

**INTERNET
FOR ALL**

Introduction to the Challenge Process

June 2023



Disclaimer



This document is intended solely to assist recipients in better understanding the BEAD program and the requirements set forth in the Notice of Funding Opportunity (NOFO) for this program. This document does not and is not intended to supersede, modify, or otherwise alter applicable statutory or regulatory requirements, or the specific application requirements set forth in the NOFO. In all cases, statutory and regulatory mandates, and the requirements set forth in the NOFO, shall prevail over any inconsistencies contained in this document.



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Introduction to the Initial Proposal

Broadband, Equity, Access and Deployment (BEAD) Timeline

The BEAD Program requires Eligible Entities to submit multiple plans and materials. Eligible Entities are currently drafting their Five-Year Action Plans, and the next step is to draft and submit the **Initial Proposal**.

 **Letter of Intent**

Submitted by July 18, 2022.

 **Request for Initial Planning Funds**

Eligible Entities requested up to \$5,000,000 in Initial Planning Funds.

 **Five-Year Action Plan**

Must be submitted if receiving Initial Planning funds.

 **Notice of Available Amounts**

June 30, 2023.

 **Initial Proposal**

Eligible Entities will have 180 days from the receipt of the Notice of Available Amounts to develop (between July 1st and December 27th).

 **Challenge Process**

Eligible Entities must conduct a challenge process.

 **Subgrantee Selection**

Eligible Entities must complete a competitive subgrantee selection process (but cannot make subgrants until the National Telecommunications and Information Administration (NTIA) has approved the Final Proposal).

 **Final Proposal**

After executing the Initial Proposal, submit a Final Proposal to NTIA.

Introduction to the Initial Proposal



The Initial Proposal describes how an Eligible Entity intends to meet the BEAD NOFO requirements of ensuring that every resident has access to a reliable, affordable, broadband connection, including detailed plans for the entity's challenge process and subgrantee selection process.



Initial Proposal Description

Eligible Entities will **develop and submit an Initial Proposal**. Two of the requirements the Initial Proposal must include are:

- **descriptions of the competitive process the Eligible Entity proposes to use to select subgrantees** to construct broadband networks;
- and how the Eligible Entities will **conduct their BEAD Challenge Process**.

Prior to submission to NTIA, the Initial Proposal **must be made available for public comment** and **incorporate local coordination feedback**.



Initial Proposal Timing

Eligible Entities will have **180 days from receipt of the Notice of Available Amounts to develop and submit an Initial Proposal**, but Eligible Entities are encouraged to submit Initial Proposals earlier, if possible. Eligible Entities should start developing their Initial Proposals immediately upon receiving access to the Initial Proposal template.



Initial Proposal Submission

If an Eligible Entity fails to submit an Initial Proposal by the deadline, this will be treated as an application failure by the Eligible Entity. The Assistant Secretary reserves the right to extend this deadline, however, the Assistant Secretary will be reluctant to grant a waiver except in extraordinary circumstances. **If approved, the A/S will make available no less than 20% of funding for qualifying uses**. EE's will need to submit an IPFR to access this funding.



Initial Proposal NOFO Requirements



The NOFO outlines 20 requirements to be included in the Initial Proposal.

- ① Objectives
- ② Local, Tribal, and Regional Broadband Planning Coordination
- ③ Existing Broadband Funding
- ④ Stakeholder Coordination
- ⑤ Unserved and Underserved Locations
- ⑥ Community Anchor Institutions (CAIs)
- ⑦ Challenge Process
- ⑧ Competitive Deployment Subgrantee Selection
- ⑨ Non-Deployment Subgrantee Selection
- ⑩ Eligible Entity Implementation Activities
- ⑪ Labor Standards and Protections
- ⑫ Workforce Readiness
- ⑬ MBE / WBE / Labor Surplus Firms Inclusion
- ⑭ Cost & Barrier Reduction
- ⑮ Climate Assessment
- ⑯ Low-Cost Broadband Service Option
- ⑰ Use of 20 Percent of Funding
- ⑱ Eligible Entity Regulatory Approach
- ⑲ Certification of Compliance with BEAD Requirements
- ★ Middle Class Affordability Plan



Today's Focus



Today's webinar will be focused on requirements 3, 5, 6, and 7.

- ① Objectives
- ② Local, Tribal, and Regional Broadband Planning Coordination
- ③ Existing Broadband Funding**
- ④ Stakeholder Coordination
- ⑤ Unserved and Underserved Locations**
- ⑥ Community Anchor Institutions (CAIs)**
- ⑦ Challenge Process**
- ⑧ Competitive Deployment Subgrantee Selection
- ⑨ Non-Deployment Subgrantee Selection
- ⑩ Eligible Entity Implementation Activities
- ⑪ Labor Standards and Protections
- ⑫ Workforce Readiness
- ⑬ MBE / WBE / Labor Surplus Firms Inclusion
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- ★ Middle Class Affordability Plan



Volume Approach

Initial Proposal (IP) Submission



The IP is split into two volumes for faster review. Volumes I and II address all IP requirements in the BEAD NOFO and the Initial Proposal Funding Request is required if Eligible Entities want to receive funding upon IP approval.

