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# BEAD Challenge Process Instructions

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Version 4/10/24

State of West Virginia

West Virginia Department of Economic Development



INTERNET FOR ALL **West Virginia**

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# BEAD Challenge Process Instructions

As required by statute, the initial eligibility determinations for funding eligibility under the Broadband Equity Access and Deployment (BEAD) program are based on the Federal Communication Commission's (FCC) [National Broadband Map](#).

The BEAD State Challenge Process provides stakeholders in West Virginia with an opportunity to dispute the level of internet service reported on the FCC's National Broadband Map available at a given location within the State.<sup>1</sup> The instructions provided below are based on the challenge rules established by the National Telecommunications and Information Administration (NTIA) and the West Virginia Department Economic Development's (WVDED) BEAD challenge process approved by the NTIA. Questions related to policy or procedural items should be directed to [wvbroadband@wv.gov](mailto:wvbroadband@wv.gov). Questions related to technical assistance issues should be directed to [wvhelpdesk@ready.net](mailto:wvhelpdesk@ready.net).

**Note:** Due to ongoing discussions between federal and state partners, this information in this document is subject to update and clarification. Any changes will be announced through the WVDED website and other official channels, with any changes documented in a change log available to the public.

## Eligible Challengers

### Who can submit a challenge?

Under federal BEAD Program rules, only the following entities are eligible to submit formal challenges during the BEAD Challenge Process:<sup>2</sup>

- Units of local government
- Units of Tribal governments
- Non-profit organizations
- Broadband providers

### Role for Residents, Businesses, and CAIs

While residents and businesses are not allowed to submit challenges directly to the State, they are an essential part of the challenge process. For several types of BEAD Eligibility Determination challenges, the data submitted by the permitted challengers will be gathered directly from residents and/or businesses. Accordingly, successful BEAD challenge submissions may require that challengers coordinate with residents and businesses to gather evidence required to demonstrate the mischaracterization of services at individual locations.

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<sup>1</sup> WVDED will use Version 2 of the Broadband Serviceable Locations Fabric and 11/7/23 of the National Broadband Map Availability Data.

<sup>2</sup> Eligible challengers are defined in NTIA Challenge Process Policy Notice.

# Allowable Challenges

## What can be challenged?

The BEAD Challenge Process accommodates several types of challenges designed to correct different BEAD eligibility details of individual Broadband Serviceable Locations (BSLs):

- **Anchor Institution Classification:** Challenge the designation of a location as a Community Anchor Institution (CAI) or non-CAI under the WV BEAD program’s definition, as well as whether the location has symmetrical gigabit service (“qualifying broadband”).<sup>3</sup>
- **Provider Service Level:** Challenge attributes of broadband service currently reported by a service provider, including the availability of the service, the speed and latency of the service, data caps associated with the service, the technology of the service, or service only being available to non-residential customers.
  - **Availability**  
For a location with service reported by a provider that does not receive service from the provider.
  - **Speed**  
For a location with lower service speed than is reported by a provider.
  - **Latency**
  - For a location with latency reported by a provider under 100ms that receives latency over 100ms from the provider.
  - **Data Cap**  
For a location with a reasonable capacity allowance reported by a provider that receives an unreasonable capacity allowance from the provider.
  - **Technology**  
For a location with service reported by a provider using a specific technology that does not receive service using that technology from the provider.
  - **Business Service Only**  
For a residential location with service reported by a provider, but where the service offered by the provider is marketed to or available only to businesses.
- **Enforceable Commitments:** For broadband deployment projects funded by grants issued by the State of West Virginia or the federal government (“enforceable commitments”). Entities may challenge the designation of a location that should be covered by an enforceable commitment but is not reported as such on the Map, or challenge the designation of a location that is reported as covered by an enforceable commitment but should not be marked as such.

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<sup>3</sup> This definition is provided in West Virginia’s BEAD Initial Proposal, Volume 1.

- **Planned or Existing Service:** For planned or existing broadband deployment that are not funded by the State of West Virginia or the federal government: providers may report a service that is planned and will be deployed by June 30, 2024, or an existing service that does not appear on the map.

