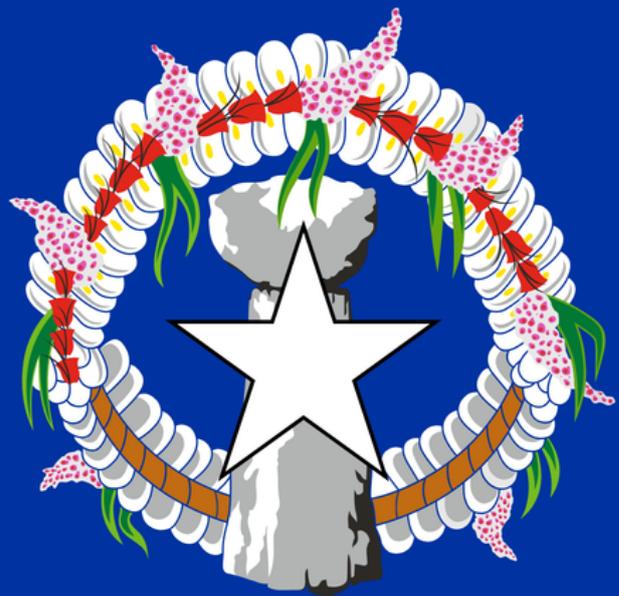




INTERNET FOR ALL

Initial Proposal Volume 1

Commonwealth of the Northern
Mariana Islands



BPD

CNMI OFFICE OF THE GOVERNOR
BR ADBAND
POLICY & DEVELOPMENT

MESSAGE FROM THE OFFICE OF THE GOVERNOR- BROADBAND POLICY & DEVELOPMENT

Hafa Adai,

The Broadband Policy and Development Office (BPD) of the CNMI is proud to unveil the final draft of the CNMI's Broadband Equity, Access, and Deployment (BEAD) Initial Proposal Volume I. We welcome your insightful scrutiny and valuable comments on this key initiative under the Infrastructure Investment and Jobs Act of 2021 (IIJA). The BEAD program is the cornerstone of our ambition to transform the CNMI's digital landscape by connecting every household in our territory with affordable, reliable, scalable high-speed internet.

With an allocation of over \$80 million earmarked for the BEAD program, we are set to face the unique challenge of a territory that is currently 100% unserved. Our strategy is to focus on comprehensive network deployment across all corners of the CNMI. Volume I of CNMI's Initial Proposal addresses the third, fifth, sixth, and seventh requirements of the initial proposal.

Moreover, we further clarify how the BPD will manage the BEAD program, including subgrantee selection, in Volume II, which was released for public comment on October 31, 2023.

It's worth noting that while each Broadband Office in the States, Puerto Rico, and Washington DC was awarded \$5M for planning activities such as stakeholder engagement and initial proposal drafting, CNMI was granted a smaller sum of \$1.2M for the exact same tasks. Also, while the CNMI will receive over \$80M for implementation of the BEAD program, this amount is less than even the pre-allocation level of \$100M given to every State, Puerto Rico, and Washington DC for the program. Despite these financial constraints, our commitment remains steadfast. We have consistently met all aspects of the BEAD program and plan to maintain this momentum.

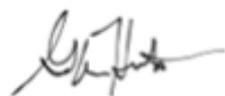
Since its inception in May 2023, BPD has participated in various CNMI-centric stakeholder meetings, regional conferences, NTIA hosted stakeholder meetings, and initiated several local coordination efforts. We are currently developing our BEAD 5 Year Action Plan and Digital Equity 5 Year Plan with the purpose of achieving universal broadband access and fostering a dynamic digital environment in CNMI.

Despite current economic challenges, this funding serves as a catalyst for economic revitalization – creating new jobs, attracting new businesses, and promoting digital literacy programs. We firmly believe that by bridging the digital divide, we can significantly bolster our territory's economic resilience.

The CNMI is currently grappling with economic hardship; however, this funding propels us towards overcoming these challenges. It serves as an opportunity to stimulate economic growth by creating jobs, attracting new businesses, and facilitating digital literacy programs. We strongly believe that by bridging the digital divide, we can significantly contribute to the economic resilience of our territory.