Comprises the entire required Initial Proposal per the NOFO

1

Volume I: Plan for Challenge Process

Sections of the IP for Volume I are:

- **Existing Broadband Funding** (3),
- **Unserved and Underserved Locations** (5);
- **Community Anchor Institutions (CAIs)** (6); and
- **Challenge Process** (7).

This includes an overview of the Eligible Entity's evidence-based, transparent, fair, and expeditious challenge process (see Section IV.B.6 for details) and an overview of the process to minimize duplication of funding.

Volume I can be **submitted at any time before the deadline, and Eligible Entities are encouraged to submit it as early as possible.**

2

Volume II: Initial Proposal

Sections of the IP for Volume II are:

- **Objectives** (1)
- **Broadband Planning Coordination** (2)
- **Stakeholder Coordination** (4),
- **Deployment Subgrantee Selection** (8),
- **Non-Deployment Subgrantee selection** (9),
- **Eligible Entity Implementation Activities** (10),
- **Labor Standards and Protection** (11),
- **Workforce Readiness** (12),
- **MBE/WBE/Labor Surplus Firms Inclusion** (13),
- **Cost and Barrier Reduction** (14),
- **Climate Assessment** (15),
- **Low-Cost Broadband Service Option** (16),
- **Use of 20 Percent of Funding** (17),
- **Eligible Entity Regulatory Approach** (18),
- **Certification of Compliance with BEAD Requirements** (19)
- **Middle Class Affordability Plan** (★)



Initial Proposal Funding Request

Requirements of the IP Funding Request are:

- **Project Narrative**
- **Budget Narrative**
- **Detailed Budget Justification**

Specific details are being determined in coordination with the Grants Office.

Note that Initial Proposal Funding Request documents aren't specifically listed in the BEAD NOFO, however, submitting an Initial Proposal Funding Request is required to access 20% or more in BEAD funding during the optional Initial Proposal funding round.

The Initial Proposal Funding Request cannot be approved until Volume I and Volume II are approved.



Volume I NOFO Requirements



Volume I of the IP groups NOFO requirements 3, 5, 6, and 7 together; these requirements are defined below.



BEAD NOFO, Section IV.B.5

I. Program Description, B. Overview, 5. Initial Proposal

VOLUME I NOFO REQUIREMENTS

- 3** **Identify existing efforts funded by the federal government or an Eligible Entity** within the jurisdiction of the Eligible Entity to deploy broadband and close the digital divide, including in Tribal Lands.
- 5** **Identify each unserved location and underserved location** under the jurisdiction of the Eligible Entity, including unserved and underserved locations in applicable Tribal Lands, using the **most recently published Broadband DATA Maps** as of the date of submission of the Initial Proposal, and identify the date of publication of the Broadband DATA Maps used for such identification.
- 6** Describe how the Eligible Entity applied the statutory definition of the term “community anchor institution,” **identified all eligible CAIs in its jurisdiction**, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including the types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if the Eligible Entity proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Act, the basis on which the Eligible Entity determined that such category of CAI facilitates greater use of broadband service by vulnerable populations.
- 7** Include a **detailed plan to conduct a challenge process** as described in Section IV.B.6.

