutory definition of “community anchor institution” (47 USC 1702(a)(2)(e)), the Wisconsin Broadband Office applied the definition of “community anchor institution” as: an entity such as 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 or Department of Housing and Urban Development (HUD)-assisted housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations, including but not limited to low-income individuals, children, unemployed individuals, aged individuals, and incarcerated and formerly incarcerated individuals (*requirement 1.3.1*).<sup>6</sup>

The following definitions were used to identify the types of community anchor institutions:

- **Schools:** K-12 schools include all public and private schools identified by the Wisconsin Department of Instruction (DPI), and that have an NCES (National Center for Education Statistics) ID in the categories “public schools” or “private schools”, including those located on Tribal lands.
- **Libraries:** Includes all libraries and their branches identified by DPI, which includes those participating in the FCC E-Rate program.
- **Health clinic, health center, hospital or other medical provider:** The list of health clinics, health centers, hospitals and other medical providers includes all institutions identified by the Wisconsin Department of Health Services (DHS), including those located on Tribal lands [<https://data.dhsgis.wi.gov/search?collection=Dataset>].
- **Public safety entity:** The list includes entities such as fire houses, emergency medical service stations, police stations, and public safety answering points (PSAP), based on records maintained by the Wisconsin Department of Military Affairs as well as using publicly available spatial data [<https://livingatlas.arcgis.com/en/browse/?q=FIRE#d=2&q=FIRE>]. The list of public safety answering points (PSAPs) includes all PSAPs in the FCC PSAP registry [<https://www.fcc.gov/general/9-1-1-master-psap-registry>].
- **Institution of higher education:** Institutions of higher education include all public and private institutions identified by DPI, including those located on Tribal land [<https://data-wi-dpi.opendata.arcgis.com/datasets/colleges-and-universities-wisconsin-2021/explore>].
- **Public housing organizations:** Public housing locations and locations receiving low-income housing tax credits were identified by downloading the dataset from the U.S. Department of Housing and Urban Development Open Data webpage [<https://hudgis-hud.opendata.arcgis.com/search?collection=Dataset>].
- **Community support organizations:** the Wisconsin Broadband Office included community support organizations that were not specifically listed in 47 USC

---

<sup>6</sup> See NTIA BEAD Initial Proposal Guidance, page 14 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

1702(a)(2)(e), including those located on Tribal lands, and those that facilitate greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, aged individuals, and incarcerated and formerly incarcerated individuals. To identify these locations, data sets from DHS and the Department of Corrections (DOC) were employed, along with collected data from the broadband office's digital equity outreach activities which identified many organizations serving these populations.<sup>7</sup>

Other organizations that serve the populations detailed under the community support organization community anchor institution type are being identified and will be included in the final community anchor institution list. In addition, the Wisconsin Broadband Office is using the challenge process to ensure that all relevant institutions meeting the community anchor institution criteria are included.

The Wisconsin Broadband Office undertook the following activities and engagements to assess the needs of the above types of community anchor institutions:

- **Collaboration and engagement with state government agencies.** The Wisconsin Broadband Office reached out to state agencies, requesting a formal letter that details their agencies existing works and needs related to broadband and digital equity.<sup>8</sup> The broadband office received responses from DPI, DHS and DOC. Ultimately, DPI shared all of the known school and library community anchor institutions in the state that lack 1 Gbps symmetrical service availability and highlighted needs by offering recommendations. DPI recommendations included connecting the community anchor institutions lacking 1 Gbps symmetrical and funding recommendations to ensure students have equitable access to broadband. DOC noted that many facilities need additional fiber infrastructure to connect all facility buildings and to enable needed wireless technology. DHS shared that improved access to broadband is needed across the state, particularly for Medicaid members and to enable telehealth.