The eligible challenger must submit evidence that demonstrates the current information provided about the specific BSL needs to be corrected. The evidentiary requirements differ by challenge type. For example, mischaracterized service characteristics can be demonstrated in availability or additional service detail challenges using screenshots from provider websites, messages from the provider, or even engineering analysis of the physical infrastructure available at the disputed location. More information about the evidence required to demonstrate each challenge type is provided below.

## Area & MDU Challenges

WVDED also enables challengers to identify and correct service details across several BSLs or several residences within a single BSL.<sup>4</sup> An **Area Challenge** allows an eligible organization to submit evidence about a mischaracterized detail at 6 or more broadband serviceable locations within a single census block group.<sup>5</sup> The challenged ISP must then provide sufficient evidence to support its original claim, or all locations within that census block group will be updated to reflect the correction to the Availability, Technology, Latency, and Data Cap detail submitted by the challenger.

A **Multi-Dwelling Unit (MDU) Challenge** allows eligible organizations to submit evidence about a mischaracterized detail demonstrated at a minimum of 10% of individual residences at a single MDU (at least three residences at smaller MDUs). The number of units included in the submission may contribute to the required number of residences necessary to trigger an Area Challenge as well. The Challenged ISP must submit sufficient evidence to support its original claim, or all residences in the MDU will be updated to reflect the correction.

## Challenge Process Structure and Timing

The BEAD Challenge Process must finalize the list of BEAD-eligible locations before the BEAD grant application window opens. To comply with this requirement, WVDED has provided the following timeline. Once the final determinations are complete, WVDED will post the final eligibility determinations on a public map.

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<sup>4</sup> A Technology challenge will be recorded as an Availability challenge under reason code 5, as described in Table 2 below. As a result, Technology challenges will be combined with Availability challenges for the purposes of triggering Area and MDU Challenges.

<sup>5</sup> Area challenge determinations will be determined based on 2020 Census Block Groups.

**Table 1: West Virginia BEAD Challenge Process Timeline**

Phase	Start Date	End Date
Challenge Submission Window	February 10, 2024	March 10, 2024
Rebuttal Submission Window	March 11, 2024	April 13, 2024
Final Determination Evaluation	April 14, 2024	May 14, 2024

## The Challenge Phase

During this 30-day phase, broadband providers, non-profit organizations, and units of local and Tribal governments will be able to submit challenges using the Challenge Portal. Once a challenge is submitted, the WVDED team will review the submission to determine if it presents the minimum level of evidence necessary to demonstrate the challenger’s claim. If a challenge has been determined to meet this requirement and otherwise provides all other information required in the Challenge Portal, the challenge submission will be considered valid.

After all challenges have been reviewed, the valid challenges will be processed collectively to determine which challenges require a rebuttal. The challenge process is designed to correct details impacting a location’s eligibility under the BEAD program, so rebuttals will only be required if a successful challenge would change a location’s eligibility status. For example, if two ISPs report offering service of 100/20 Mbps to a particular location, but only one provider’s service claim is challenged, neither provider will be required to submit a rebuttal. If the challenged provider is found to offer speeds of less than 100/20 Mbps to the address in question, the other provider’s service offering is sufficient to classify the location as served according to the BEAD program’s definition. However, this challenged address would still count towards the minimum number of locations required to trigger an Area Challenge, which follows if 6 or more broadband serviceable locations within a census block group served by the same provider are disputed under the same challenge type.

**Tip:** *Submit challenges early. If there are errors in a submission, participants will be given an opportunity to re-submit, but ONLY until the Challenge Phase ends. Participants will not be allowed to fix errors or omissions in a challenge after the 30-day submission window closes.*

## The Rebuttal Phase

After the Challenge Phase closes and challenges are reviewed for validity, all challenges that require a rebuttal will be posted in the challenge portal. Broadband providers will be notified via email of any challenges directed against their service. This notification email will include all information necessary to respond to the challenge during the Rebuttal Phase. If a provider receives a challenge, only that provider may submit a rebuttal demonstrating claimed service is available to the specified BSL(s). The challenged provider will have 30 days to agree with or dispute the challenge. If no rebuttal is filed in the allotted time, the challenge will be sustained.