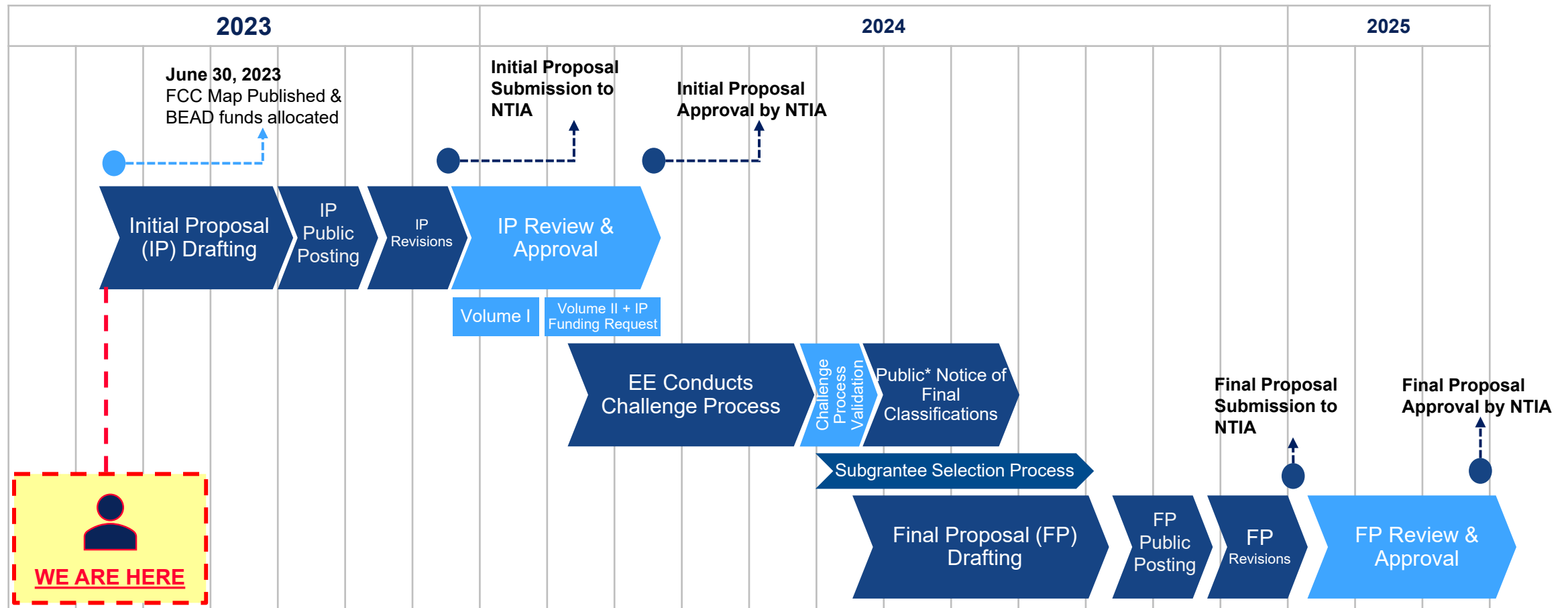


Initial Proposal Timeline

Timeline of the Initial Proposal for BEAD



Eligible Entities have submitted their LOIs and Initial Plans, and Initial Planning Funds have been issued. Eligible Entities are currently developing Five-Year Action Plans and preparing for the Initial Proposal submission. A sample timeline is outlined below.



*Per the BEAD NOFO, an Eligible Entity must provide public notice of the final classification of each unserved location, underserved location, or Eligible Community Anchor Institution within the jurisdiction of the Eligible Entity after resolving each challenge and at least 60 days before allocating grant funds for network deployment.



Challenge Process Sequence of Events



There are eleven steps that Eligible Entities and NTIA will perform related to the Challenge Process.

- 1 Eligible Entity Develops Initial Proposal Volume I**
Eligible Entities consult with their Federal Program Officers (FPOs) to identify unserved and underserved locations using the National Broadband Map, identify eligible CAIs, and develop a transparent, evidenced-based, fair, and expeditious challenge process that includes their proposed pre-challenge process location modifications (e.g., the proposed deduplication process). Prior to submitting to NTIA, the Initial Proposal must be made available for public comment for no less than 30 days. Eligible Entities must conduct outreach and engagement activities to encourage feedback and include a description of comments received and how they were incorporated.
- 2 Eligible Entity Submits Initial Proposal Volume I (submitting Vol I before Vol II is optional)**
Eligible Entities may first submit Initial Proposal Volume 1 which includes the initial identification of unserved and underserved locations, the definition of CAI classification applied, their proposed pre-challenge process location modifications (e.g., the proposed deduplication process), and their proposed challenge process. Volume 1 may be submitted prior to Volume 2 and the Initial Proposal Funding Package.
- 3 Eligible Entity Submits Full Initial Proposal (Volume I and Volume II)**
Eligible Entities submit their full Initial Proposal, which includes Volumes I and II (eligible entities that have already submitted Volume 1, above, need only submit Volume 2 at this stage.).
- 4 NTIA Reviews and Approves or Disapproves Initial Proposal Volume I**
NTIA reviews, and may modify, Initial Proposal Volume I. NTIA may review and approve Volume I prior to completing its review of Volumes II and the Initial Proposal Funding Request.
- 5 Eligible Entities Run Approved Modifications and Deduplication of Funding Process**
If NTIA approves an Eligible Entity's challenge process, the Eligible Entity then modifies, if appropriate, the set of locations it proposes to make eligible for BEAD funding to reflect data not present in the National Broadband Map and runs the approved deduplication of funding process to identify and adjust the status of locations that have funding commitments under another program for deploying qualifying broadband service.



Challenge Process Sequence of Events (cont.)



There are eleven steps that Eligible Entities and NTIA will perform related to the Challenge Process.

