



**District of Columbia
Office of the Chief Technology Officer
Broadband Equity, Access, and Deployment Program
DRAFT Initial Proposal Volume 1
(Requirements 3, 5 – 7)**



Contents

Introduction	3
Existing Broadband Funding and Resources (Requirement 3).....	4
Unserved and Underserved Locations (Requirement 5).....	6
Community Anchor Institutions (Requirement 6).....	8
Challenge Process (Requirement 7).....	11
List of Appendices	23

Introduction

In May 2022, DC Mayor Muriel Bowser created within OCTO the State Broadband and Digital Equity Office (“SBDEO”). This diverse and interdisciplinary team includes digital equity experts, community outreach specialists, and data scientists, and draws on the broad technology expertise of OCTO. Among SBDEO’s core responsibilities is management of DC’s obligations under the federal Broadband Equity, Access, and Deployment (“BEAD”) program.

The BEAD program was created when President Biden signed the Infrastructure Investment and Jobs Act (popularly known as the Bipartisan Infrastructure Law or “BIL”), Pub. L. 117-58, 135 Stat. 429, and is being administered by the United States Department of Commerce’s National Telecommunications and Information Administration (“NTIA”). This program makes available to DC \$100,694,786.93, to fund competitive subgrants for the deployment of broadband infrastructure.

In satisfaction of BEAD’s program requirements, and in accord with guidance developed by NTIA, the SBDEO has prepared this **draft** BEAD Initial Proposal Volume 1 for public notice and comment, to satisfy BEAD Initial Proposal Requirements 3, 5, 6, and 7. According to guidance provided by NTIA, the remaining BEAD Initial Proposal Requirements will be satisfied by a separate document, the forthcoming BEAD Initial Proposal Volume 2, which will also be made available for public notice and comment.

Pursuant to 47 U.S.C. § 1702(e)(3), this BEAD Initial Proposal Volume 1 will be published in the D.C. Register, and will be made publicly available at techtogether.dc.gov for no less than thirty days before submission to NTIA.

Existing Broadband Funding and Resources Requirement 3

NTIA’s BEAD Notice of Funding Opportunity (“NOFO”) requires DC to identify existing efforts funded by the federal government, or by the DC government, to deploy broadband and close the digital divide. In keeping with NTIA guidance, and to better facilitate public review of the relevant data, the SBDEO has satisfied this requirement by compiling such data in a standardized, machine-readable CSV format, attached hereto as Appendix 1. An excerpted version of this Existing Broadband Funding and Resources table is provided below.

To better facilitate public review, Appendix 1 will be available online at techtgether.dc.gov until the period of public notice and comment has ended.

Table I - Direct Broadband Funds

Source	Purpose	Federal or Local	Total	Expended	Available	Agency / Entity Awarded
“Internet for All” planning grants, Bipartisan Infrastructure Law	Fund activities related to broadband and digital equity planning.	Federal	\$5,463,126	--	--	OCTO
American Rescue Plan’s Local Relief Funds – <i>funds allocated to OCTO</i>	COVID-19 Response to maintain vital public services.	Federal	DC Office of the Chief Technology Officer (OCTO) received \$3,779,844.31	--	--	DC Government
Emergency Connectivity Fund (ECF), of the FCC	Funds to help schools and libraries during the COVID-19 emergency period.	Federal	\$36,658,298	\$18,426,885	\$18,231,413	DCPL DCPS
ACP Outreach Grant	Pilot outreach grant programs to raise awareness of the Affordable Connectivity Program (ACP).	Federal	\$500,000	--	--	OCTO

Universal Service Support Program for Schools and Libraries	The program, commonly known as E-rate, helps schools and libraries obtain affordable broadband.	Federal	\$56,273,549.78	--	--	Elementary schools, secondary schools, private schools, and religious schools
---	---	---------	-----------------	----	----	---

Table II - Components of Funds that can be used for Broadband

Source	Purpose	Federal or Local	Total	Expended	Available	Agency / Entity Awarded
American Rescue Plan's Capital Projects Fund (CPF)	COVID-19 response funds to improve infrastructure and enabling investments in capital assets.	Federal	\$15,000,000 of application planned for use for broadband	--	--	DC Government
Governor's Emergency Education Relief (GEER) Fund I -- <i>funds allocated to OCTO</i>	The CARES Act provides funds to prevent, prepare for, and respond to COVID-19.	Federal	OCTO's allocation from OSSE was \$2,445,101.88	\$2,445,101.88	\$0	OSSE
GEER Fund II	Same as GEER Fund I.	Federal	\$2,415,567	\$1,890,760	\$524,807	OSSE
Emergency Assistance to Non-Public Schools (EANS)	COVID-19 response and part of GEER funding specifically to non-public schools.	Federal	\$9,846,595	--	--	DC non-public schools
Elementary and Secondary School Emergency	COVID-19 response awarded to state	Federal	\$600,496,527	\$131,807,760	\$468,688,767	OSSE

