



ARConnect

The Arkansas State Broadband Office

State of Arkansas

Initial Proposal

BEAD Program

Volume 1 |

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Introduction

The Arkansas State Broadband Office, also known as ARConnect, is excited to present the first volume of the state's draft Initial Proposal for the Broadband Equity, Access and Deployment (BEAD) program.¹ Established by the Infrastructure Investment and Jobs Act of 2021, the BEAD program allocated over \$42 billion in state grants for the construction of broadband networks, establishment of affordable, reliable high-speed internet access, and creation of training programs to equip users with digital skills. We are eager to gather public feedback on this initial BEAD proposal (Volume I), and a public comment period will last for 30 days following the publication of this document. Feedback can be submitted through a Google Form on ARConnect's website: broadband.arkansas.gov. The website will also contain an FAQ tab to address common questions or clarifications regarding the proposal – any questions not answered there can be submitted via email to broadband@arkansas.gov.

ARConnect has drafted the following to meet the requirements for Volume I of the BEAD Initial Proposal:

- Requirement 3 – Identification of existing broadband efforts
- Requirement 5 – Identification of existing unserved and underserved locations
- Requirement 6 – Identification and application of community anchor institutions
- Requirement 7 – Detailed challenge process plan, including Arkansas' selection of the following optional modules:
 - DSL Modifications (to phase out older technology)
 - Area and MDU Challenge (to reverse 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)
 - Speed Test (to be accepted as evidence for substantiating challenges and rebuttals, to better reflect actual broadband speeds)

Volume II of the Initial Proposal, which includes the remaining sixteen BEAD Initial Proposal requirements, will be released for public comment at a later date. Submitting in two volumes allows ARConnect to maintain an accelerated timeline of approval and implementation of funds provided under the BEAD program.

¹ <https://broadbandusa.ntia.doc.gov/funding-programs/broadband-equity-access-and-deployment-bead-program>

Definitions

The list below explains terms and acronyms referenced throughout this document. These definitions are intended to help readers – they are not a substitute for official definitions published in the BEAD NOFO or Policy Notice.

Unserved: For the BEAD program, defined as broadband-serviceable locations that have no internet access or access below an internet speed of 25 megabits per second for downloading content, and 3 megabits per second for uploading content (25/3 Mbps).

Underserved: For the BEAD program, defined as broadband-serviceable locations that have internet access below an internet speed of 100 megabits per second for downloading content, and 20 megabits per second for uploading content (100/20 Mbps), but greater than or equal to 25/3 Mbps.

Served: For the BEAD program, defined as broadband-serviceable locations that have internet access above 100/20 Mbps.

Area: Area refers to a Census Block Group (CBG), which is a geographical unit used by the U.S. Census that is in between the Census Tract and the Census Block. These units are relevant to discussions on broadband serviceability, as well as project areas for new deployment.

Area or MDU challenge: Optional modification in the BEAD challenge process that allows multiple individuals to file one challenge as an area or multiple dwelling units, shifting the burden of proof from an individual to the provider.

BEAD: The Broadband Equity, Access, and Deployment Program, which provides \$42.45 billion to expand high-speed internet access by funding planning, infrastructure deployment and adoption programs in 50 states, Washington D.C., Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

BSL: Broadband-Serviceable Locations, i.e., a business or residential location in the U.S. at which mass-market fixed broadband Internet access service is, or can be, installed.

CAI: Community Anchor Institution (e.g., school, library, health clinic, health center) that facilitates greater use of broadband service by vulnerable populations; see requirement 6 for further details.

County Broadband Committees: County Broadband Committees exist in each county in Arkansas to assist communities with submitting challenges. Committees include a cross-section of the county – including local elected officials, non-profit and faith leaders, agricultural and educational leaders, and residents. The committees help with tasks like correcting a state-generated broadband access map or ensuring areas without broadband access are correctly denoted.

Data cap: An internet service provider-imposed limit on the amount of data (usually in a month) that a consumer can use.

Deployment: In this document, deployment specifically references the build-out of broadband infrastructure to unserved and underserved locations. Within deployment, projects may be referred to as priority (fiber) or non-priority (non-fiber) in alignment with the BEAD NOFO's requirement to prioritize fiber service wherever feasible.