- 6 Eligible Entities Run Approved Challenge Process**
Eligible Entities run the approved challenge process to determine which locations are served, unserved, or underserved. In no circumstance may an Eligible Entity begin its challenge process prior to (a) receiving approval of the challenge process from NTIA and (b) submission of the full Initial Proposal (Volumes I and II) to NTIA.
- 7 Eligible Entity Runs Another Deduplication of Funding Process**
The Eligible Entity checks whether any locations that the Challenge Process turned to unserved or underserved are covered by funding commitments and adjusts their status.
- 8 Eligible Entities Submit Challenge Results to NTIA**
Eligible Entities submit challenge results and final eligibility determinations to NTIA to approve or reverse.
- 9 NTIA Reviews and Validates Challenge Results**
NTIA reviews challenge results and determines whether to approve or reverse the Eligible Entity's determinations.
- 10 NTIA Communicates Determination to Eligible Entities**
NTIA communicates the result of the challenge review to the respective Eligible Entity.
- 11 Eligible Entities Publish Final Determinations**
Eligible Entities provide public notice of the final determinations for each location and CAI at least 60 days prior to allocating grant funds.

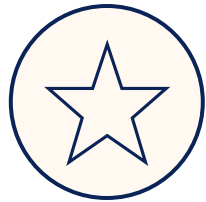


Volume I: The Challenge Process

Why is the BEAD Challenge Process Important?



The BEAD Challenge Process is vital because it determines the **locations and community anchor institutions** within each jurisdiction that are **eligible for BEAD funding**.



Key step toward achieving BEAD goals

Before the BEAD program can meet the goal of providing accessible and affordable broadband, all unserved locations, underserved locations, and eligible Community Anchor Institutions must be identified.



Helps ensure accurate results

An evidence-based, fair, transparent, and expeditious BEAD Challenge Process, as outlined in the NOFO and Challenge Process Policy Notice, helps ensure accurate results, an efficient process, and a precise allocation of resources.



Gathers information needed before running the subgrantee selection

The subgrantee selection process cannot be run without first having an accurate and comprehensive list of eligible locations and CAIs.



How does the BEAD Challenge Process differ from the FCC Challenge Process?



The FCC is collecting data from Internet Service Providers (ISPs) and **creating a map to identify unserved locations**. The FCC map: 1) was used to determine each state's BEAD funding allocation; and 2) is the starting point for each state's **BEAD challenge process** to identify unserved locations, underserved locations, and CAIs eligible for BEAD funding.

FCC CHALLENGE PROCESS



The Federal Communications Commission (FCC) maintains **new broadband coverage maps** (Broadband DATA Maps) using data collected from ISPs. The FCC accepts challenges on a continuous basis to both the locations (or fabric) and broadband availability data.



NTIA used the FCC's Broadband DATA Maps to **determine how much BEAD funding is provided per state or territory**.

BEAD CHALLENGE PROCESS



Eligible Entities will develop a challenge process for stakeholders to **challenge whether a location or CAI is served, unserved, or underserved**. The BEAD **timelines will be determined by each Eligible Entity** but must comply with NTIA requirements. NTIA requires that the entire challenge process be completed within 120 days per the Policy Notice.



The BEAD Challenge Process will **determine the locations and community anchor institutions within each jurisdiction that are eligible for BEAD funding**.



In what ways are they different?



The BEAD Challenge Process and the FCC Challenge Process are both related to BEAD but have different allowable challengers and timelines.

Relation to BEAD

Challengers

Timelines

FCC Maps Challenge Process |
NTIA used results to determine how much BEAD funding is provided per state or territory

FCC Maps Challenge Process |
Industry, state, local and Tribal government entities, and consumers

FCC Maps Challenge Process |
Accepts challenges continuously, however those filed prior to January 13, 2023 had the best opportunity to be processed prior to allocation

BEAD Challenge Process |
To determine the locations and community anchor institutions within each jurisdiction that are eligible for BEAD funding; includes optional speed and area challenges

BEAD Challenge Process |
Units of local government, nonprofit organizations, broadband service providers

BEAD Challenge Process |
Eligible entities may establish their own challenge and rebuttal timelines that fit within NTIA's requirement to complete the challenge process within 120 days



Broadband Funding Requirements

Broadband Funding Requirement| NOFO Requirement 3

To satisfy NOFO Requirement 3, Eligible Entities must identify existing funding efforts within the Eligible Entity.



BEAD NOFO Requirement 3

Identify existing efforts funded by the federal government or an Eligible Entity within the jurisdiction of the Eligible Entity to deploy broadband and close the digital divide, including in Tribal Lands.

Eligible Entities must be sure they:

- ✓ *Identify any **existing efforts funded by the federal government** related to deploying broadband and closing the digital divide*
- ✓ *Identify any **existing efforts funded by the Eligible Entity** related to deploying broadband and closing the digital divide*
- ✓ *Identify any **existing efforts in Tribal lands** related to deploying broadband and closing the digital divide*



Note that this is a requirement of the Five-Year Action Plan. The information used for that section of the Five-Year Action Plan can be used for this requirement to reduce duplication of work.

Initial Location Data Requirements

Initial Location Data Requirements | NOFO Requirement 5

Eligible Entities must utilize the Broadband DATA Maps to complete **Requirement 5**.