Emergency Relief (ESSER) Fund	educational agencies					
-------------------------------------	-------------------------	--	--	--	--	--

DRAFT

Unserved and Underserved Locations Requirement 5

The BEAD NOFO requires DC to identify each unserved location and underserved location in DC, according to BIL's technical statutory definitions of *unserved*¹ and *underserved*,² using the most recently published Federal Communications Commission Broadband DATA Maps³ as of the date of submission of this BEAD Initial Proposal Volume 1, and to identify the date of publication of the Broadband DATA Maps used for such identification.

In keeping with NTIA guidance, and to better facilitate public review of the relevant data, the SBDEO has satisfied this requirement by compiling such data in a standardized, machine-readable CSV format, attached hereto as Appendices 2 & 3. The data in these files was drawn from the FCC Broadband DATA Maps on October 10, 2023, and will be refreshed prior to final submission of this BEAD Initial Proposal Volume 1 to NTIA. An excerpted version of this Unserved and Underserved location data is provided below.

To better facilitate public review, Appendices 2 & 3 will be available online at techtgether.dc.gov until the period of public notice and comment has ended.

Total number of Unserved Broadband Serviceable Locations in DC: 180

Total number of Underserved Broadband Serviceable Locations in DC: 30

The Broadband Office identified 180 unserved broadband serviceable locations that are served with speeds less than 25/3 Mbps. These unserved BSLs are concentrated in Wards 3, 5, and 8. We have also identified 30 underserved broadband serviceable locations that only have speeds between 25/3 Mbps and 100/20 Mbps available. These underserved BSLs are in Wards 1, 6, and 8.

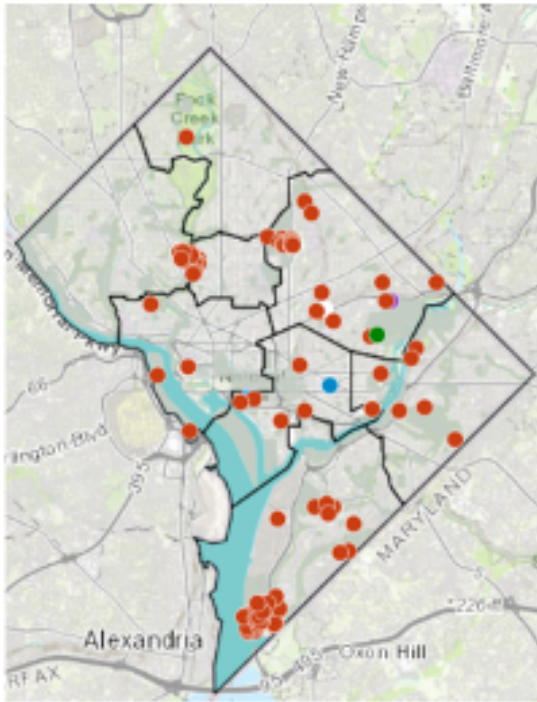
¹ The term *unserved location* means a broadband-serviceable location, as determined in accordance with the broadband DATA maps, that has no access to broadband service, or lacks access to reliable broadband service offered with a speed of not less than 25 megabits per second for downloads, and 3 megabits per second for uploads, and a latency sufficient to support real-time, interactive applications. 47 U.S.C. § 1702(a)(1)(A).

² The term *underserved location* means a location that is not an unserved location, and as determined in accordance with the broadband DATA maps, lacks access to reliable broadband service offered with a speed of not less than 100 megabits per second for downloads, and 20 megabits per second for uploads, and a latency sufficient to support real-time, interactive applications. 47 U.S.C. § 1702(a)(1)(C).