Our office has been closely working with our community groups, municipal governments, businesses, and service providers whose insights have greatly contributed to this proposal. We highly appreciate your partnership and invite all stakeholders to carefully review this Initial Proposal Volume I.

We anticipate your continued support and collaboration as we work together to establish a digitally inclusive CNMI.



Glen Hunter

Special Assistant to the Governor for Broadband Policy & Development

OVERVIEW OF THE BROADBAND, EQUITY, ACCESS, AND DEPLOYMENT (BEAD) PROGRAM

The Broadband Equity, Access, and Deployment (BEAD) program, established by the Infrastructure Investment and Jobs Act (IIJA), provides federal funding for broadband planning, deployment, mapping, equity, and adoption activities to all fifty states and territories. The National Telecommunications and Information Administration (NTIA) is the federal agency tasked with administering the BEAD Program. The IIJA has allocated \$42.5 billion to the BEAD Program, with over \$80 million designated for the CNMI.

The CNMI Broadband Policy and Development Office (BPD), positioned within the Office of the Governor, is charged with developing and executing CNMI's broadband vision: ensuring every CNMI resident has access to affordable and reliable high-speed internet. Part of BPD's responsibility includes administering the BEAD Program in the CNMI. For more information about the BEAD Program in the CNMI visit our website at <https://bpd.cnmi.gov>.

The BEAD Program NOFO mandates that BPD submit an Initial Proposal which we have split into two volumes detailing how BPD will administer the BEAD Program in the CNMI. This document is the CNMI Initial Proposal Volume I. BPD has drafted this document to fulfill the requirements stipulated by NTIA. Prior to submission to NTIA for approval, BPD had received public comments on Volume I.



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1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

1.1. EXISTING BROADBAND FUNDING (REQUIREMENT 3)

Below you will find a listing of all known on-going Broadband Funding Sources in the CNMI as of October 2023. (see Appendix 1 titled: "BEAD Initial Proposal_Volume I_Existing Broadband Funding Sources.xlsx")

Table I. Broadband Funding Sources in the CNMI

Source <i>Name of federal agency/other source of funding.</i>	Purpose <i>Indicate whether the broadband funding program was federal, state/territory, or locally funded.</i>	Total <i>Total amount of funds awarded by the listed source.</i>	Expended <i>Total amount of funds expended to date.</i>	Available <i>Total amount of remaining funds available to date.</i>
BEAD Planning Grant	Funds will support planning and implementation of prioritized projects to provide enhanced connectivity to unserved populations across the islands, followed by underserved, and will supplement digital equity programs.	\$1,250,000	\$23,058	\$1,226,942
Digital Equity Planning Grant	Planning funds will be allocated to support work plan development and project solicitation, prioritization, and implementation as well as incorporation of DE Plan into coordinated digital literacy projects targeting unserved, underserved, and disadvantaged populations	\$150,000	\$0	\$150,000
BEAD Implementation Grant	Funds will support planning and implementation of prioritized projects to provide enhanced connectivity to unserved populations across the islands, followed by underserved, and will supplement digital equity programs.	\$79,546,709	\$0	\$79,546,709
Coronavirus Capital Projects Fund	Multi-Purpose Community Facility Projects: The construction or improvement of buildings designed to jointly and directly enable work, education, and health monitoring in the CNMI.	\$14,285,714	\$98,000	\$14,187,714

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

Table I. Broadband Funding Sources in the CNMI (Continued)

Source <i>Name of federal agency/other source of funding.</i>	Purpose <i>Indicate whether the broadband funding program was federal, state/territory, or locally funded.</i>	Total <i>Total amount of funds awarded by the listed source.</i>	Expended <i>Total amount of funds expended to date.</i>	Available <i>Total amount of remaining funds available to date.</i>
FCC Rural Digital Opportunity Fund	DoCoMo Pacific Inc. - Phase I Broadband Deployment to 530 BSLs 6/30/22 - 6/29/32	\$3,706,235	\$0	\$3,706,235
FCC High Cost USF Program	Federal	\$3,209,000	\$0	\$150,000
ACP Enrollment	Federal	\$93,459	\$93,459	\$0