For other challenge types not directed at a specific broadband provider's service classification, any organization eligible to submit a challenge may submit a rebuttal during the 30-day rebuttal period. Units of local and tribal governments and non-profit organizations will also receive an email notification when the Rebuttal Phase has opened. However, they will not receive direct notifications for specific challenges, because they are never named parties to specific service level challenges. Unlike challenges directed at specific providers, other challenge types are still subject to the final review and determination by the WVDED team.

After a rebuttal is submitted, the WVDED team will review the provided materials to determine if they meet certain evidentiary requirements. If a rebuttal submission meets the minimum standard of evidence, it will be considered a 'valid rebuttal.'

At the end of the Rebuttal Phase, all challenges with valid rebuttals will be marked as "disputed" in the challenge portal and proceed to the Final Determination Phase.

***Tip:*** *Submit rebuttals early. If there are errors in a submission, participants will be given an opportunity to re-submit, but ONLY until the Rebuttal Phase ends. Participants will not be allowed to fix errors or omissions in a rebuttal after the 30-day submission window closes.*

## The Final Determination Phase

Within 30 days of the close of the Rebuttal Phase, the WVDED team will review the evidence for each challenge, including the evidence from any rebuttals, and will make a final determination to "sustain" or "reject" each challenge. The reviewers will consider all information provided in each challenge and rebuttal prior to making any final determinations. WVDED reserves the right to request additional information or evidence from the challenger or rebuttal submitter at any time during the rebuttal and final determination phases.

# How to Participate in the Challenge Process

## Account Registration

Before an Eligible Challenger can participate in the Challenge Process, they must register for an account in the Challenge Portal, ensuring that only eligible parties submit challenges.



## Registration Steps

1. **Visit the registration page** – The registration page provides a brief overview of the challenge process and helpful links.
2. **Click the Register button** – The Register button will open an intake form to collect the necessary information.
3. **Complete the intake form** – The intake form will ask you for the information needed to verify your account as an eligible challenger. Every registrant for the challenge process will be asked to provide the information requested on the registration page, shown in Figure 1.

Each organization type will be required to provide additional information:

- a. **Broadband provider**
    - i. Provider Name (select from dropdown)
    - ii. FRN
    - iii. Physical Address
    - iv. Additional documentation to verify identity
  - b. **Unit of local or Tribal government**
    - i. Physical Address
    - ii. Additional documentation to verify identity
  - c. **Non-profit organization**
    - i. EIN
    - ii. Physical Address
    - iii. Additional documentation to verify identity
4. **Click “Finish” and submit the form** – After you submit the form, you will receive an email confirmation.
  5. **Wait for account approval** – After submitting your account request, each registration will be manually reviewed by WVDED before it is approved. As a result, there will be a slight delay between registration and account setup. If your registration lacks necessary details, you will be notified by email to update your account with the this information.

**Figure 1: Registration Page**

The screenshot shows a web form titled "Register For The BEAD Challenge Process" with a close button (X) in the top right corner. Below the title, it indicates "SECTION 1 OF 2" and "About You". The form contains several input fields, each with a red asterisk indicating a required field:

- \* Entity Name**: A text input field with the placeholder "Entity Name".
- \* Entity Website**: A text input field with a "https://" prefix and the placeholder "Entity Website".
- \* Primary Contact Name**: A text input field with a person icon and the placeholder "Primary Contact Name".
- \* Primary Contact Email**: A text input field with an envelope icon and the placeholder "Primary Contact Email".
- Primary Contact Number**: A text input field with a phone icon and the placeholder "Primary Contact Number".
- \* Type of Organization**: A dropdown menu with the placeholder "Type of Organization" and a downward arrow.

At the bottom right of the form, there is a "Next" button.

6. **Complete account setup** – Once approved, you will receive an email with a link to complete the setup of your account, where you'll be asked to set a password.

## How to Submit Challenges and Rebuttals

Once your registration has been approved and your account has been set up, you will be able to file challenges and rebuttals while each phase is open.

### Submitting Challenges

In general, all eligible organizations can submit challenges of any type. “Planned Service or Existing Service” will require an additional agreement between the provider and WVDED.