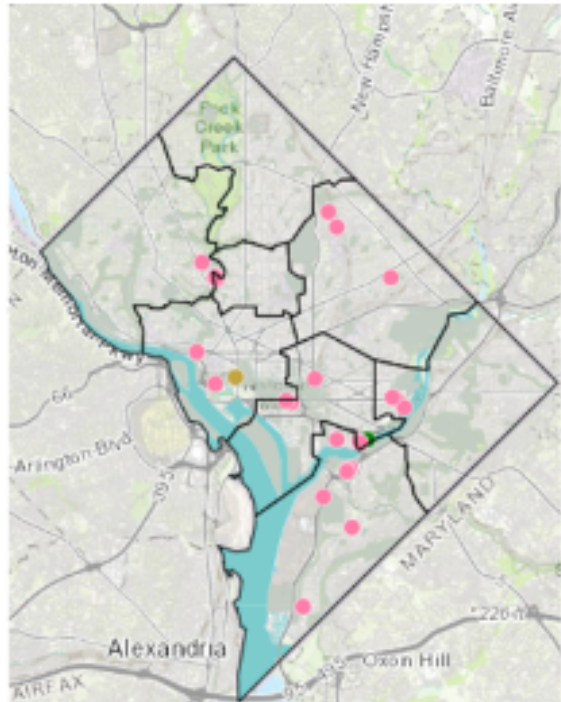
³ The FCC Broadband DATA Maps are publicly available at: <https://www.fcc.gov/BroadbandData>.

Unserviced and underserved locations in DC:

Unserviced BSLs by Ward



Underserved BSLs by Ward



DRAFT

Community Anchor Institutions Requirement 6

The BEAD NOFO requires DC to include within this Initial Proposal Volume 1:

- A description of how DC applied the statutory definition of the term community anchor institution (“CAI”);⁴
- An explanation of any categories of institutions that fall within the broad categories of CAIs which SBDEO considered but declined to classify as CAIs;
- An explanation of any categories of institutions not specifically within the broad categories of CAIs enumerated in BIL, but which SBDEO proposes to classify as CAIs;
- A description of how DC identified eligible CAIs;⁵
- A description of how DC assessed the needs of eligible CAIs, including what types of CAIs it intends to serve with BEAD funds.

SBDEO applied the statutory definition of CAI in accordance with NTIA’s official guidance on Initial Proposals:

- The category *Schools* was defined to include all K-12 schools participating in the FCC E-Rate program, or that have a National Center for Education Statistics (“NCES”) identifier in the categories *public schools* or *private schools*;
- The category *Libraries* was defined to include all libraries that participate in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association (“ALA”);
- The category *Health Clinic, Health Center, Hospital, or other Medical Providers* was defined to include all institutions that have a Centers for Medicare and Medicaid Services (“CMS”) identifier;
- The category *Public Safety Entities* was defined to include federal, WMATA, and DC public safety locations identified by the Office of the Deputy Mayor for Public Safety and Justice;
- The category *Institutions of Higher Education* was defined to include all institutions that have an NCES ID in the category *college*, including junior colleges, community colleges, universities, or other educational institutions;
- The category *Public Housing Organizations* was defined to include locations identified by the District of Columbia Housing Authority;
- The category *Community Support Organizations* was defined to include job training centers identified by the District of Columbia Department of Employment Services, and senior centers identified by the District of Columbia Department of Aging and Community Living.

The SBDEO did not consider excluding any categories of institutions that fall within the broad categories of CAIs, so it is not required to provide an explanation of such consideration and exclusion in this Initial Proposal Volume 1.

⁴ The term *community anchor institution* means 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, or community support organization that facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. 47 U.S.C. § 1702(a)(2)(E).

⁵ The term *eligible community anchor institution* means a community anchor institution that lacks access to gigabit-level broadband service. 47 U.S.C. § 1702(a)(1)(E).

The SBDEO does not propose adding any new categories of institutions not falling within the broad categories of CAIs, so it is not required to provide an explanation of such consideration and proposed inclusion in this Initial Proposal Volume 1. In preparing its 5-Year Action Plan, the SBDEO did consider proposing the addition of churches and places of worship as a new category of CAI, and performed an initial review of potentially eligible broadband serviceable locations as churches and places of worship.

The SBDEO ultimately declined to propose this new category of CAI in this Initial Proposal Volume 1, however, because there exists no fair, objective, and legally appropriate means by which the SBDEO might make determinations concerning the appropriateness of a given broadband serviceable location’s classification as a church or place of worship. Churches and places of worship are not affirmatively excluded from any existing category of CAI, however. As elaborated upon more fully in the following section, *Challenge Process Requirement 7*, challenges may be brought by nonprofit organizations or broadband service providers concerning any broadband serviceable location which the challenger feels qualifies as a CAI, according to the existing categories of CAIs identified in the statutory definition.