1.2. UNSERVED AND UNDERSERVED LOCATIONS (REQUIREMENT 5)

1.2.1. Unserved Locations Attachment

One CSV file titled “unserved.csv” listing all unserved location IDs in the CNMI. (see Appendix 2 titled: “unserved.csv”)

1.2.2. Underserved Locations Attachment

One CSV file titled “underserved.csv” listing all underserved location IDs in the CNMI. (see Appendix 3 titled: “underserved.csv”)

1.2.3. Date Selection

When identifying all unserved and underserved locations for purposes of preparing this draft version of Volume I for public comment and review by the NTIA, BPD utilized the **Broadband Data Collection (BDC) data as of June 30, 2023, last updated on December 12, 2023, from the National Broadband Map.**

In order to base the state challenge process on the most current information available, the BPD plans to utilize the latest updated file of the BDC data as of June 30, 2023 (BDC Version 3) as the baseline for the challenge process. Additionally, BPD plans to use the challenge process for obtaining feedback on whether certain broadband serviceable locations have been correctly identified as served, underserved, or unserved.

BPD will continue to update the datasets after public comment and prior to submission of the Initial Proposal.

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

1.3. COMMUNITY ANCHOR INSTITUTIONS (CAI) (REQUIREMENT 6)

1.3.1. Community Anchor Institutions

This first volume of the CNMI BEAD Initial Proposal includes, consistent with NTIA requirements, a definition of “community anchor institution,” a list of community anchor institutions, and an analysis of the connectivity needs of the institution.

BPD CAI Definition

Adopting the statutory definition of “community anchor institution” as defined in 47 USC 1702 (a)(2)(E), BPD defines “community anchor institution” to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (This term is used broadly and includes any public housing agency, HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater public use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, rural residents, and aged individuals.

CAI Needs Assessment

It is important to note that every resident of the CNMI falls under one of the eight populations covered by the National Telecommunications and Information Administration (NTIA). Due to its geographical remoteness and relatively small population, each resident is considered a “rural inhabitant”. With each island population under 50,000 and no urban areas adjacent to it, the CNMI faces unique challenges.

It's worth mentioning that the CNMI currently lacks a functional street numbering system. As a result, when Latitude and Longitude data are unavailable, we have relied solely on street names for location identification. However, if the decision is made to deploy a 1 Gig symmetrical network to a particular CAI, the BPD will ensure that Latitude/Longitude coordinates are obtained beforehand to ensure accuracy and efficiency.

In order to assess the needs of CAIs, the BPD initiated the following activities:

- Engaged government agencies. BPD reached out to several agencies to understand what records they have available regarding relevant community anchor institutions and 1 Gbps symmetrical broadband service availability. The BPD coordinated with the PSS to determine which schools and libraries do not currently have access to 1 Gbps symmetrical broadband service. Additionally, BPD coordinated with the Executive Office of the Governor, Judiciary and Legislature to obtain availability and network connectivity needs based on existing records of procured broadband service for state-affiliated community anchor institutions.
- Engaged relevant umbrella organizations and nonprofits. BPD engaged with non-profit and umbrella organizations that work with community anchor institutions to coordinate and obtain 1 Gbps symmetrical broadband service availability data and needs from the member organizations across all geographic regions.
- **Engaged with Government Agencies:**
 - Public School System (PSS)
 - CNMI Judiciary
 - Executive Branch Offices and Departments
 - CNMI Legislature
 - Northern Marianas College (NMC)
 - Libraries - Joeten-Kiyu, Rota and Tinian
 - Commonwealth Office Transit Authority
 - Municipal Government
 - Saipan Mayor’s Office

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

- Municipal Government (Continued)
 - Northern Islands Mayor's Office
 - Tinian Mayor's Office
 - Rota Mayor's Office
 - Municipal Council
- Department of Public Safety
- Department of Corrections
- Commonwealth Ports Authority
- Saipan Higher Education Financial Assistance (SHEFA)
- NMTech
- NMI Museum
- American Memorial Park Visitor Center
- Northern Marianas Humanities Council
- CNMI Substance Abuse, Addiction & Rehabilitation (SAAR)
- Marianas Visitors Authority
- Commonwealth Healthcare Corp.
- Office of Information Technology
- CNMI Department of Community and Cultural Affairs
- Indigenous Affairs Office
- Women's Affairs Office
- Aging Center (*Manamko* Center)
- **Engaged with Community Groups/Non-Profits:**
 - Marianas Alliance of NGOs (MANGO)
 - Chamber of Commerce
 - Red Cross
 - 500 Sails
 - Rotaract/Interact/Rotary
 - Lions Club
- Engaged with Businesses and Private Citizens
- Began development of a listing of all CAIs and their current connectivity status.