A current list of eligible community anchor institution locations including all of the NTIA-required data points is included in the attached xlsx file [WI\_CAI.xlsx] ([PSC REF#: 480753](#)) (*requirement 1.3.2*).<sup>9</sup>

---

<sup>7</sup> See DRAFT Wisconsin Digital Equity Plan, Section III: Collaboration and Stakeholder Engagement <https://apps.psc.wi.gov/ERF/ERFview/viewdoc.aspx?docid=479504>

<sup>8</sup> <https://apps.psc.wi.gov/pages/viewdoc.htm?docid=466751> Agencies contacted: Dept. of Agriculture, Trade, and Consumer Protection, Dept. of Children and Families, Dept. of Financial Institutions, Dept. of Health Services, Dept. of Military Affairs, Dept. of Natural Resources, Dept. of Administration, Dept. of Corrections, Dept. of Revenue, Dept. of Transportation, Dept. of Safety and Professional Services, Dept. of Veteran Affairs, Dept. of Workforce Development, Office of the Commissioner of Insurance, Dept. of Tourism, Wisconsin Economic Development Corporation, and Wisconsin Housing and Economic Development Corporation.

<sup>9</sup> See NTIA BEAD Initial Proposal Guidance, page 16 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)



For community anchor institutions, which are not included in the FCC's Fabric Dataset, the Wisconsin Broadband Office will assign an alternative unique location identifier for the purposes of the challenge process and subgrant implementation, as applicable.

DRAFT FOR COMMENT

## Requirement 7: Challenge Process

Wisconsin will adopt the model challenge process provided by NTIA (requirement 1.4.1).<sup>10 11</sup>

**Modifications to reflect data not present in the National Broadband Map** (*requirement 1.4.2*)<sup>12</sup>

DSL Modifications [Optional module 2 from BEAD Model Challenge Process]: The Wisconsin Broadband Office elects to include DSL Modifications in the Model Challenge Process and the Broadband Office will treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is “served”) delivered via DSL as “underserved”. When a location is shown to have qualifying broadband service reported for multiple providers and/or technologies, the service delivered via DSL will be reclassified, but the classification of location itself will remain served, unless the remaining qualifying broadband service(s) are successfully challenged, or reclassified through another modification.

This modification will better reflect the locations eligible for BEAD funding because it will facilitate the phase-out of legacy copper facilities and ensure the delivery of sustainable broadband service.

Licensed Fixed Wireless Modifications: Consistent with the NTIA’s DSL Modifications and Speed Test Modules, the Wisconsin Broadband Office will treat locations that the National Broadband Map shows to have available qualifying broadband service (i.e., a location that is “served”) delivered via fixed wireless (this includes licensed terrestrial or licensed-by-rule terrestrial) as “underserved.” When the Licensed Fixed Wireless Modification is used to reclassify reported service at a location with multiple providers and/or technologies, the service(s) relevant affected by the modification will be reclassified and the classification of location itself will be reprocessed with the updated entry.

It is known that wireless service availability maps often overstate actual availability as it relates to the capacity and reach of the internet service. Fixed wireless broadband technologies underperform when faced with challenging topographies and barriers to line-of-sight (such as dense tree coverage) and that speed and reliability of broadband transmission degrades the farther a location is from a fixed wireless tower. Wisconsin has heavily wooded regions that experience such challenges with fixed wireless broadband solutions, as well as very remote and rural locations that are not within the reliable propagation range of fixed wireless towers. Further, due to limitations in some wireless transmission technology, wireless technologies lack transmission bandwidth necessary to provide advertised speeds to all locations within range of a tower. While a subset of locations with advertised fixed wireless service may access advertised speeds, it is often not possible for all locations to receive such advertised broadband speeds.

---

<sup>10</sup> See NTIA BEAD Model Challenge Process <https://broadbandusa.ntia.doc.gov/funding-programs/broadband-equity-access-and-deployment-bead-program#initialproposal>

<sup>11</sup> See NTIA BEAD Initial Proposal Guidance, page 18 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD Initial Proposal Guidance Volumes I II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD%20Initial%20Proposal%20Guidance%20Volumes%20I%20II.pdf)

<sup>12</sup> *ibid*

Thus, models of fixed wireless coverage naturally overstate availability, which may disqualify locations in need of service from accessing for BEAD funding.