Download speed: The rate that digital data is transferred from the Internet to a computer usually denoted as the first number of an Internet speed, ex: 100/20 Mbps means a 100 Mbps download speed.

DSL: Digital Subscriber Line, i.e., a networking technology that provides broadband over conventional telephone lines.

Enforceable commitment: An NTIA classification for locations within a state that are receiving broadband infrastructure buildouts from federal and/or state programs excluding BEAD; such locations are considered served by these other programs and therefore ineligible for BEAD funding if commitments are upheld.

IJA: The Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law) is a federal law passed in 2021.

Latency: The time it takes to send data and receive a response.

Multiple dwelling unit (MDU): Residential duplexes, triplexes, fourplexes, apartment buildings, condominiums, mobile home parks, trailer courts, or similar types of multi-unit arrangements on one parcel of land often served by one internet service provider.

NTIA: The National Telecommunications and Information Administration, an agency of the US Department of Commerce overseeing the BEAD program.

PII: Personal Identifying Information (e.g., names, addresses); states must develop a protocol for protecting PII as information is published in the challenge process.

Speed test: Measurement of speed between a device and a test server, using a device's internet connection.

Standard operating procedure: Document outlining a specific process for challenge evaluators to follow when reviewing challenge applications to ensure a fair process that meets requirements.

Upload speed: The rate that online data is transferred from a computer to the Internet, usually denoted as the second number in an Internet speed. For example, 100/20 Mbps service has a 20 Mbps upload speed.

Volume I (Requirements 3, 5, 6, 7)

Existing Broadband Funding (Requirement 3)

1.1.1: The state of Arkansas has dedicated a combination of state and federal funds to broadband-related initiatives, programs, and projects. A list of existing broadband funding sources in Arkansas is provided in the attachment [Arkansas BEAD Initial Proposal_Volume I_Existing Broadband Funding Sources Template.xlsx], including:

- Sources of funding
- Brief descriptions of broadband deployment and other broadband-related activities;
- Total funding for broadband activities;
- Funding amounts expended; and
- Remaining funding amounts available.

Unserved and Underserved Locations (Requirement 5)

1.2.1 & 1.2.2: The NTIA considers locations without access to internet speeds of at least 25/3 Mbps to be unserved and locations without access to internet speeds of at least 100/20 Mbps but above or at 25/3 Mbps to be underserved.

In the attached files, ARConnect has provided the location IDs for all unserved [unserved.csv] and underserved [underserved.csv] broadband serviceable locations in Arkansas. There are ~106,324 unserved locations and ~77,811 underserved locations in Arkansas, for a total of ~184,135 underserved and unserved locations. There are no federally designated Tribal Lands in Arkansas.

1.2.3: The files above were created through analysis of the FCC National Broadband Map data accessed on July 25, 2023, which includes data as of Dec 31, 2022, that was last updated on July 25, 2023.

In accordance with the NTIA guidelines, locations currently served exclusively by satellite, unlicensed fixed wireless, or a technology not specified by the FCC for purposes of the Broadband DATA Maps will not meet the criteria for reliable broadband service and will be considered unserved.²

² To ensure consistency and accuracy, the lists above do not include locations that are already federally funded or part of the Arkansas Rural Connect program. DSL-only served locations are considered underserved.

Community Anchor Institutions (Requirement 6)

1.3.1: The IJA defines a “community anchor institution” (CAI) as “an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency or HUD-assisted housing organization³), or 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.”

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

- **Schools:** The list includes public, private, and charter K-12 schools in the State of Arkansas. Data obtained from Homeland Infrastructure Foundation Level Data (HIFLD).⁴
- **Libraries:** The list includes public libraries in Arkansas. Data obtained from HIFLD.
- **Health clinics, health centers, hospitals, or other medical providers:** The list includes health clinics, health centers, hospitals and other medical providers obtained from HIFLD. Facility types that are not generally responsible for healthcare delivery (e.g., home care offices) were not considered eligible CAIs. The dataset does not include private physician groups (a large set of providers that could potentially add several thousand sites if added).
- **Public safety entities:** The list includes entities such as fire houses⁵, emergency medical service stations, police stations, and public safety answering points (PSAP). Data obtained from HIFLD.
- **Institutions of higher education:** The list includes all junior colleges, community colleges, public university systems, other universities, or other educational institutions. Data obtained from HIFLD.
- **Public housing organizations:** The list includes public housing organizations identified through online data sources and vetted with various state agency contacts. The State of Arkansas does not maintain an independent list of Public Housing Agencies (PHAs).
- **Community support organizations:** Arkansas is not initially including any specific types of community support organizations as CAIs. ARConnect will use the public comment period to solicit recommendations for community support organizations.