#### Challenge Steps

- **Log-in to the Challenge Portal** – Users can log in using their email and password established during the registration process or can use a “Magic Link,” which sends an email with a link to log-in directly without password.
- **Expand “Challenge” Item in the Navigation Menu** – There are a range of options in the sidebar navigation menu. When clicking on the Challenge menu item, the sub-menu will expand to display two options: “Dashboard” and “Challenge Map.”
- **Click on either “Dashboard” or “Challenge Map”** – Both options provide different functionality, but each of them will allow you to open the challenge submission window. The Challenge Map provides a geospatial representation of all locations’ eligibility designations under the BEAD program, while the Dashboard is your portal to review the challenges that you’ve submitted. If you’re a provider, you will eventually see challenges submitted on your reported service in the Dashboard.
- **Click on “Add Challenge” Button** – The “Add Challenge” button is found on the top right of the “Submitted Challenges” panel of the Challenge Map page or on the top-right of the challenges table on the Dashboard page. This will open the “Create a Challenge” page, which includes the Challenge Map with a challenge flow panel on the right and layers that can be used to filter the map based on a range of parameters.
- **Create a Challenge** – When creating a challenge in the portal, there are several steps:
  - a. **Select Challenge Class and Type** – Each challenge category includes multiple challenge types to identify the specific to be selected:
    - i. **Anchor Institution Classification**

Challenge the designation of a location as a Community Anchor Institution (CAI) or non-CAI, as well as whether the location has symmetrical gigabit service (“qualifying broadband”).

      1. **Location is a CAI**

For a location that should be a CAI, but is not currently designated as a CAI in the Map.

**2. Location is not a CAI**

For a location that should not be a CAI, but is currently designated as a CAI in the Map.

**3. Qualifying broadband is unavailable**

For a location that is currently a CAI: a location has a reported service of at least symmetrical gigabit speed, but should not have a reported service of at least symmetrical gigabit speed.

**4. Qualifying broadband is available**

For a location that is currently a CAI: a location does not have a reported service of at least symmetrical gigabit speed, but should have a reported service of at least symmetrical gigabit speed.

**ii. Provider Service Level**

Challenge attributes of broadband service currently reported by a service provider, including the availability of the service, the speed and latency of the service, data caps associated with the service, the technology of the service, or service only being available to non-residential customers.

**1. Availability**

For a location with service reported by a provider that does not receive service from the provider.

**2. Speed**

For a location with lower service speed than is reported by a provider.

**3. Latency**

For a location with latency reported by a provider under 100ms that receives latency over 100ms from the provider.

**4. Data Cap**

For a location with a reasonable capacity allowance reported by a provider that receives an unreasonable capacity allowance from the provider.

**5. Technology**

For a location with service reported by a provider using a specific technology that does not receive service using that technology from the provider.

**6. Business Service Only**

For a residential location with service reported by a provider, but where the service offered by the provider is marketed to or available only to businesses.

**iii. Enforceable Commitments**

For broadband deployment projects funded by grants issued by the State of West Virginia or the federal government (“enforceable commitments”): challenge the designation of a location that should be covered by an enforceable commitment but is not reported as such on the Map, or challenge the designation of a location that is reported as covered by an enforceable commitment but should not be marked as such.

**1. Covered by Enforceable Commitment**

For a location that is not marked as covered by an enforceable commitment on the Map, but is covered by an enforceable commitment.

**2. Not Covered by Enforceable Commitment**

For a location that is marked as covered by an enforceable commitment on the Map, but is not covered by an enforceable commitment.

**iv. Planned or Existing Service**

For planned or existing broadband deployment that are not funded by the State of West Virginia or the federal government: report a service that is planned and will be deployed by June 30, 2024, or an existing service that does not appear on the map.

**1. Planned Service**

Report a service that has been planned and will be deployed by June 30, 2024.

**2. Existing Service**

Report an existing service that does not currently appear on the map.

- b. Select Challenge Details** – After selecting the Challenge Type, the data in the map will be filtered to display only those locations eligible for the selected challenge type. For example, if an area is already unserved, no Availability Challenges can be submitted for it. As challengers provide additional details, the portal will continue to filter locations to correspond with the locations that correspond with those details.
- c. Select Locations** – After providing challenge details, only the locations eligible for the challenge type and details provided will be displayed. From the remaining

locations, challengers will be prompted to select the specific locations to be challenged, which may be added one-by-one or selected as a group.