The Wisconsin Broadband Office analyzed the approximately 25,500 locations in Wisconsin for which the only advertised 100/20 Mbps or greater broadband service is a licensed fixed wireless technology (i.e., cable, fiber, and copper are unavailable). Broadband speed test analysis was obtained for 25 percent of these locations, approximately 6,400 locations. Further analysis confirmed with medium to high confidence that 84 percent of these locations despite being categorized as served, are experiencing speeds materially below 100/20 Mbps.<sup>13</sup>

The Wisconsin Broadband Office (WBO) also conducted the Wisconsin Internet Self Report Survey (WISER) and collected 984 responses to the WISER survey that overlapped with the locations that only have advertised 100/20 Mbps broadband service via a licensed fixed wireless technology (i.e., cable, fiber, and copper are unavailable). Of these 984 responses, only one recorded a speed test that met the threshold of greater than or equal to 100 Mbps download and 20 Mbps upload.

Further, 72 percent of WISER respondents with only fixed wireless service described their speeds as “poor” and 53 percent described their connections as “unreliable”. Of 346 respondents reporting they do not use the internet at their location, 85 percent report that it is because the internet is not available. This sample size and clear majority of responses demonstrate the improbability that locations advertising 100/20 Mbps are able to consistently deliver that speed to all locations.

During the FCC’s challenge processes, the FCC received 14,637 challenges to fixed wireless internet service in Wisconsin between September 2022 and May 2023. Of these accepted challenges the provider conceded 1,205 service offerings. The remaining 13,432 challenges were adjudicated by the FCC and the FCC upheld the challenge for 8,219 service offerings and overturned 5,119 challenges.<sup>14</sup> In total 65 percent of the challenged fixed wireless service offerings were found to not offer service as initially reported to the FCC. The FCC challenge process results provide further evidence that service availability and speeds are frequently overstated.

The Wisconsin Broadband Office acknowledges the variability in technology, spectrum, and deployment strategies of fixed wireless providers within the state allows some providers to achieve 100/20 Mbps service. However, this analysis suggests a majority of locations are not meeting their advertised broadband availability and performance claims. Consistent with this

---

<sup>13</sup> Speed test data was categorized in classes of low, medium, and high confidence levels mapped on a .10 square kilometer hexagon grid (Hex 10). High confidence was established as having more than 3 speed tests to compare, with more than one unique user. Medium confidence consisted of more than 3 speed tests and 1 unique user. Low confidence locations were removed from analysis as they were identified from nearest neighbor methodology and did not contain a unique user.

<sup>14</sup> Dataset of BDC service challenges for Wisconsin, total fixed challenges-resolved, downloaded August 31, 2023 <https://broadbandmap.fcc.gov/data-download/challenge-data?version=dec2022>



analysis, the Wisconsin Broadband Office finds it appropriate to shift the burden of proof for demonstrating served speeds via fixed wireless technology to the provider. In instances where the deployment methods of providers can be readily demonstrated to meet 100/20 Mbps speeds, a location may be challenged and returned back to served. A provider that demonstrates existing customers subscribe to 100/20 Mbps service at a location, provides data on network performance from mobile test unit at locations, or provides detailed information about network configuration and technology will fulfil its burden to demonstrate the network meets the speed, latency, reliability, and consistency goals of the BEAD program and does not require additional public investment.

This modification will better reflect the locations eligible for BEAD funding because it will minimize overstatement of wireless coverage and transmission capacity while allowing providers to demonstrate existing service. Further, reclassification of fixed wireless technologies to underserved will allow locations with only fixed wireless service to compete for access to fiber service consistent with the goals of the BEAD program to maximize fiber deployment as the technology best positioned “to meet the evolving connectivity needs of households and businesses.”<sup>15</sup>

Multi-dwelling Unit (MDU) Modifications: Based on the criteria outlined in the BEAD NOFO,<sup>16</sup> the Wisconsin Broadband Office has compiled a list of multi-dwelling units (MDUs) that are unserved and underserved and therefore eligible for BEAD funding. The state of Wisconsin has elected to go beyond the National Broadband Map and publish a more comprehensive list of BEAD-eligible Broadband Serviceable Locations (BSLs), including MDUs that are eligible for the deployment of Wi-Fi infrastructure as an eligible use of funding in connection with last-mile broadband deployment projects as detailed in the BEAD NOFO.