ARConnect will oversee several processes to further refine the list of CAIs, including:

1. Facilitating the Initial Proposal public comment process (see “Introduction” for further details) to solicit input from across the state to consider additional institutions (including

³ There are no federally designated tribal lands in Arkansas.

⁴ Homeland Infrastructure Foundation Level Data (HIFLD) is a data set published by the US Department of Homeland Security to provide national, foundation-level geospatial data within the open public domain that can be useful to support community preparedness, resiliency, research. It can be found [here](#).

⁵ Including volunteer fire stations.

community support organizations) that should be classified as CAIs based on meeting the relevant criteria;

2. Collaborating with other state agencies to continue to evaluate pertinent CAIs and their broadband serviceability; and
3. Engaging with the County Broadband Committees (see “Definitions” above) to ensure local perspectives on CAIs are incorporated.

To assess the network connectivity needs of the types of eligible community anchor institutions listed above, ARConnect completed the following:

- **Conducted a proxy analysis.** A geospatial analysis was conducted using the FCC National Broadband Map to understand each CAI’s proximity to BSLs served with mass market 1Gbps symmetrical service, with the assumption that households located within a certain distance likely have access to 1Gbps symmetrical broadband. To determine this, ARConnect considered a circular area with a 0.5-mile radius around each CAI. If one or more BSLs within this area were served with 1Gbps symmetrical reliable broadband, the CAI being assessed was considered as likely served with 1Gbps symmetrical technology.
- **Engaged government agencies.** ARConnect reached out to Arkansas Department of Health officials, the Arkansas Economic Development Commission, Arkansas State Library officials, Department of Human Services officials, the University of Arkansas Cooperative Extension Office, and public housing authorities to understand what records they have available regarding service availability for relevant community anchor institutions. ARConnect is continuing to engage in additional conversations with other state agencies. E-Rate data from the FCC was used in complement to determine service eligibility for libraries and schools.
- **Conducted a 75-county tour and engaged relevant local stakeholders, including non-profits and umbrella organizations.** ARConnect visited all 75 counties in Arkansas from February 15th, 2023 – June 9th, 2023 to understand broadband serviceability challenges in the state, as well as to identify local stakeholders, including non-profits and umbrella organizations, that became partners in obtaining 1 Gbps broadband service availability data across geographic regions. The tour also helped ARConnect leaders gain a nuanced understanding of CAIs and how they serve communities on a local level.

1.3.2: Using the proxy analysis, feedback from government agencies, and learnings from the 75-county tour, ARConnect compiled the list of CAIs that do not have adequate broadband service. This is a purpose-specific, deduplicated list of Community Anchor Institutions with unique addresses. During the public comment period, a full CAI list with an additional tab showing different institutions with a shared address will be made available for further transparency.⁶ One file is available for download (titled “cai.csv”, as required by NTIA) with the current list of

⁶ The list being provided with the Initial Proposal includes HIFLD data for public safety entities, health facilities, schools, and libraries as well as publicly available data for Public Housing Agencies. Records with identical names, full addresses, and latitude/longitude coordinates were flagged as duplicates and removed from the list. Additional records with identical addresses (e.g. different institutions with shared address) were also removed from the list but will be included in the public comment period to solicit input on clean up.

eligible CAI locations following the format outlined in Appendix A of the BEAD Challenge Process Policy Notice.

Challenge Process (Requirement 7)

NTIA BEAD Model Challenge Process Adoption

1.4.1: Arkansas plans to adopt the Model Challenge Process for Requirement 7.

Yes

No

Modifications to Reflect Data Not Present in the National Broadband Map

1.4.2: Arkansas is adopting DSL modifications as described below by NTIA.