BEAD NOFO Requirement 5

Identify each unserved location and underserved location under the jurisdiction of the Eligible Entity, including unserved and underserved locations in applicable Tribal Lands, using the most recently published Broadband DATA Maps as of the date of submission of the Initial Proposal, and identify the date of publication of the Broadband DATA Maps used for such identification

To meet NOFO Requirement 5 Eligible Entities must:

- 1 **Use the most recently published* National Broadband Map** to identify BEAD-eligible locations
- 2 Include the **publication date of the map used**
- 3 Include the **location ID of each unserved or underserved location**
- 4 **Identify and classify unserved and underserved locations**
- 5 Submit in the form of **CSV files**

*If more than 60 days have elapsed between submission of the Initial Proposal Volume 1 and the beginning of the challenge process, Eligible Entities are encouraged to use an updated version of the National Broadband Map for the challenge process. Eligible Entities do not need to resubmit these updated lists of unserved and underserved locations to NTIA.

Initial Location Data Requirements | NOFO Requirement 6

Community Anchor Institutions (CAIs) are vital to the successful implementation of BEAD funds; Requirement 6 outlines what Eligible Entities must do to identify CAIs eligible for BEAD funding.



BEAD NOFO Requirement 6

Describe how the Eligible Entity applied the statutory definition of the term “community anchor institution,” identified all eligible CAIs in its jurisdiction, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including the types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if the Eligible Entity proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Act, the basis on which the Eligible Entity determined that such category of CAI facilitates greater use of broadband service by vulnerable populations.

NOFO Definition






The term “community anchor institution” means:

(A): 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**

(B): a community support organization that **facilitates greater use of broadband service by vulnerable** populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

(B): Additional types of Institutions







An Eligible Entity may propose to NTIA types of institutions not specifically listed in the NOFO CAI definition that should qualify as CAIs within the entity’s territory. If so, the Eligible Entity must explain why it has determined that the institution or type of institution should be treated as such and affirm that the institution or class of institutions **facilitates greater use of broadband service by vulnerable populations, including:**

-  Low-income individuals,
-  Unemployed individuals,
-  Children,
-  The incarcerated, and
-  Aged individuals.

Initial Location Data Requirements | NOFO Requirement 6

NOFO Requirement 6 asks Eligible Entities to explain the process to identify CAIs. This requirement is not intended to generate an exhaustive list of every CAI but should focus on identifying those that may lack broadband service.

ELIGIBLE ENTITIES MUST DESCRIBE:

-  How they applied the **statutory definition of CAIs**
-  How they **identified all eligible CAIs** in the jurisdiction and in applicable tribal lands
-  How they **assessed the needs** of eligible CAIs
-  What **types of CAIs** they intend to serve
-  How the categories of institutions proposed as CAIs during the public comment period that were considered but were **ultimately not defined as CAIs** and the basis on which this determination was made
-  Where the CAI is located by including the **National Broadband Map location ID, and/or latitude and longitude**

WHAT'S AN ELIGIBLE CAI?

- ✓ The term “**eligible community anchor institution**” means a community anchor institution that **lacks access to gigabit-level broadband service**.
- ✓ Knowing the definition of an eligible CAI is important because Eligible Entities must provide a description of **how they applied the statutory definition of the term “community anchor institution” and identified Eligible CAIs** (as defined above) in its jurisdiction and on applicable Tribal Lands in order to meet Requirement 6.

Pre-Challenge Process Modifications

Pre-Challenge Process Modifications: De-duplication of Funds

Eligible Entities must complete **2 components in the Pre-Challenge Process Modifications** section.

1. **De-duplication of Funds Process**: remove locations that are subject to enforceable commitments to provide qualifying broadband service
2. **Data Modifications**: propose modifications to the list of BEAD eligible locations in order to reflect data not present in the FCC's National Broadband Map

To outline a De-duplication of Funds Process Eligible Entities may:



Use the forthcoming BEAD Eligible Entity Planning Toolkit or alternative tools

If Eligible Entities decide to use alternative tools, they will be required to provide details about the tools and data they have available



Request a waiver to exclude locations from the funding deduplication process




NTIA will review waiver requests on a case-by-case basis. The Assistant Secretary will grant such a waiver only if the Eligible Entity demonstrates to the satisfaction of the Assistant Secretary that treatment of certain locations subject to a prior enforceable commitment as “unserved” or “underserved” is necessary to achieve the goals of the program.

Pre-Challenge Process Modifications: Data Modifications

Eligible Entities must complete **2 components in the Pre-Challenge Process Modifications** section.