- i. **Adding individual locations** – To add an individual location, click on the location on the map, which will provide a pop-up of the address of that location and an “Add to Challenge” button. If the address aligns with the desired location, click “Add to Challenge” and then click “Confirm” in the following prompt. Multiple locations can be to the same challenge submission using this method.
- ii. **Add locations in bulk** – When filing bulk challenge submissions, locations can be added in groups as well. To add multiple locations as a group, there are three methods available.
  1. **Upload List of Locations** – Challengers can upload a list of valid Fabric Location IDs in a .csv format. The .csv must be a single column with the header *location\_id*.
  2. **Select or Upload Area by creating a “Zone”** – Challengers can define a zone by drawing a polygon, uploading a shapefile, or selecting from a library, which includes defined geographies such as cities, counties, and Tribal areas. To add a zone, click on the Zones tab in the left panel to define a new zone by drawing, uploading a shapefile or selecting from a library of official boundaries.
  3. **Shift+Click+Drag cursor** – Challengers can quickly select multiple locations directly on the map. This method is the quickest, but less precise method of selecting multiple locations, because the selection boundaries are in a rectangular shape. Once locations are selected, challengers will be provided with the number of locations selected and prompted to confirm these additions.
  4. **Removing locations from selection** – If unintended locations are added, they may be removed by clicking the trash icon next to the location in the right panel, or all selected locations may be removed by clicking “Remove All.”
- d. **Upload Evidence and Documentation** – Once the location selection process is finalized, the challenger platform will allow evidence and documentation to be uploaded. For challenges that may require separate evidence files per location, the platform will provide a .csv file for download. This file will identify each selected location and allow challengers to add information corresponding with individual locations.
- e. **Attestation** – After the evidence is uploaded, challengers must accept and complete an attestation that, to the best of your knowledge and belief, the challenge is true, complete, and accurate, subject to potential civil or administrative penalties.

## Submitting Rebuttals

- 1. Notifications of Rebuttal Phase Sent** – When the Rebuttal Phase opens, all registered eligible organizations will be sent notifications about the opening of this phase, the opportunity to submit rebuttals, and to open rebuttal challenges, which includes any challenge not submitted directly against a provider. Broadband Providers will be notified of any challenges disputing their service claims. This formal notice at the close of the challenge window will initiate the 30-day rebuttal window.
- 2. Log-in to the Challenge Portal** – Users can log in using their email and password established during the registration process or can use a “Magic Link,” which sends an email with a link to log-in directly without password.
- 3. Expand “Challenge” Item in the Navigation Menu** – The sidebar navigation menu will provide a range of options. Clicking on the Challenge menu item will expand to display two options: “Dashboard” and “Challenge Map.” To view the challenges available for rebuttal, click on the “Dashboard.”
- 4. Go to “Dashboard”** – During the Rebuttal Phase, the Dashboard is your portal to review the challenges for which you are eligible to submit rebuttals. In the dashboard, there are two tabs available to review challenges: “Challenges Received” (Providers Only) and “Open for Rebuttal.”
  - a. Challenges Received (Providers Only)** – The Challenges Received tab will display the challenges that you’ve received against your reported service. The challenges will be grouped by submission and include details, including the challenging entity, challenge type, number of challenged locations, and other relevant information.
  - b. Open for Rebuttal** – The Open for Rebuttal tab will display all challenges that are not directed at a specific broadband provider, such as Planned Service, Enforceable Commitment, or CAI challenges. The challenges will be grouped by submission and include information about the challenging entity, challenge type, number of challenged locations, and other relevant details.
- 5. Click View Details** – To begin the Rebuttal Process, click “View Details” on the challenge that you want to submit a rebuttal against. This action will pull up an interface with a map displaying the locations and details on the challenged locations included in the submission. The information about challenge submission will be available in the right panel, which has two tabs: Details and Locations.
  - a. Details:** The challenge details will be similar to those provided in the Dashboard and will include an expanded description of the challenge type.
  - b. Locations:** The locations tab will provide a full list of locations that were challenged under the selected submission.
- 6. Rebut or Accept Challenges** – Using the locations tab, you can choose which individual location challenges you want to rebut and which individual location challenges you want to accept. If you want to rebut or accept all relevant challenges, you can do so

using the Rebut All/Accept All button. Note that responding to challenges is an option only available to providers reviewing challenges against them. Open challenges can be rebutted by multiple entities, so they will remain open for the entire 30-day window.

