



# Broadband Infrastructure PLAYBOOK

Implementing BEAD and other  
Broadband Deployment Programs



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## PLAYBOOK 3.0 Challenge Process Module

The Infrastructure Investment and Jobs Act (IIJA) and Broadband Equity, Access, and Deployment (BEAD) Notice of Funding Opportunity direct States and Territories to initially determine the unserved and underserved locations in their jurisdictions that are eligible for funding based upon the most recent Broadband Data Collection (BDC) and the resulting map — the National Broadband Map — as well as by using the Broadband Funding Map. The Federal Communications Commission (FCC) has developed these maps pursuant to Congressional mandate.<sup>1</sup> These maps are the sole mechanism for collecting broadband mapping data nationally, based on well-vetted rules and verification processes. Most importantly, since the first publication of the National Broadband Map in 2022, the accuracy of the map continues to improve – even though it will remain a constant work in progress, that continues to improve through additional challenge processes. This module of the Playbook provides guidance on how to approach such challenge efforts by States and Territories in the context of BEAD funding.

The National Telecommunications and Information Administration (NTIA) has issued guidance to assist States and Territories in conducting these challenge processes, highlighting that the process is to be “transparent, evidence-based, fair, and expeditious,” which is available at [https://ntia.gov/sites/default/files/publications/bead\\_challenge\\_process\\_policy\\_notice\\_final.pdf](https://ntia.gov/sites/default/files/publications/bead_challenge_process_policy_notice_final.pdf). Among the key aspects of the process are the following:

- States and Territories cannot alter the broadband serviceable locations (the Fabric) in the BDC; they can only amend the status of those locations as being served, unserved, and underserved as set forth in the BDC.
- States and Territories may not change the definitions of “unserved” and “underserved.”
- A State or Territory must find that any decision to amend the status of a location on the National Broadband Map produces a more accurate determination of the location’s status, including by deeming a location “served” by DSL to be underserved and a “served” location to be underserved if speed test data show the location receives speeds materially below 100/20 Mbps.
- States and Territories are required to review whether a location is subject to government funding commitments and adjust accordingly; they may not deem as either unserved or underserved any location where an entity has made a “commitment” under another agency’s program to deliver reliable broadband services with speeds equal to or greater than 100/20 Mbps and latency of less than 100 ms, except pursuant to a waiver approved by NTIA; they may deem a location whose “commitment” is below those thresholds to be “served” if the provider agrees to provide service above the thresholds.

As for the challenge process, States and Territories are first to publish the list of “challengeable” locations. Then “permissible” challengers may submit a challenge to the status of a location, which shall include sufficient evidence. A provider whose location is challenged can rebut the challenge, in which case the State or Territory will review the evidence and make a determination. The entire process is to be completed within 120 days. In addition, a State or Territory is required to make all filings, information, and documentation public, except to protect personally identifiable and proprietary information.

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<sup>1</sup> States and Territories also are required to identify community anchor institutions.



In addition to the guidance provided by NTIA, States and Territories can enhance the effectiveness of the process and accuracy of their determinations by the following:

- States and Territories should require challengers to meet a much higher bar — provide more or new evidence — when challenging a location where the FCC has already reviewed and resolved the matter; re-litigating the FCC’s challenge process determinations would not only be inefficient but increase the burdens on providers without the likelihood of commensurate benefit.
- States and Territories should find that credible speed test evidence should include location-specific speed tests indicating maximum up and down speeds and average latency (preferably over a period of days/weeks), based on tests performed using Ookla or a comparable speed test platform that demonstrate that a specified level of service (e.g., 100/20 Mbps or 25/3 Mbps) is consistently available at the location.
- The challenge process should not consider extraneous matters, such as assertions regarding customer service, billing, or marketing practices that do not relate to technical performance of the service.
- States and Territories should not impose onerous evidentiary requirements on providers to rebut a challenge; for example, States and Territories should permit — but not require — a provider to supply customer billing records or pole attachment records to establish its provision of service.
- Because “fiber to the premises” or “hybrid fiber-coax” technologies have proven reliable and provide speeds and latency as advertised, States and Territories should rely on the status of a location served by these technologies as identified on the National Broadband Map, unless clear and convincing evidence is submitted by a challenger to the contrary.

The success of the BEAD program depends on States and Territories adopting and implementing a robust, fair, evidence-based, and transparent challenge process. Misidentifying locations as eligible will waste limited government funds; misidentifying locations as ineligible will strand residents and businesses at unserved and underserved locations. NTCA, FBA, and their members are eager to assist States and Territories in ensuring they use a challenge process with “integrity.”

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*2 Permissible challengers include units of local and Tribal government, nonprofit organizations, and broadband providers.*

*3 A challenge may assert service is not available at the location, the requisite speed or latency is not provided, service is provided with an unreasonable data cap, the technology is incorrect, or the service is for business only. A challenge to the status of a multiple dwelling unit (MDU) may assert that the requisite service is not available to every unit in the MDU. A provider may challenge the unserved/underserved status of a location by demonstrating that service to a location is “planned” by June 30, 2024.*

*4 For speed test data to be sufficient and credible, it must be collected according to a methodology that is scientifically rigorous. For a fixed wireless propagation map to be sufficient and credible, it must “reliably predict the actual network availability and minimum performance in the topography of an area” and for the specific wireless technology reflecting real-world conditions with respect to lines of sight and likely estimated demands from all users claimed to be served by a given antenna.*

*5 Challengers and providers shall have at least 14 days to make their challenges and rebuttals, respectively.*

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