CAI NTIA Standard Categories

The following definitions and above sources were used to identify community anchor institutions:

- **Schools:** This category includes all private and public K-12 schools registered with the CNMI Public School System.
- **Libraries:** The list of libraries includes all libraries and their branches: State Libraries of the Commonwealth of the Northern Mariana Islands include Joeten-Kiyu Public Library, Antonio C. Atalig Memorial Rota Public Library and Tinian Public Library (all participate in the FCC E-Rate program)
- **Health clinic, health center, hospital, or other medical providers:** The list of health clinics, health centers, hospitals, and other medical providers. Our list includes all institutions registered as medical institutions in the CNMI and is cross-referenced with the CNMI Medicaid Agency and Commonwealth Healthcare Corp and Department of Public Health. Will also include institutions that have a Centers for Medicare and Medicaid Services (CMS) identifier.
- **Public safety entities:** The list of public safety entities includes fire houses, emergency medical service stations, and police stations, Locations and services provided by CNMI Department of Public Safety, Department of Fire and Emergency Management Services, and CNMI Homeland Security and Emergency Management.
- **Institutions of higher education:** Institutions of higher education include all colleges, including junior colleges, community colleges, trade schools, tech academies, minority serving institutions, universities, other universities, and other educational institutions. Northern Marianas College, NMTech, SHEFA, Latte Training Academy were consulted for locations and services offered.

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

- **Public housing organizations:** Public housing organizations were identified by contacting the Northern Marianas Housing Corporation (NMHC).
- **Community Support Organizations:** The list includes primarily non-profit organizations identified by the BPD, in the context of its multi-year broadband engagement work, that facilitate greater public use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. Marianas Alliance of NGOs, *Manamko* Center, Chamber of Commerce, Rotary Club, Lions Club and Department of Commerce were consulted for locations and service offerings. To be deemed a CAI the CSO must offer at least one of these services in addition to internet access to covered group members for free:
 - digital skills training
 - offers a computer lab
 - IT services
 - device distribution
 - digital navigator services
 - personal pods/kiosks

CAI Expanded CNMI Categories

None

1.3.2. Eligible Community Anchor Institutions Attachment

Appendix 4 titled: "cai.csv" file 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.

1.4. CHALLENGE PROCESS (REQUIREMENT 7)

1.4.1. NTIA BEAD Model Challenge Process Adoption (Yes/No Box)

This first volume of the CNMI BEAD Initial Proposal includes, consistent with NTIA requirements, a detailed and rigorous proposed challenge process for development of the map under which BEAD grants will be evaluated and awarded by the Territory. The proposed challenge process, including all required elements, is described in detail below.

- **Adoption of NTIA Challenge Model**

Yes

No

BPD plans to adopt the NTIA BEAD Model Challenge Process to satisfy Requirement 7 and to ensure that the Territory has a fair process following federal guidelines.

1.4.2. Modifications to Reflect Data Not Present in the National Broadband Map

Types of Modifications

BPD proposes the following three modifications to the National Broadband Map as a basis for the CNMI BEAD Challenge Process and the CNMI's BEAD grant process.

- **Modification 1: DSL Modification**

BPD 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." 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 "future-proof" broadband service.

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

This designation cannot be challenged or rebutted by the provider.

- **Modification #2: Latency Modification**

The Pacific Territories face a unique challenge regarding latency. The vast distance between the CNMI and the contiguous United States increases the latency of internet traffic over this route – which can negatively impact latency-sensitive applications and result in poor user experience. Latency is a measure of the time it takes a broadband packet to travel between two points, and often is measured as the round-trip time it takes to transmit a data packet to a certain destination and for the sender to receive an acknowledgment the packet was received, reflecting the interactive nature of internet traffic. As described elsewhere in this Initial Proposal, BPD is working on solutions to overcome the challenge of latency and significantly improve the broadband user experience in the CNMI.