7. **Upload Evidence and Documentation** – Once the locations are selected for rebuttal, you will be asked to provide any evidence and documentation that you want included in the review of your rebuttal.
8. **Attestation** – After the evidence is uploaded, you will be required to accept and complete an attestation that, to the best of your knowledge and belief, the rebuttal is true, complete, and accurate, subject to potential civil or administrative penalties.

## Evidence and Documentation Requirements

Submitting evidence and documentation is the most important aspect of the challenge process. If a submission does not meet the minimum level of evidence sufficient to establish a valid challenge, it will not be approved to proceed to the Rebuttal Phase.

The minimum level of evidence required varies by challenge type.

### Availability Challenges

The Availability Challenge type closely resembles the FCC’s Challenge Process, allowing eligible organizations to challenge whether a service claimed to be available by the broadband provider is available at the location at reported speeds or could be installed within 10 business days for a standard service fee. In alignment with the FCC Challenge Process, the BEAD Challenge Process requires the “Reason for the Challenge” to be documented, using the `reason_code` field from the *FCC Broadband Data Collection: Data Specifications for Bulk Fixed Availability Challenge and Crowdsource Data*.<sup>6</sup>

### Evidence for Availability Challenges

When filing availability challenges, you will be required to select one of the following reasons and provide evidence for each challenge. Table 2 below outlines the acceptable evidence for each reason code and the maximum allowable age of the evidence submitted to support the challenge.

If you choose to provide “Other evidence to support challenge,” instead of an explicitly stated evidence type, we cannot ensure that the evidence will meet the minimum requirements. To support our review, please provide a thorough explanation of any evidence classified as ‘other.’

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<sup>6</sup> See “Broadband Data Collection: Data Specifications for Bulk Fixed Availability Challenge and Crowdsource Data,” Section 3.2, Federal Communications Commission, January 12, 2023, [bdc-bulk-fixed-challenge-dataspecifications.pdf](#).

**Table 2: Availability Challenge – Reasons and Acceptable Evidence**

<b>Code</b>	<b>Reason</b>	<b>Acceptable Evidence Types for Challenges</b>	<b>Data Age</b>
1	Provider failed to schedule a service installation within 10 business days of a request.	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Other evidence to support challenge</li> </ul>	365 days
2	Provider did not install the service at the agreed-upon time.	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Other evidence to support challenge</li> </ul>	365 days
3	Provider requested more than the standard installation fee to connect the location.	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Other evidence to support challenge</li> </ul>	365 days
4	Provider denied the request for service.	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Other evidence to support challenge</li> </ul>	180 days
5	Provider does not offer the technology entered above at this location.	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Terms of Service / Service Description</li> <li>● End-User contract or offer</li> <li>● Infrastructure Knowledge/Evidence, including manufacturer and model number of residential gateway</li> <li>● Other evidence to support challenge</li> </ul>	365 days



6	Provider does not offer the speed(s) shown on the Broadband Map for purchase at this location.	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Terms of Service / Service Description</li> <li>● End-User contract or offer</li> <li>● Infrastructure Knowledge/Evidence</li> <li>● Other evidence to support challenge</li> </ul>	180 days
7	Intentionally Omitted <sup>7</sup> (not a formal challenge)	N/A	N/A
8	No wireless signal is available at this location (only for technology codes 70 and above).	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Infrastructure Knowledge/Evidence</li> <li>● Other evidence to support challenge</li> </ul>	365 days
9	New, non-standard equipment had to be constructed at this location.	<ul style="list-style-type: none"> <li>● Screenshot from provider website</li> <li>● Email from provider</li> <li>● Text message or Voicemail transcript from provider</li> <li>● Letter from provider (Physical or PDF)</li> <li>● Documentation of phone call or in-person interaction</li> <li>● Infrastructure Knowledge/Evidence</li> <li>● Other evidence to support challenge</li> </ul>	365 days

## Evidence for Availability Rebuttals

Only the challenged provider may submit a rebuttal to a latency challenge. This submission must include evidence specific to the reason code and that counters evidence provided by the challenger. The acceptable forms of evidence are provided below in Table 3. Note that Area Challenges for Availability have additional requirements described after this table.