1. **De-duplication of Funds Process:** remove locations that are subject to enforceable commitments to provide qualifying broadband service
2. **Data Modifications:** propose modifications to the list of BEAD eligible locations in order to reflect data not present in the Broadband DATA map

Proposals to change the list of locations proposed as eligible for BEAD must:

-  Include sufficient justification that modifications better reflect the locations eligible for BEAD funding
-  Not add or remove broadband serviceable locations from the Broadband DATA maps
-  Not change the definitions of unserved and underserved from those set forth in the Infrastructure Investment and Jobs Act

Examples of Pre-Challenge Process Modification Proposals

Proposals **may not add or remove locations from locations identified on the National Broadband Map or change the definitions of “unserved” and “underserved”** from those set forth in the Infrastructure Act.



Technology type qualifies location as underserved

An Eligible Entity may propose to treat locations that the Broadband DATA Map shows to have available qualifying broadband service (i.e., a location that is “served”) delivered via DSL as “underserved” to facilitate the phase-out of legacy copper facilities and ensure the delivery of “future-proof” broadband service.



Speeds qualify location as unserved

An Eligible Entity may propose to treat as “underserved” locations that the National Broadband Map shows to be “served” if rigorous speed test methodologies demonstrate that the “served” locations actually receive service that is materially below 100 Mbps downstream and 20 Mbps upstream.



Eligible Entities are required to provide sufficient justification that the modifications more accurately reflect the locations eligible for BEAD funding within the Eligible Entity’s jurisdiction.

Design Requirements

Design Requirements: Basics



Eligible Entities must outline a challenge process that is transparent, evidence-based, and expeditious. The challenge process **must include the following 4 phases**:

Publication of Eligible Locations

- The Eligible Entity ***publishes the set of locations eligible for BEAD funding*** which includes the full universe of locations potentially eligible for BEAD funding minus those removed in the modifications to location classifications process
- This set also includes locations considered served

Challenge

- The Eligible Entity defines the level of evidence needed for a challenge.
- A permissible challenger submits a challenge to the EE's online portal ("challenge portal") and the location becomes ***challenged***.
- These challenges must be ***visible*** to the relevant ISP

Rebuttal

- A rebuttal of a challenger makes the location or locations ***disputed***
- A challenge that is not rebutted within the rebuttal period is ***sustained***
- A provider may agree with the challenge, making the location(s) ***sustained***

Final Determination

- The Eligible Entity either ***sustains*** the disputed locations, or ***rejects*** the dispute

Allowable Challengers: Units of local government, nonprofit organizations, broadband service providers



Design Requirements: *Evidence, Fairness, Transparency, Timing*



BEAD NOFO Section IV.B.6

Each Eligible Entity shall develop and describe in the Initial Proposal, a transparent, evidence-based, fair, and expeditious challenge process.

Evidence Requirements



- May be provided from a wide range of data sources
- Must be **documented and verified**

Fairness Requirements



- Provides **sufficient opportunity and time** to initiate, rebut, and substantiate challenges
- Ensure standards of review **are applied uniformly** to all challenges submitted

Transparency Requirements



- **Publicly post documentation** explaining the challenge process if approved by NTIA and before beginning the process
- **Publicly post all submitted challenges and rebuttals** before final determinations are made
- Host a **public-facing website** on which all required documentation will be posted
- Ensure the **protection of Personally Identifiable Information (PII) and proprietary information** as applicable
- Actively **inform units of local government, relevant nonprofit organizations and ISPs to the challenge process and its deadlines**

Timing Requirements



- Complete the entire challenge process within **120 days**
- Providers must have **at least 14 days to rebut a challenge** and **allow challenges to be submitted for a minimum of 14 days**
- Complete the challenge process and publicly post the final classifications after resolving each challenge **at least 60 days** before allocating grant funds for network deployment

Design Requirements: Examples of Allowable Challenges



Looking specifically at the Challenge Process, Eligible Entities must be sure to distinguish what types of challenges are allowable and which types of challenges are not allowable.

ALLOWABLE CHALLENGES



- ✓ Location Funding Eligibility Determinations
- ✓ Identification of Community Anchor Institutions (CAIs)
- ✓ CAI Eligibility Determinations
- ✓ Enforceable Commitments
- ✓ Planned Service

UNALLOWABLE CHALLENGES














- ✗ Altering the BSL's "Building Type" classification
- ✗ Addition of BSLs
- ✗ Removal of BSLs



What are the Different Types of Allowable Challenges?



Eligible Challengers for the BEAD State Challenge Process include **units of local government, non-profits, and broadband service providers.**

CHALLENGE TYPE	DESCRIPTION
 Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).
 Speed	The actual speed of the-service tier falls below the unserved or underserved thresholds.
 Latency	The round-trip latency of the broadband service exceeds 100 ms.
 Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer.
 Technology	The technology indicated for this location is incorrect.
 Business service only	The location is residential, but the service offered is marketed or available only to businesses.
 Enforceable Commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.
 Planned service	The challenger has knowledge that broadband will be deployed at this location by June 30, 2024 either without an enforceable commitment or because a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.
 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.)
 Location is a CAI	The location should be classified as a CAI.
 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.