The Federal Communications Commission does not prescribe a methodology for measuring latency for purposes of data submitted to the National Broadband Map, which in turn is the data that feeds into the NTIA BEAD Eligible Entity Planning Toolkit (EEPT). Certain internet service providers reported all their broadband service in the CNMI as “high latency,” presumably primarily due to the extraordinary distance between the CNMI and the contiguous United States rather than due to congestion on those providers’ local access networks or other factors.

The BEAD NOFO does prescribe a methodology for measuring latency for BEAD-funded broadband deployment projects. See BEAD NOFO at 64, Section IV.C.2.a.i. Under the BEAD NOFO’s performance metrics, providers serving non-contiguous areas greater than 500 air miles from an FCC-designated Internet Exchange Point (IXP) are permitted to conduct testing between the customer premises and the point in the non-contiguous area where traffic is aggregated for transport to the continental U.S. Applying this methodology to internet traffic in the CNMI likely will yield “latency less than or equal to 100 milliseconds” for all unserved and underserved locations throughout the Pacific Territories where a high latency condition exists solely due to distance from the continental United States. This is the standard for measuring latency BPD adopts for the CNMI’s implementation of the BEAD Program.

BPD’s goal is to begin the challenge process with an accurate list of which locations are served, unserved, and underserved using the measurement methodologies applicable to the BEAD Program. This requires that BPD adopt a pre-challenge process modification to deem all broadband services in the CNMI as low latency, in accord with the BEAD NOFO’s methodology for determining latency described above. Failure to apply the BEAD NOFO’s latency methodology will result in a mischaracterization of, and failure to prioritize BEAD deployment funding to, unserved BSLs and then to underserved BSLs. It also would prevent potential participants in the challenge process from focusing their efforts based on an accurate list of served, unserved and underserved locations, resulting in a less robust challenge process that is contrary to the policy goals of BPD and NTIA.

This pre-challenge process modification for latency may be challenged and any such challenge may be rebutted by the provider. To the extent testing shows that data transmitted round trip between the customer premises and the point in the non-contiguous area where traffic is aggregated for transport to the continental U.S. exceeds 100 ms, that would be a legitimate basis for a latency challenge during CNMI’s Challenge Process. Whether such a challenge would be sustained would depend on whether it met applicable evidence requirements, the information provided in any possible rebuttal, and other relevant factors under the rules adopted for CNMI’s Challenge Process.

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- **Modification #3: Availability Modification**

As described above, BPD’s goal is to begin the challenge process with an accurate list of which locations are served, unserved, and underserved using the measurement methodologies applicable to CNMI’s administration of the BEAD Program. BPD is aware the BDC data do not match providers’ advertised services in all circumstances. The impacts of such mismatches currently are masked by the “high latency” determination that applies to those services. After BDC applies the pre-challenge process for latency, that masking will be removed. BPD therefore intends to conduct a pre-challenge process modification for availability by relying on screenshots of providers’ webpages for the level of service that is available throughout the CNMI, which is an acceptable type of evidence under the CNMI’s Challenge Process. The need for this availability challenge arises from the unique circumstance presented by the prior application of pre-challenge process modification for latency and is necessary to prevent BPD from introducing new inaccuracies to the list of which locations are eligible for funding.

As with the latency modification described above, the pre-challenge process modification for availability may be challenged and any such challenge may be rebutted by the provider.

1.4.3. Deduplication of Funding (Yes/No Box)

- **Use of BEAD Planning Toolkit for identifying enforceable commitments**

Yes

No

BPD will use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments. The BEAD Eligible Entity Planning Toolkit is a collection of NTIA-developed technology tools that, among other things, overlay multiple data sources to capture federal, state, and local enforceable commitments.

1.4.4. Identification and Removal of Locations Subject to Enforceable Commitments Process

Process Description

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

- The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.
- 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.
- CNMI and local data collections of existing enforceable commitments.

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

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

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

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

1.4.5. *Deduplication of Funding Programs Attachment*

The CNMI has compiled a list of federal, state/territorial and local enforceable commitments and it has been attached as CNMI BEAD Initial Proposal_Volume I_Deduplication of Funding Programs Template.xlsx

1.4.6. *Challenge Process Design*

NTIA BEAD Model Challenge Process Answer

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

Permissible Challenges

BPD 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
- Planned service.