In keeping with NTIA guidance, and to better facilitate public review of the relevant data, the SBDEO has satisfied its requirement to identify eligible CAIs currently known to the SBDEO by compiling such data in a standardized, machine-readable CSV format, attached hereto as Appendix 4. The data in this file, including the assessment of speeds available to CAIs, was drawn from the FCC Broadband DATA Maps on October 10, 2023 and will be refreshed prior to final submission of this BEAD Initial Proposal Volume 1 to NTIA.

To better facilitate public review, Appendix 4 will be available online at techtogether.dc.gov until the period of public notice and comment has ended.

Table III - SBDEO estimates that the total number of eligible DC CAIs is 1,192 or 96 percent of all CAIs.

NTIA CAI Category	Type of CAI	CAI Entries	Estimate of eligible CAIs
Community support	Community Based Service Providers	5	4
	DHS Service Centers	2	2
	Job Center	4	2
	Public Housing Areas	573	573
Education	Charter Schools	4	4
	Child Development Centers	287	265
	Colleges and Universities	15	13
	Libraries	7	7
	Public Schools	3	3
	Independent Schools	24	18
Health	Aging Services	48	46

	Ambulatory Surgical Centers	1	1
	Community-Based Dementia Care	5	4
	Dialysis Clinics	6	6
	HIV AIDS Clinic	25	23
	Hospitals	3	2
	Intermediate Care Facilities	104	104
	Nursing Homes	4	3
	Opioid Dependence Treatment Facilities	11	11
	Primary Care Facility	14	12
	Residential Long Term Memory Care	7	6
	SUD and MHRS Provider Contact List	70	64
Safety	Fire Stations	16	15
	Police Stations	5	4
Total		1,243	1,192

Source data for the CAIs updated October 27, 2023

Requirement 7

The BEAD NOFO requires DC to provide a detailed plan to conduct a transparent, evidence-based, fair, and expeditious challenge process under which a unit of a nonprofit organization or broadband service provider can challenge a determination made by DC in the Initial Proposal as to whether a particular broadband serviceable location or CAI falls within BILs definitions of *unserved*, *underserved*, or *eligible community anchor institution*.

NTIA has released to States its Model Challenge Process, along with several optional challenge modules. DC plans to adopt in amended form the NTIA Model Challenge Process. The term *Eligible Entity* means the DC Government. The term *broadband office* means OCTO's SBDEO.

Challenge Process Description

NTIA BEAD Model Challenge Process Adoption

- 1.4.1 Select if the Eligible Entity plans to adopt the NTIA BEAD Model Challenge Process for Requirement 7.

Yes, as amended herein.

Modifications to Reflect Data Not Present in the National Broadband Map

- 1.4.2 If applicable, describe any modifications to classification of broadband serviceable locations in the Eligible Entity's jurisdiction as "served," "underserved," or "unserved," and provide justification for each modification.

Optional Module 3: Speed Test Modifications

The broadband office will treat as "underserved" locations that the National Broadband Map shows to be "served" if rigorous speed test methodologies (i.e., methodologies aligned to the BEAD Model Challenge Process Speed Test Module) demonstrate that the "served" locations actually receive service that is materially below 100 Mbps downstream and 20 Mbps upstream. This modification will better reflect the locations eligible for BEAD funding because it will consider the actual speeds of locations.

Deduplication of Funding

- 1.4.3 Select if the Eligible Entity plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

Yes

- 1.4.4 Describe the process that will be used to identify and remove locations subject to enforceable commitments.

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 BIL § 60105.⁶
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. DC data collections of existing enforceable commitments.

The broadband office will create a list of Broadband Serviceable Locations (“BSLs”) subject to enforceable commitments based on DC grants or loans. At the discretion of the broadband office, 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 may submit this list, in the format specified by the FCC Broadband Funding Map, to NTIA.⁷

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.

The broadband office drew on its existing database of DC broadband funding programs’ binding agreements, to determine the set of DC enforceable commitments.

- 1.4.5 List the federal, state, or territorial, and local programs that will be analyzed to remove enforceable commitments from the set of locations eligible for BEAD funding.

See Appendix 1

Challenge Process Design

- 1.4.6 Describe the plan to conduct an evidence-based, fair, transparent, and expeditious 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 the Eligible Entity,
- Community anchor institution BEAD eligibility determinations,
- BEAD eligibility determinations for existing broadband serviceable locations (“BSLs”),
- Enforceable commitments, or

⁶ The broadband funding map published by FCC pursuant to BIL § 60105 is referred to as the “FCC Broadband Funding Map.”