The Wisconsin Broadband Office has identified 1,374 MDUs in high poverty and highly-unconnected census tracts, representing an estimated 133,221 households. These 1,374 locations shall be reclassified as underserved. A summary of the data is in the table below, and the list of locations are attached to this submission [WI\_MDUs.xlsx] ([PSC REF#: 480751](#)) (*optional attachment 1.5.2*).<sup>17</sup>

---

<sup>15</sup> Public Law 117-58 135 Stat. 429, Infrastructure Investment and Jobs Act § 60102(a)(1)(I)

<sup>16</sup> See Notice of Funding Opportunity, Broadband Equity, Access, and Deployment Program, page 33 “4. Installing internet and Wi-Fi infrastructure or providing reduced-cost broadband within a multi-family residential building, with priority given to a residential building that has **substantial share of unserved households** or is **in a location in which the percentage of individuals with a household income that is at or below 150 percent of the poverty line applicable to a family of the size involved is higher than the national percentage of such individuals**” (emphasis added) <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

<sup>17</sup> See NTIA BEAD Initial Proposal Guidance, page 27 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

	FCC National Broadband Map Fabric			Actual BEAD Criteria
	Unserved	Underserved	Served	Unserved
Buildings with 50+ units	32	207	1,135	1,374

As the table suggests, the FCC National Broadband Map provides a starting point for Wisconsin’s list of BEAD-eligible locations including MDUs. Since the National Broadband Map identifies multi-family housing developments as one BSL, it does not represent broadband availability of the individual units or households. Without accurate unit-by-unit data, the National Broadband Map significantly undercounts the number of unserved and underserved MDUs and households living in multi-family housing. For example, if an apartment building contains 100 households (i.e. units), the National Broadband Map only identifies this building as a single BSL. There are several scenarios where availability of broadband service at an MDU BSL does not equate to the same availability of broadband to all units within that location. This results in an overstatement of the availability of broadband service at multi-family housing locations and thus risks undercounts of the true total of Wisconsin residents who are unserved or underserved. Examples of these scenarios are summarized below:

- Internet Service Provider (ISP) offers a much more substantial service to the building manager’s office or commercial space (Fiber) than their inside wiring is capable of delivering to the residential units (DSL).
- ISP has fiber-to-the-curb or building but has no inside wiring infrastructure to the unit.
- ISP is able to deliver fiber to the building within 10 days, but only offers business-class internet services and does not actually provide residential service.
- Technology at the MDU is not capable of delivering 25/3 or 100/20 across all households simultaneously.
- Inside wiring infrastructure is in a state of disrepair and cannot support speeds of 100/20 Mbps. Many public housing and affordable housing MDUs are 30 to 40-plus years old and wiring has not been adequately maintained.



- ISP's equipment is located in a Main Distribution Frame (MDF), Intermediate Distribution Frame (IDF), cabinet, pedestal, node or potentially the central office, and is not capable of delivering 25/3 or 100/20 across all households simultaneously without overbuilding the entire MDU.<sup>18</sup>
- Non-cellular, licensed Fixed Wireless Access (FWA) providers without existing equipment/service in the MDU are not able to meet the 10-day installation window. The individual household of an MDU does not have the ability to authorize a Licensed FWA provider to access rooftops, telco rooms, and run new wiring all the way to their unit. This would require an agreement with the building owner and possibly a permit.