Permissible Challengers

During the BEAD Challenge Process, BPD 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 BPD will include four phases, spanning 90 days:

- 1. Publication of Eligible Locations:** Prior to beginning the Challenge Phase, the broadband office will publish the set of locations eligible for BEAD funding, which consists of the locations resulting from the activities outlined in Sections 5 and 6 of the NTIA BEAD Challenge Process Policy Notice (e.g., administering the deduplication of funding process). The office will also publish locations considered served, as they may be challenged. Publication is tentatively scheduled for February 1, 2024.
- 2. Challenge Phase:** During the Challenge Phase, the challenger will submit the challenge through the broadband office challenge portal. This challenge will be visible to the service provider whose service availability and performance is being contested. The portal will notify the provider of the challenge through an automated email, which will include related information about timing for the provider's response. After this stage, the location will enter the "challenged" state.
 - a. Minimum Level of Evidence Sufficient to Establish a Challenge:** The challenge portal will verify that the address provided can be found in the Fabric and is a BSL. The challenge portal will confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service. The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR). For availability challenges, the broadband office will manually verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated.
 - b. 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. The Challenge Phase will tentatively start by February 14, 2024.

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

3.Rebuttal Phase: For challenges related to location eligibility, only the challenged service provider may rebut the reclassification of a location or area with evidence. If a provider claims gigabit service availability for a CAI or a unit of local government disputes the CAI status of a location, the CAI may rebut. All types of challengers may rebut planned service (P) and enforceable commitment (E) challenges. 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.

a. **Timeline:** Providers will have 30 calendar days from notification of a challenge to provide rebuttal information to the broadband office. The rebuttal period begins once the provider is notified of the challenge, and thus may occur concurrently with the challenge phase. The Rebuttal Phase will tentatively start by February 15, 2024.

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

a. **Timeline:** Following intake of challenge rebuttals, the broadband office will make a final challenge determination within 30 calendar days of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received. The Final Determination Phase will tentatively start by April 1, 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 in detail without bias, 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 broadband office plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. The broadband office will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations. Unless otherwise noted, “days” refers to calendar days. (Challenge Process Table below).

Table II. Challenge Process Table

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 a 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 on pole). • 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. 	<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.

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Table II. Challenge Process Table (Continued)

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"> 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. 	<ul style="list-style-type: none"> 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.
S	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds.	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.
L	Latency	The round-trip latency of the broadband service exceeds 100 ms.	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.
D	Data Cap	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap") on the consumer.	<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.

1. VOLUME I INITIAL PROPOSAL REQUIREMENTS

Table II. Challenge Process Table (Continued)

Code	Challenge Type	Description	Specific Examples	Permissible Rebuttals
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.	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 at this location by June 30, 2025, 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.e., a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2025. 	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.
N	Not Part of Enforceable Commitment	This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.)	Declaration by service provider subject to the enforceable commitment.	
C	Location is a CAI	The location should be classified as a CAI.	Evidence that the location falls within the definitions of CAIs set by the Eligible Entity.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.
R	Location is not a CAI	The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational.

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Table II. Challenge Process Table (Continued)

Code	Challenge Type	Description	Specific Examples	Permissible Rebuttals
G	CAI: Qualifying Broadband Unavailable	The CAI cannot obtain qualifying broadband.	Evidence that the CAI has tried to acquire qualifying broadband but has been unsuccessful.	Evidence that qualifying broadband is available to the CAI.
Q	CAI: Qualifying Broadband Available	The CAI can obtain qualifying broadband.	Evidence that the CAI can acquire symmetric gigabit service.	Evidence that qualifying broadband is not available to the CAI.

Area and MDU Challenges

BPD 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 locations it serves 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 for one unit for MDUs having fewer than 15 units, for two units for MDUs of between 16 and 24 units, and at least three units for larger MDUs. Here, the MDU is defined as one broadband serviceable location listed in the Fabric. An MDU challenge counts towards an area challenge (i.e., six successful MDU challenges in a census block group may trigger an area challenge).