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<sup>7</sup> The Availability challenge does not adjudicate whether the actual speeds of the service falls below the advertised speeds. The FCC uses Code 7 for consumer complaints when “Subscribed Speed Not Achievable.”

**Table 3: Availability Rebuttals – Reasons and Acceptable Evidence**

<b>Code</b>	<b>Reason</b>	<b>Acceptable Evidence Types for Rebuttals</b>
1	Provider failed to schedule a service installation within 10 business days of a request.	<ul style="list-style-type: none"> <li>● Proof that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill</li> <li>● If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability</li> <li>● A copy of an offer sent to the location for the service at the speeds shown on the Broadband Map</li> </ul>
2	Provider did not install the service at the agreed-upon time.	<ul style="list-style-type: none"> <li>● Proof that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill</li> <li>● If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability</li> <li>● A copy of an offer sent to the location for the service at the speeds shown on the Broadband Map</li> </ul>
3	Provider requested more than the standard installation fee to connect the location.	<ul style="list-style-type: none"> <li>● A copy of an offer sent to the location</li> </ul>
4	Provider denied the request for service.	<ul style="list-style-type: none"> <li>● Proof that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill</li> <li>● If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability</li> <li>● A copy of an offer sent to the location for the service at the speeds shown on the Broadband Map</li> </ul>
5	Provider does not offer the technology entered above at this location.	<ul style="list-style-type: none"> <li>● Evidence from the provider’s network management system showing an appropriate residential gateway delivers service via the challenged technology type</li> </ul>
6	Provider does not offer the speed(s) shown on the Broadband Map for purchase at this location.	<ul style="list-style-type: none"> <li>● Proof that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill</li> <li>● If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability</li> <li>● A copy of an offer sent to the location for the service at the speeds shown on the Broadband Map</li> </ul>

7	Intentionally Omitted <sup>8</sup> (Does not constitute a formal challenge)	N/A
8	No wireless signal is available at this location (only for technology codes 70 and above)	<ul style="list-style-type: none"> <li>• Countervailing evidence to demonstrate service availability and speed (e.g., with a mobile test unit)</li> </ul>
9	New, non-standard equipment had to be constructed at this location.	<ul style="list-style-type: none"> <li>• Evidence that service is now available as a standard installation, e.g., via a copy of an offer sent to the location</li> </ul>

**Rebuttals of Area Challenges for Availability** will require evidence that service is available for all BSLs within the census block group. Wireline providers should include network diagrams that show fiber or Hybrid Fiber-Coaxial Cable (HFC) infrastructure and/or evidence of customer subscribers in the area. Fixed wireless service providers will be given a representative random sample of at least 10 locations in the area in contention by the challenge system and must demonstrate service availability and speed with a mobile test unit.<sup>9</sup>

## Additional Service Detail Challenges

In addition to the Availability Challenge type in the BEAD Challenge Process, there are five additional allowable Additional Service Detail Challenges: Latency, Speed, Data Cap, Technology, and Business Service Only. Note that the platform may refer to these challenges as “Location Eligibility Determination Challenge Types.”

### Evidence for Additional Service Detail Challenges

Data Cap, Technology, and Business Service Only challenge requirements are similar to those for Availability challenges. Table 3 outlines the acceptable evidence for each of these challenge types and the maximum age of the evidence submitted to support the challenge. Note that Speed and Latency challenges have specific requirements that differ from the rest, as described below in the “Evidence for Speed Challenges” and “Evidence for Latency Challenges” sections.

If you choose to provide “Other evidence to support challenge,” instead of an explicitly stated evidence type, we cannot ensure that the evidence will meet the minimum requirements. To support our review, please provide a thorough explanation of any evidence classified as other.

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<sup>8</sup> The Availability challenge does not adjudicate whether the actual speeds of the service falls below the advertised speeds. The FCC uses Code 7 for consumer complaints when “Subscribed Speed Not Achievable.”

<sup>9</sup> A mobile test unit is an easily moved testing apparatus that simulates the customer premises equipment, such as the antenna, antenna mast, and other subscriber equipment, that would be used in a typical deployment of fixed wireless access service by the provider.