Module 2: DSL Modifications

ARConnect 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.

Deduplication of Funding

1.4.3: 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. Eligible Entities adopting the Model must indicate their plan to use the BEAD Eligible Entity Planning Toolkit by selecting “Yes.”

Yes

No

1.4.4: ARConnect will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult several data sets, including, but not limited to:

1. The Broadband Funding Map published by the FCC pursuant to IIJA § 60105;⁷
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; and
3. State and local data collections of existing enforceable commitments.

ARConnect will create a list of BSLs subject to enforceable commitments based on state/territory and local grants or loans. If necessary, ARConnect will translate polygons or other geographic designations (e.g., a county or utility district) describing the area to a list of

⁷ The broadband funding map published by FCC pursuant to IIJA § 60105 is referred to as the “FCC Broadband Funding Map.”

Fabric locations. ARConnect will submit this list to NTIA in the format specified by the FCC Broadband Funding Map.⁸

ARConnect 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. Where state or local programs did not specify broadband speeds, or when there is reason to believe provider deployed higher broadband speeds than required, ARConnect verify the deployment speeds of the binding commitment with the provider. ARConnect will document this process by requiring providers to sign a binding agreement certifying the actual broadband speeds deployed.

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

1.4.5: In compliment to these efforts, the State has compiled a list of federal, state, and local enforceable commitments as documented in Requirement 3 of Volume I of the Initial Proposal.

Challenge Process Design

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

Permissible Challenges

ARConnect 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.

In addition, ARConnect is also accepting Area and MDU Challenges and Speed Tests, as detailed below.

Permissible Challengers

During the BEAD Challenge Process, ARConnect will only allow challenges from nonprofit organizations, units of local government, and broadband service providers, as recognized by the State of Arkansas. As a supplemental effort, County Broadband Committees have been set

⁸ 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.

up in each county to assist communities with submitting challenges.⁹ Committees have been encouraged to hold events prior to and during the challenge process to share information and guidance with potential challengers. The committees can also help with tasks like correcting a state-generated broadband access map or ensuring areas without broadband access are correctly denoted.

Challenge Process Overview

The challenge process conducted by ARConnect will include four phases, spanning approximately 90 days:¹⁰

1. **Publication of Eligible Locations:** Prior to beginning the Challenge Phase, ARConnect will publish the 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). ARConnect will also publish a list of ineligible locations, as they may be challenged. See table below for tentative publication date and timeline.
2. **Challenge Phase:** During the Challenge Phase, a permissive challenger will submit the challenge through ARConnect 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 Information 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, ARConnect 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:** Following the publication of eligible locations, the challenge phase will commence on a set date determined by ARConnect. Permissible challengers will have 30 calendar days to submit a challenge from the onset of the challenge phase (see illustrative timeline below).

⁹ Committees include a cross-section of the county – including local elected officials, non-profit and faith leaders, agricultural and educational leaders, and residents.

¹⁰ 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, if the timeframes for each phase meet the requirements outlined in the NTIA BEAD Challenge Process Policy Notice.

3. **Rebuttal Phase:** Only a challenged service provider may rebut the reclassification of a location or area, causing the challenge to be designated as “disputed.”. 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 resulting in the challenge being sustained. 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 the end of the challenge phase to provide rebuttal information to ARConnect (see illustrative timeline below).
4. **Final Determination Phase:** During the Final Determination phase, ARConnect will make the final determination of the classification of the location, either declaring the challenge “sustained” or “rejected.”
 - a. **Timeline:** ARConnect will make all final challenge determinations within 30 calendar days of the onset of the final determination period (see illustrative timeline below).

Illustrative Timeline

Tentative timeline based on intended January 2, 2024 publication of eligible locations. All dates are contingent on NTIA’s approval timeline.

Phase	Tentative Dates
Publication of Eligible Locations	No later than January 2, 2024
Challenge	January 9*- February 7, 2024
Rebuttal	February 8* - March 8, 2024
Final Determination	March 9 - April 7, 2024

*Start dates are illustrative. State will consider accepting challenges and rebuttals, as well as making final determinations, in advance of proposed start dates as they are submitted.