Each type of challenge and each technology and provider is considered separately, e.g., 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 in whole or by location with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or by subscriber information. For fixed wireless service, the challenge system will offer representative random, sample of the area in contention, but no fewer than 10, where the provider must demonstrate service availability and speed (e.g., with a mobile test unit). For MDU challenges, the rebuttal must show that the inside wiring is reaching all units and is of sufficient quality to support the claimed level of service.

Speed Test Requirements

BPD will accept speed tests as evidence for substantiating challenges and rebuttals. Each speed test must consist of three measurements, taken on different days. Speed tests cannot predate the beginning of the challenge period by more than 60 calendar days.

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Speed tests can take four forms:

- A reading of the physical line speed provided by the residential gateway, (i.e., DSL modem, cable modem (for HFC), ONT (for FTTH), or fixed wireless subscriber module).
- A reading of the speed test available from within the residential gateway web interface.
- A reading of the speed test found on the service provider's webpage.
- A speed test performed on a laptop or desktop computer in the same room as the residential gateway, using <https://www.speedtest.net/> or other Ookla-powered front ends or M-Lab's speed test services.

Each speed test measurement must include:

- The time and date the speed test was conducted.
- 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 to which the customer subscribes (e.g., a copy of the customer's last invoice).
- An agreement, using an online form provided by BPD, that grants access to these information elements to BPD, 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).

Each location must 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/25 Mbps 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. Since speed tests can only be used to change the status of locations from "served" to "underserved," only speed tests of subscribers that subscribe to tiers at 100/20 Mbps and above are considered. 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. 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 100 Mbps 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.

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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 p.m. and 11 p.m. 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, BPD will, upon approval from NTIA, publicly post an overview of the challenge process phases, challenge timelines, and instructions on how to submit and rebut a challenge. This documentation will be posted publicly for at least a week prior to opening the challenge submission window. BPD also plans to actively inform all units of local government of its challenge process and set up regular touchpoints to address any comments, questions, or concerns from local governments, nonprofit organizations, and internet service providers. BPD will work with internet service providers, and industry associations, to ensure that all stakeholders are aware of the challenge process. BPD has proper contact information (email and phone) for each internet service provider in the Marianas and will send an email and call them to inform them about the challenge process. We will work with MANGO (Marianas Alliance of Non-Government Organizations) to ensure that all nonprofits are aware of the challenge process. Additionally, relevant stakeholders can sign up on BPD's website at <https://bpd.cnmi.gov> for challenge process updates. They can also engage with BPD at cnmi.bpd@gmail.com. Providers will be notified of challenges via email.

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

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

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

BPD 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. Rights are protected by the CNMI Open Government Act of 1992 (Chapter 9, Division 9 of Title 1 of the Commonwealth Code). Otherwise, the responses will be made publicly available.

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1.5. VOLUME 1 PUBLIC COMMENTS

The public comment period for this Volume 1 was initiated on October 23, 2023, and concluded on November 26, 2023, ensuring a duration of no less than 30 days, as required. During this time, the Eligible Entity conducted extensive outreach and engagement activities to encourage and facilitate feedback from the community.

Outreach efforts included public releases in local newspapers, announcements on the BPD website (<https://bpd.cnmi.gov>) and social media platforms, and community meetings held at various times. A high-level summary of the comments received is as follows:

Entity Type	Subject	Remedy
ISP	Existing Funding	Adjusted Existing Funding Amount listed
ISP	BEAD Challenge Process- Timing	Made adjustments
ISP	BEAD Challenge Process- Evidence	No effect - BEAD aimed at Households not Businesses.
ISP	BEAD Challenge Process- Latency	No effect - Latency is defined in the BEAD NOFO.
NTIA	Pre-Review (Two Passes)	Made adjustments

In summary, each category of comment was carefully reviewed, and where applicable, changes were made to address the concerns and suggestions raised by the public. The Eligible Entity remains committed to transparency and inclusivity.

2. APPENDICES

APPENDIX 1: "BEAD Initial Proposal_Volume I_Existing Broadband Funding Sources.xlsx"

APPENDIX 2: "unserved.csv"

APPENDIX 3: "underserved.csv"

APPENDIX 4: "cai.csv"