The additional MDUs on the list of underserved locations are based on the *property's location in census tracts with very high levels of poverty and/or very low levels of connectivity*, as called out in the BEAD NOFO. The source data used to identify the MDUs on the list come from the American Community Survey, coupled with data from HUD and commercially-available real estate databases.<sup>19</sup> These additional data sources give ample evidence that the universe of underserved locations as defined in the NOFO span beyond simply those defined as unserved and underserved in the FCC's National Broadband Map.

By expanding the universe of underserved locations to include all MDUs in census tracts with both high poverty rates and high numbers of unconnected households, Wisconsin can prioritize MDUs that have a high probability of meeting the BEAD prioritization requirement of having "a substantial share of unserved households." To determine whether there is a "substantial share of underserved households" in an MDU, unit level availability data is needed. As the current National Broadband Map does not classify households at the unit level, their true classification is unknown; therefore, the Wisconsin Broadband Office considers these specified MDUs as underserved until they are successfully challenged as served.

### **Identifying enforceable commitments**

The Wisconsin Broadband Office will adopt the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments (*requirement 1.4.3*).<sup>20</sup> The Wisconsin Broadband Office will supplement the BEAD Eligible Entity Planning Toolkit with State data to identify state enforceable commitments and other local and federal enforceable funding commitments.

---

<sup>18</sup> MDF and IDF are industry standard designations for racks of networking equipment, or switches, that help distribute the network throughout the property. If outdated they will not handle a high enough capacity to distribute the required bandwidth to each unit regardless of how large the backhaul signal coming into the property.

<sup>19</sup> This data was analyzed and compiled by research and engineering teams at EducationSuperHighway (ESH) and provided to the state at no cost. ESH sourced third-party real estate data and combined them with HUD location datasets.

<sup>20</sup> See NTIA BEAD Initial Proposal Guidance, page 20 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

To enumerate locations subject to enforceable commitments, the Wisconsin Broadband Office will use the BEAD Eligible Entity Planning Toolkit and consult the following data sets (*requirement 1.4.4*)<sup>21</sup>:

- The Broadband Funding Map published by the FCC pursuant to IIIA § 60105.
- The Wisconsin Broadband Office’s Broadband Grant Footprint map, data from grant awardees and grant management database that includes awarded and completed projects for broadband expansion grant projects administered by the state, including those that were funded federally through State and Local Fiscal Recovery Funds, and locations awarded grants using state funds.
- Data procured or collected by the Wisconsin Broadband Office to identify additional locations with enforceable funding commitments.

The Wisconsin Broadband Office will make a best effort to create a list of BSLs subject to enforceable commitments based on state-administered/grants. If necessary, the broadband office will translate polygons to a list of Fabric locations.

The Wisconsin 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.

### **Deduplication of Funding**

A list of federal, state, and local programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding is provided in the attached file per NTIA requirements [WI\_DeduplicationofFunding.xlsx] (*requirement 1.4.5*).<sup>22</sup>

### **Challenge Process Design**

Based on the NTIA BEAD Challenge Process Policy Notice, as well as the broadband office understanding of the goals of the BEAD program, the proposal represents a transparent, fair, expeditious and evidence-based challenge process (*requirement 1.4.6*).<sup>23</sup>

### **Permissible Challenges**

The Wisconsin Broadband Office will only allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by the Eligible Entity,
- Community anchor institution BEAD eligibility determinations,
- BEAD eligibility determinations for existing BSLs,

---

<sup>21</sup> See NTIA BEAD Initial Proposal Guidance, page 21 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

<sup>22</sup> See NTIA BEAD Initial Proposal Guidance, page 22 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

<sup>23</sup> See NTIA BEAD Initial Proposal Guidance, page 23 [https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD\\_Initial\\_Proposal\\_Guidance\\_Volumes\\_I\\_II.pdf](https://broadbandusa.ntia.doc.gov/sites/default/files/2023-07/BEAD_Initial_Proposal_Guidance_Volumes_I_II.pdf)

- Enforceable commitments, or
- Planned service.