Example of Allowable Challenges



The BEAD Challenge Process has specific requirements regarding what types of challenges are allowed.



Location Eligibility Determination

A challenger could submit a challenge to the classification of a location as unserved or underserved because of **service availability, speed, latency, business service only, data caps, or the technology type.**

Example: *A challenger could argue that a location is underserved because the available broadband speed is less than what the NOFO defines as qualifying broadband service of 100 Mbps for downloads and 20 Mbps for uploads.*



Planned Service

A challenger could submit a challenge to the classification of a location as unserved because there are **plans to provide broadband service to the location in the future.**

Example: *A challenger could argue to change a location from unserved to served because they have evidence of planned expansion of broadband access to that location.*

Description

Example



Example of Allowable Challenges



The BEAD Challenge Process has specific requirements regarding what types of challenges are allowed.



CAI Eligibility Determination

A challenger could submit a challenge to the **classification of a CAI as eligible for BEAD funds** (i.e., arguing that a CAI already receives at least 1 Gigabit broadband speeds).

Example: *A challenger could argue that CAI is not eligible for BEAD-funding because the highest speed available is above 1 Gbps.*



CAI Classification Determination

A challenger could submit a challenge to the **classification of a location as a CAI**.

Example: *A challenger could argue that a community theater space is a CAI because the space includes a computer room with access to internet for local community members to design and run community plays.*

Description

Example

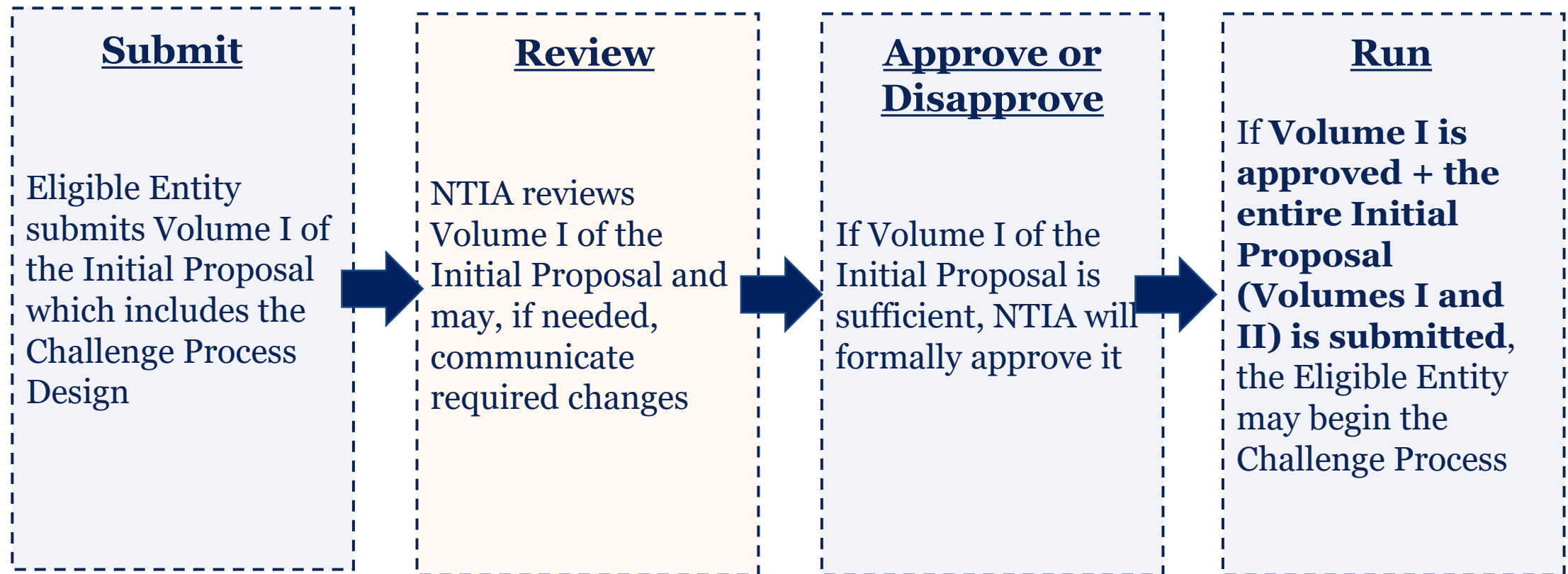


Volume I Submission Steps

Challenge Process Submission Steps



The Initial Proposal Review Process is designed to be iterative, therefore the proposal may require modifications and edits and may need to be re-submitted in order to merit approval.



Challenge Process Review



The Initial Proposal Review Process is iterative and has multiple evaluation standards.