⁷ Guidance on the required format for the locations funded by state or territorial and local programs will be specified at a later date, in coordination with FCC.

- 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 120 days:⁸

1. **Publication of Eligible Locations:** Prior to beginning the Challenge Phase, the broadband office will publish the set of locations eligible for BEAD funding. The office will also publish locations considered served, as they may be challenged.
2. **Challenge Phase:** During the Challenge Phase, the challenger shall 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. 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. **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.
3. **Rebuttal Phase:** 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 may be sustained.

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

- a. **Timeline:** Providers will have 30 business days from notification of a challenge to provide rebuttal information to the broadband office.
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 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.

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, before deciding to sustain or reject a challenge. The broadband office will document the standards of 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 maintain compliance with the DC Board of Ethics and Government Accountability’s comprehensive Code of Conduct.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).	<ul style="list-style-type: none"> • Screenshot of provider webpage. • A service request was refused within the last 180 days (e.g., an email or letter from provider). • Lack of suitable infrastructure (e.g., no fiber, no in-building wiring, no pole). • A letter or email dated within the last 365 days that a provider failed to schedule a 	<ul style="list-style-type: none"> • Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill. • If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability. • The provider submits evidence that service is now available as a standard installation,

			<p>service installation or offer an installation date within 10 business days of a request.⁹</p> <ul style="list-style-type: none"> • 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. 	e.g., via a copy of an offer sent to the location.
S	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds. ¹⁰	Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests.	Provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system. ¹¹

⁹ A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as “[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider.”

¹⁰ The challenge portal has to gather information on the subscription tier of the household submitting the challenge. Speed challenges that do not change the status of a location shall not be considered. For example, a challenge that shows that a location only receives 250 Mbps download speed even though the household has subscribed to gigabit service can be disregarded since it will not change the status of the location to unserved or underserved.

¹¹ As described in the NOFO, a provider’s countervailing speed test should show that 80 percent of a provider’s download and upload measurements are at or above 80 percent of the required speed. *See Performance Measures Order*, 33 FCC Red at 6528, para. 51. *See* BEAD NOFO at 65, n. 80, Section IV.C.2.a.

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

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

¹³ *Ibid.*

¹⁴ An unreasonable capacity allowance is defined as a data cap that falls below the monthly capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022). Alternative plans without unreasonable data caps cannot be business-oriented plans not commonly sold to residential locations. A successful challenge may not change the status of the location to unserved or underserved if the same provider offers a service plan without an unreasonable capacity allowance or if another provider offers reliable broadband service at that location.

		in the deployment obligation.	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.	unable to meet the commitment (e.g., is no longer a going concern).
P	Planned service	The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.	<ul style="list-style-type: none"> • Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained. • Contracts or a similar binding agreement between 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>i.e.</i>, a separate federal grant program), including the expected date deployment 	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.

			will be completed, which must be on or before June 30, 2024.	
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. ¹⁵	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.

Area and MDU Challenge

The broadband office will administer area and MDU challenges for challenge types A, S, L, D, and T. An area challenge reverses the burden of proof for availability, speed, latency, data caps, and technology if a defined number of challenges for a particular category, across all challengers, have been submitted for a provider. Thus, the provider receiving an area challenge or MDU challenge must demonstrate that they are indeed meeting the availability, speed, latency, data cap, and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed above.

An area challenge is triggered if 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 the lesser of 3 units or 10% of the unit count listed in the Fabric within the same broadband serviceable location.

¹⁵ The resolution of a challenge cannot create new categories of CAI not reflected in Appendix 4, nor can it expand the objective standard by which DC identifies CAIs (e.g., a challenge cannot find an entity to belong to the category *Health Clinic, Health Center, Hospital, or other Medical Providers* in the absence of a CMS Identifier).

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

Area challenges for availability need to be rebutted with evidence that service is available for all BSL within the census block group, e.g., by network diagrams that show fiber or Hybrid-Fiber Coax (“HFC”) infrastructure or customer subscribers. For fixed wireless service, the broadband office will choose no fewer than 10 BSLs within the challenged area, where the provider has to demonstrate service availability and speed (e.g., with a mobile test unit).¹⁶

Speed Test Requirements

The SBDEO shall accept speed tests as evidence for substantiating challenges and rebuttals. Each speed test consists of three measurements, taken on different days. Speed tests cannot predate the beginning of the challenge period by more than 60 days.