### Permissible Challengers

Per the outlined NTIA BEAD Model Challenge Process that has been adopted for this Volume 1, the Wisconsin Broadband Office will only allow challenges from 501(c)(3) nonprofit organizations, units of local and Tribal governments, and broadband service providers with facilities currently in the State of Wisconsin or facilities planned by June 30, 2024.

### Challenge Process Overview

The challenge process conducted by the Wisconsin Broadband Office will include four phases, spanning 90 calendar days:

- 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 Wisconsin’s Initial Proposal Volume 1 submission (e.g., administering the deduplication of funding process). The office will also publish locations considered served, as they may be challenged. [*estimated 1/16/2024*]
- Challenge Phase: During the Challenge Phase, the challenger will submit the challenge through the Commission’s ERF system. ERF will serve as a challenge portal for the challenge process and the Commission will use docket 5-BCH-2024 for the challenge process. This challenge will be visible to the public and to the service provider whose service availability and performance is being contested. Providers will be required to subscribe to the docket, which will enable providers to be notified of challenges via email. The Commission will also ensure providers receiving challenges receive information about timing for the provider’s response. After this stage, the location will enter the “challenged” state.
  - Minimum Level of Evidence Sufficient to Establish a Challenge: The challenge will be verified to ensure that the address provided can be found in the Fabric, is a BSL, and as applicable meets the definition of reliable broadband service. 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 as modified by this document and that the evidence is unredacted and dated.
  - Timeline: Challengers will have 30 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted. [*estimated 1/23/2024 – 2/22/2024*]
- 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. Providers must regularly check the challenge portal notification method (e.g., email) for notifications of submitted challenges.

- Timeline: Providers will have 30 calendar days from notification of a challenge to provide rebuttal information to the broadband office. *[estimated 2/23/2024 - 3/25/2024]*
- 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.”
  - Timeline: Following intake of challenge rebuttals, the broadband office 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. *[estimated 3/24/2024 - 4/26/2024]*

### **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 objectively, before deciding to sustain or reject a challenge. The broadband office will document the standards of review to be applied in a Standard Operating Procedure and will require reviewers to document their justification for each determination. The Wisconsin Broadband Office plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. The office will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.<sup>24</sup>

---

<sup>24</sup> If necessary, the broadband office maintains the ability to work with challengers and rebutters to align submissions with the appropriate challenge type and the requisite data specifications.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
A	Availability	The broadband service identified is not offered at the location. For MDUs, this includes service not being available at an individual unit.	<ul style="list-style-type: none"> <li>- Screenshot of provider webpage.</li> <li>- A service request was refused within the last 180 days (e.g., an email or letter from provider).</li> <li>- Lack of suitable infrastructure (e.g., no fiber on pole).</li> <li>- A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.<sup>25</sup></li> <li>- A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation fee to connect this location or that a Provider quoted an amount in excess of the provider’s standard installation charge in order to connect service at the location.</li> </ul>	<ul style="list-style-type: none"> <li>- Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill.</li> <li>- If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</li> <li>- The provider submits evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location.</li> </ul>

<sup>25</sup> A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as “[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider.”

U	Affordability	<p>The non-promotional broadband service price available exceeds 250% of the average minimum broadband monthly subscription price for an urban census block (\$60.88) – i.e. the location only has access to 100/20 Mbps or above broadband service that exceeds \$152.20 per month.</p>	<ul style="list-style-type: none"> <li>-Screenshot of provider webpage or marketing materials.</li> <li>-Service description provided to consumer.</li> <li>-Details from a customer bill relating to the cost of service.</li> </ul>	<ul style="list-style-type: none"> <li>- If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</li> <li>- The provider submits evidence that service 100/20 Mbps or above is provided for less than \$152.20 per month, e.g., with a copy of a customer bill.</li> </ul>
F	Fixed Wireless Speed	<p>The actual speed of broadband service at each location is consistently 100/20 Mbps or greater.</p>	<ul style="list-style-type: none"> <li>- Demonstrates availability to the specific location with results from a mobile test unit.<sup>26</sup></li> <li>- Provides evidence of an existing subscription for 100/20 Mbps or faster service at the location.</li> <li>- Demonstrates the capacity of the service to consistently provide 100/20 Mbps by providing information on the wireless network configuration and technology that serves the location, which may include</li> </ul>	<ul style="list-style-type: none"> <li>- Screenshot of provider webpage or correspondence from provider indicating qualifying broadband service of 100/20 Mbps or greater is not available.</li> <li>- Screenshot or correspondence showing that qualifying broadband service of 100/20 Mbps or greater exceeds the reasonable cost of \$152.20 per month.</li> </ul>