Evidence & Review Approach

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, ARConnect will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. ARConnect 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.¹¹ ARConnect plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. ARConnect will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.

¹¹ The standard operating procedure will be a document outlining a specific process for challenge evaluators to follow when reviewing challenge applications. This will ensure a fair process that meets requirements.

See definitions on pages 3-5 for terms used in the table below.

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 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.¹² • 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"> • 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, 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. ¹³	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

¹² 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.”

¹³ The challenge portal must gather information on the subscription tier of the household submitting the challenge. Only locations with a subscribed-to service of 100/20 Mbps or above can challenge locations as underserved, while only locations with a service of 25/3 Mbps or above can challenge locations as unserved. Speed challenges that do not change the status of a location do not need to 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.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
				system. ¹⁴
L	Latency	The round-trip latency of the broadband service exceeds 100 ms. ¹⁵	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. ¹⁶
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. ¹⁷	<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	Screenshot of provider webpage.	Provider documentation that the service listed in

¹⁴ 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 Rcd at 6528, para. 51. *See* BEAD NOFO at 65, n. 80, Section IV.C.2.a.

¹⁵ *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).

¹⁶ *Ibid*

¹⁷ 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.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
		offered is marketed or available only to businesses.		the BDC is available at the location and is marketed to consumers.
E	Enforceable commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.	Enforceable commitment by service provider (e.g., authorization letter).	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, 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 will be completed, which must be on or before June 30, 2024. 	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.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
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. ¹⁸	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

ARConnect 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 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

¹⁸ For example, eligibility for FCC e-Rate or Rural Health Care program funding or registration with an appropriate regulatory agency may constitute such evidence, but the Eligible Entity may rely on other reliable evidence that is verifiable by a third party.

an MDU. The provider can use any of the permissible rebuttals listed in the table above.

An area challenge is triggered if 6 or more broadband serviceable locations within a single census block group using a particular technology and a single provider within a census block group submit the same type of challenge.

An MDU challenge requires challenges by at least 3 units or 10% of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

Each type of challenge and each technology and provider is considered separately, i.e., an availability challenge (A) does not count towards reaching the area threshold for a 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 HFC infrastructure or customer subscribers. For fixed wireless service, the challenge system will randomly sample at least ten (10) broadband serviceable locations from the area in contention where the provider must demonstrate service availability and speed (e.g., with a mobile test unit).¹⁹

Speed Test Requirements

ARConnect will 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), ONT (for FTTH), or fixed wireless subscriber module.
2. A reading of the speed test available from within the residential gateway web interface.
3. A reading of the speed test found on the service provider's web page.
4. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using a speed test application from the list of applications approved by NTIA:
 - a. NTIA approved speed test applications
 - b. Other similarly developed applications

¹⁹ 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.

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 the customer subscribes to (e.g., a copy of the customer's last invoice).
- 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).

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. 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 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.²⁰ 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, ARConnect will, upon approval from NTIA, publicly post an overview of the challenge process phases, challenge timelines, instructions on how to submit and rebut a challenge. This will include a form for all providers in the state to submit an email at which they would like to be contacted for challenge notifications. This documentation will be posted publicly for at least a week prior to opening the challenge submission window. ARConnect also plans to actively work to inform 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. Relevant stakeholders can sign up on ARConnect website broadband.arkansas.gov for challenge process updates and newsletters, as well as to view an FAQ page listed under "FAQ". If a question is unanswered by the FAQ page, ARConnect can be reached by emailing broadband.challenges@arkansas.gov.

Beyond actively engaging relevant stakeholders, ARConnect 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 (building off a summary submitted by the challenger), including whether a provider submitted a rebuttal (building off a summary submitted by the provider).

ARConnect 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, ARConnect 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

²⁰ The 80/80 threshold is drawn from the requirements in the CAF-II and RDOF measurements. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.

will be provided to all challengers regarding what submitted information may be posted publicly.

ARConnect will treat information submitted by an existing broadband service provider as proprietary and confidential consistent with applicable federal law. Broadband service providers will also be required to submit a redacted version of any documents containing proprietary and confidential information. 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. Otherwise, the responses will be made publicly available.

The response above is compliant with state law and regulation pertaining to the protection of PII.