Speed tests can take four forms:

1. A reading of the physical line speed provided by the residential gateway (i.e., DSL modem, cable modem (for HFC));
2. ONT (for FTTH), or fixed wireless subscriber module;
3. A reading of the speed test available from within the residential gateway web interface;
4. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using www.speedtest.net.

Each speed test measurement must include:

- The time and date the speed test was conducted; and,
- The provider-assigned internet protocol (IP) address, either version 4 or version 6, identifying the residential gateway conducting the test.

Each group of three speed tests must include:

- The name and street address of the customer conducting the speed test;
- A certification of the speed tier the customer subscribes to (e.g., a copy of the customer’s last invoice); and,

¹⁶ A mobile test unit is a testing apparatus that can be easily moved, which simulates the equipment and installation (antenna, antenna mast, subscriber equipment, etc.) that would be used in a typical deployment of fixed wireless access service by the provider.

- An agreement, using an online form provided by the Eligible Entity, that grants access to these information elements to the Eligible Entity, any contractors supporting the challenge process, and the service provider.

The IP address and the subscriber's name and street address are considered personally identifiable information (PII) and thus are not disclosed to the public (e.g., as part of a challenge dashboard or open data portal) without having first been anonymized to the satisfaction of the SBDOE.

A person proffering evidence must, for each location, conduct three speed tests on three different days; the days do not have to be adjacent. The median of the three tests (i.e., the second highest (or lowest) speed) is used to trigger a speed-based (S) challenge, for either upload or download. For example, if a location claims a broadband speed of 100 Mbps/25Mbps and the three speed tests result in download speed measurements of 105, 102, and 98 Mbps, and three upload speed measurements of 18, 26, and 17 Mbps, the speed tests qualify the location for a challenge, since the measured upload speed marks the location as underserved.

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

Subscribers submitting a speed test must indicate the speed tier they are subscribing to. If the household subscribes to a speed tier of between 25/3 Mbps and 100/20 Mbps and the speed test results in a speed below 25/3 Mbps, this broadband service will not be considered to determine the status of the location. If the household subscribes to a speed tier of 100/20 Mbps or higher and the speed test yields a speed below 100/20 Mbps, this service offering will not count towards the location being considered served or underserved. However, even if a particular service offering is not meeting the speed threshold, the eligibility status of the location may not change. For example, if a location is served by 100Mbps licensed fixed wireless and 500 Mbps fiber, conducting a speed test on the fixed wireless network that shows an effective speed of 70 Mbps does not change the status of the location from served to underserved.

A service provider may rebut an area speed test challenge by providing speed tests, in the manner described above, for at least 10% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule, i.e., 80% of these locations must experience a speed that equals or exceeds 80% of the speed threshold. For example, 80% of these locations must have a download speed of at least 20 Mbps (that is, 80% of 25 Mbps) and an upload speed of at least 2.4 Mbps to meet the 25/3 Mbps threshold and must have a download speed of at least 80 Mbps and an upload speed of 16 Mbps to be meet the 100/20 Mbps speed tier. Only speed tests conducted by the provider between the hours of 7 pm and 11 pm local time will be considered as evidence for a challenge rebuttal.

Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, the broadband office shall 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 on the SBDEO website, prior to opening the challenge submission window. The broadband office also plans to set up regular touchpoints to address any comments, questions, or concerns from the public. Members of the public can engage with the broadband office by a designated email address, DigitalEquity@dc.gov.

Beyond actively engaging relevant stakeholders, the broadband office will also endeavor to post all submitted challenges and rebuttals before final challenge determinations are made, including:

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

All persons submitting information to the Challenge Process, in any form, shall review their submission and clearly mark all personally identifiable information (“PII”) and all non-public proprietary information. The broadband office will not knowingly publicly post any PII or proprietary information, including subscriber names, street addresses, and customer IP addresses. To ensure all PII is protected, the broadband office will make a reasonable effort to review the basis and summary of all challenges and rebuttals in an effort to ensure PII is removed prior to posting them on the website.

The broadband office will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal and DC 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 the DC Freedom of Information Act, it is the submitter’s responsibility to ensure that information has been identified as FOIA exempt. Otherwise, the responses will be made publicly available.

DRAFT

Appendices

Appendix 1: Existing Broadband Funding and Resources (CSV file)

Appendix 2: Unserved Broadband Serviceable Locations (CSV file)

Appendix 3: Underserved Broadband Serviceable Locations (CSV file)

Appendix 4: Community Anchor Institutions (CSV file)

DRAFT