<sup>26</sup> A mobile test unit is a testing apparatus that can be easily moved and 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.

			information on the backhaul, bandwidth, number of connections per tower, specifications of transmission equipment, the capacity and wavelength of licensed spectrum, and connection capacity of towers.	
M	Multiple Dwelling Unit (MDU) Comprehensive Availability	All and each housing units at the location have access to a broadband service that is consistently providing 100/20 Mbps or greater.	<ul style="list-style-type: none"> <li>- List of broadband subscribers receiving at least 100/20 Mbps service that includes all housing units at the location.</li> <li>- Billing statements for minimum 100/20 Mbps service for all housing units at the location.</li> <li>- Evidence of correspondence offering qualifying broadband subscription to all housing units at the location.</li> </ul>	<ul style="list-style-type: none"> <li>- Screenshot of provider webpage or correspondence from provider indicating qualifying broadband service of 100/20 Mbps or greater is not available.</li> </ul>
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. <sup>27</sup>	<ul style="list-style-type: none"> <li>- Screenshot of provider webpage.</li> <li>- Service description provided to consumer.</li> </ul>	<ul style="list-style-type: none"> <li>- 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.</li> </ul>
T	Technology	The technology indicated for this	<ul style="list-style-type: none"> <li>- Manufacturer and model number of residential gateway</li> </ul>	<ul style="list-style-type: none"> <li>- Provider has countervailing evidence from</li> </ul>

<sup>27</sup>. An unreasonable capacity allowance is defined as a data cap that falls below the monthly capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022). Alternative plans without unreasonable data caps cannot be business-oriented plans not commonly sold to residential locations.



		location is incorrect.	(CPE) that demonstrates the service is delivered via a specific technology.	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.	- 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).	- Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer a going concern).
P	Planned service	The challenger has knowledge that broadband will be deployed and available to customers at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering	- 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 Eligible Entity and the provider	- 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 sufficient to meet the requirements of an enforceable commitment.	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>i.e.</i> , a separate federal grant program), including the expected date deployment will be completed and service will available to customers, which must be on or before June 30, 2024.	performance requirements.
N	Not part of enforceable commitment.	<p>This location is in an area that is subject to an enforceable commitment to build less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.)</p> <p>This location is not part of an enforceable funding commitment due to change in scope of work for existing grant agreement or similar contract.</p>	- Declaration by service provider subject to the enforceable commitment.	
C	Location is a CAI	The location should be	- Evidence that the location falls within the	- Evidence that the location does not fall within the

		classified as a CAI.	definitions of CAIs set by the Eligible Entity. <sup>28</sup>	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.

### Area Challenges and MDU Challenges

The Wisconsin Broadband Office will administer area and MDU challenges for challenge types A, D, U, and T. An area challenge reverses the burden of proof for availability, data caps, affordability, 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 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. The provider can use any of the permissible rebuttals listed above.

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

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

Area challenges for availability need to be rebutted with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or Hybrid Fiber-Coax infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer representative random, sample of the area in contention, but no fewer than ten, where the provider has to demonstrate service availability and speed (e.g., with a mobile test unit).<sup>29</sup>

<sup>28</sup> For example, eligibility for FCC e-Rate or Rural Health Care program funding or registration with an appropriate regulatory agency may constitute such evidence, but the Eligible Entity may rely on other reliable evidence that is verifiable by a third party.