The Initial Proposal will be evaluated according to the follow statutory standards:

From Section IV.B.5.c of the NOFO

- ✔ Complies with Section 60102(f) of the Infrastructure Act;
- ✔ Is in the public interest; and
- ✔ Effectuates the purposes of the Infrastructure Act



Roles: States and Territories, NTIA, Challengers

The Role of States/Territories and NTIA



NTIA and States and Territories will work together to design a BEAD Challenge Process, but only the States and Territories will run the Challenge Process.



NTIA's Role

- ✓ NTIA will **approve and/or send required modifications to states and territories** about their BEAD Challenge process design
- ✗ NTIA will **NOT run the State/Territory's BEAD Challenge process**
- ✓ NTIA will **validate the results of the BEAD Challenge process**



States' and Territories' Role

- ✓ States and territories will **design and get approval of their BEAD Challenge process**
- ✓ States and territories will **run the BEAD Challenge process**
- ✓ States and territories will **send the results of the BEAD Challenge process to NTIA** for approval
- ✓ States and territories will **run their subgrantee selection process**



The Role of Eligible Challengers



Eligible Challengers are: (1) Units of local government, (2) non-profits, and (3) broadband service providers. The Role of Eligible Challengers is outlined below.



Read the Challenge Process instructions and guidance posted by your State or Territory to understand the steps required to submit a challenge.



Gather acceptable evidence, which may include *speed tests, screenshots* from a provider website, *service requests, letters or emails, manufacturer and model number* of residential gateways, providers, and more.



Submit challenge and evidence to your State or Territory's BEAD Challenge website.



If needed, respond to, or check for responses to, your challenge by periodically checking the BEAD Challenge website for updates

To keep challengers informed:

Eligible Entities will set up public-facing challenge portal to accept challenges during the Challenge Process and detail deadlines, who is making a challenge, the basis of the challenge, a summary of the challenge, and a summary of the rebuttals.



What if I'm not an eligible challenger?

Eligible challengers may **aggregate and submit challenge evidence from individuals** who are not eligible to submit challenges on their own.



What Happens after the Challenge Process?



After the BEAD Challenge Process is completed, Eligible Entities send the final determinations of each unserved location, underserved location, and CAIs to NTIA for approval.

WHAT WILL STATES BE DOING?

- After resolving each challenge and at least 60 days before allocating grant funds for network deployment, an **Eligible Entity must provide public notice of the final classification** of each:
 - Unserved location
 - Underserved location
 - Eligible Community Anchor Institution within the jurisdiction of the Eligible Entity
- Eligible Entities must also **notify NTIA of any modifications to the Initial Proposal** that are necessitated by successful challenges to its initial determinations.

WHAT SHOULD CHALLENGERS BE DOING?

- Eligible Challengers should pay attention to their State Broadband Office and **be on the lookout for the public notice of final classification.**
- Once Eligible Entities have provided public notice of their final classifications, challengers should **review the published data.**
- This list will be used for the next step in allocating BEAD funds, the **subgrantee selection process.**



Next Steps & Additional Resources

What are my Next Steps?



Pay attention to the next steps below.



Look out for State / Territory Specific Guidance

- It is important to pay close attention when your Eligible Entity posts their Challenge Process and instructions on how to participate.
- Eligible Entities will make this information available publicly and will inform eligible challengers when this information is made available.

Remember the Timeframe

- As part of the broader Initial Proposal, BEAD Challenge Process designs are **due to NTIA within 180 days of the release of the Notice of Available Amounts.**
- After the design is approved and the Eligible Entity has submitted their entire Initial Proposal, they may start the Challenge Process.
- Eligible **challengers will have a minimum of 14 days to submit challenges.**

Be on the lookout for the Challenge Process public comment period, which states and territories are required to hold for 30 days before submitting the Challenge Process to NTIA for approval.



Where Can I Find Additional Resources?



Use the below existing TA resources that can support your SBO in achieving the Initial Proposal requirements in a timely manner.



Challenge Process Policy Notice

Detailed Instructions

Provides detailed information and instructions regarding the BEAD State Challenge Process.



BEAD NOFO

Reference Document

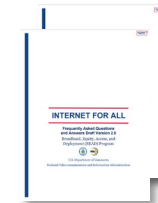
Information about the Initial Proposal and the Challenge Process can be found in the BEAD NOFO, Section IV.B.5 and Section IV.B.6.



FCC Broadband DATA Maps

Maps

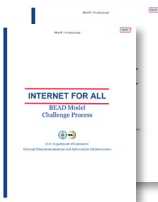
Maps created by the FCC that NTIA uses the results from to determine how much BEAD funding is provided per state or territory.



BEAD FAQs

Reference Document

Collection of Frequently Asked Questions that provide insight and additional context into the Initial Proposal and the Challenge Process.



BEAD Model Challenge Process

Reference Document

Serves as an example of how an Eligible Entity may choose to meet all requirements from Volume 1 of the Initial Proposal.



BEAD 201

Webinar

A more detailed and in-depth look into the BEAD Program and its requirements.





THANK YOU