<sup>29</sup> 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.

## Transparency Plan

To ensure that the challenge process is fully transparent, the Wisconsin 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 on its website. This documentation will be posted publicly for at least a week prior to opening the challenge submission window. The office also plans to actively inform all units of local government and Tribes of its challenge process and set up regular touchpoints to address any comments, questions, or concerns from local and Tribal governments, nonprofit organizations, and internet service providers. Relevant stakeholders can sign up on the [Wisconsin Broadband Office website](#) for challenge process updates via the newsletter and should subscribe to the docket 5-BCH-2024 through the Commission's [ERF system](#) to receive real-time challenge updates. They can engage with the Wisconsin Broadband Office by a designated email address ([PSCStateBroadbandOffice@wisconsin.gov](mailto:PSCStateBroadbandOffice@wisconsin.gov)). Providers will be required to subscribe to the Commission challenge docket, 5-BCH-2024 and will be notified of challenges through the Commission's ERF system via email.

Beyond actively engaging relevant stakeholders, the Wisconsin Broadband Office will also post all submitted challenges and rebuttals before final challenge determinations are made, including:

- the broadband service provider, nonprofit, or unit of local or Tribal 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 technology), and
- a summary of the challenge, including whether a provider submitted a rebuttal.

The office will make every effort to 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 expeditiously review the basis and summary of all challenges and rebuttals to ensure PII is removed. Additionally, guidance will be provided to all challengers that all information they submit will be posted publicly.

The Wisconsin Broadband Office will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law. If any of these responses do contain information or data that the submitter deems to be confidential commercial information that should be exempt from disclosure under state open records laws or is protected under applicable state privacy laws, that information should be identified as privileged or confidential and provider will file both a confidential and redacted copy of the information. Otherwise, the responses will be made publicly available.

## Appendix 1: BEAD Initial Proposal Volume 1 Attachments

### Requirement 3: Existing Broadband Resources and Funding Attachments

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

Per NTIA requirements the list of existing funding was submitted as an attachment [WI\_ExistingFunding.xlsx] and can be found under the same file name on the Commission's ERF system under docket 5-BCH-2024. ([PSC REF#: 480754.](#))

### Requirement 5: Unserved and Underserved Location Attachments

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

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

Per NTIA requirements the single-column CSV files for all unserved locations [WI\_Unserved.csv] and underserved locations [WI\_Underserved.csv] were submitted as attachments and can be found under the same file names on the Commission's ERF system under docket 5-BCH-2024. ([PSC REF#: 480749.](#)) ([PSC REF#: 480750.](#))

### Requirement 6: Community Anchor Institution Attachments

**1.3.2 Attachment:** As a required attachment, submit the CSV file that lists eligible community anchor institutions that require qualifying broadband service and do not currently have access to such service, to the best of the Eligible Entity's knowledge.

Per NTIA requirements the list of eligible community anchor institutions were submitted as an attachment [WI\_CAI.xlsx] and can be found under the same file name on the Commission's ERF system under docket 5-BCH-2024. ([PSC REF#: 480753.](#))

## Requirement 7: Challenge Process Attachments

**1.4.5 Attachment:** As a required attachment, submit the list of the federal, state/territorial, and local programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding.

Per NTIA requirements the list of enforceable funding commitments that will be used to deduplicate funding was submitted as an attachment [WI\_DeduplicationofFunding.xlsx] and can be found under the same file name on the Commission's ERF system under docket 5-BCH-2024. ([PSC REF#: 480752.](#))

### Optional Attachments

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

Per NTIA Guidance, in support of the Wisconsin Broadband Office's proposed Multi-dwelling Unit (MDU) Pre-Challenge Modification, a list of MDUs to be reclassified as 'underserved' has been submitted as supplemental material [WI\_MDUs.xlsx] and can be found under the same file name on the Commission's ERF system under docket 5-BCH-2024. ([PSC REF#: 480751.](#))