**Table 4: Additional Service Detail Challenges – Reasons and Acceptable Evidence**

Type	Reason	Acceptable Evidence Types for Challenges	Data Age
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"> <li>• Screenshot from provider website</li> <li>• Email from provider</li> <li>• Text message or Voicemail transcript from provider</li> <li>• Letter from provider (Physical or PDF)</li> <li>• Documentation of phone call or in-person interaction</li> <li>• Terms of Service / Service Description</li> <li>• End-User contract or offer</li> <li>• Other evidence to support challenge</li> </ul>	180 days
Technology	Provider does not offer the technology entered above at this location. (The technology indicated for this location is incorrect.)	<ul style="list-style-type: none"> <li>• Screenshot from provider website</li> <li>• Email from provider</li> <li>• Text message or Voicemail transcript from provider</li> <li>• Letter from provider (Physical or PDF)</li> <li>• Documentation of phone call or in-person interaction</li> <li>• Terms of Service / Service Description</li> <li>• End-User contract or offer</li> <li>• Infrastructure Knowledge/Evidence, including manufacturer and model number of residential gateway</li> <li>• Other evidence to support challenge</li> </ul>	365 days
Business Service Only	The location is residential, but the service offered is marketed or available only to businesses.	<ul style="list-style-type: none"> <li>• Screenshot from provider website</li> <li>• Email from provider</li> <li>• Text message or Voicemail transcript from provider</li> <li>• Letter from provider (Physical or PDF)</li> <li>• Documentation of phone call or in-person interaction</li> <li>• Terms of Service / Service Description</li> <li>• End-User contract or offer</li> <li>• Other evidence to support challenge</li> </ul>	180 days

### Evidence for Additional Location Eligibility Rebuttals

Only the challenged provider may submit a rebuttal to a Location Eligibility Determination challenge. This rebuttal must include evidence specific to the reason code and that counters the evidence provided by the challenger. The acceptable forms of evidence are provided in Table 5.

**Table 5: Additional Location Eligibility Rebuttals – Reasons and Acceptable Evidence**

Type	Reason	Acceptable Evidence Types for Rebuttals
Data Cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer.	Terms of service showing that it does not impose an unreasonable data cap or offers another plan at the location without an unreasonable cap
Technology	Provider does not offer the technology entered above at this location. (The technology indicated for this location is incorrect.)	Countervailing evidence from the provider’s network management system showing an appropriate residential gateway delivers service via the challenged technology type
Business Service Only	The location is residential, but the service offered is marketed or available only to businesses.	Documentation that the service listed in the BDC is available at the location and is marketed to residential customers.

## Evidence for Speed Test Challenges

The WVDED 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 calendar days.

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 web page.
- A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using a speed test application approved by WVDED.

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 service provider
- 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 attestation from the challenger that consent was obtained by the named customer to grant access to these information elements to WVDED, any contractors supporting the challenge process, and the service provider

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 100/25 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, because 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 of their subscription. Speed tests can only be used to change the status of locations from “served” to “underserved” or “unserved,” the challenge process will only consider speeds tests conducted at locations that subscribe to services offering at least 100/20 Mbps.

Also note that a location served by multiple technologies offering at least 100/20 Mbps may be considered served if the actual speed of only one of those technologies successfully challenged. For example, if a location is served by 100/20 Mbps licensed fixed wireless and 500/500 Mbps fiber, a speed test on the fixed wireless network that shows an effective download speed of 70 Mbps does not change the status of the location from served to underserved.

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).

## Evidence for Speed Test Rebuttals

The challenged provider must rebut an individual speed test by providing its own speed test in the manner described in the section above. An area speed test challenge can only be rebutted by providing speed tests, for at least 10% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule used by the FCC: 80% of these locations must experience a speed that equals or exceeds 80% of the speed threshold.<sup>10</sup> 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

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<sup>10</sup> The FCC’s performance measures testing framework has been applied to validate network deployments funded by several FCC programs and can be used as a source to understand additional performance validation testing details. See Universal Services Administrative Company (USAC), “Performance Measures Testing,” <https://www.usac.org/high-cost/annual-requirements/performance-measures-testing/>, accessed December 2023.

between the hours of 7:00 p.m. and 11:00 p.m. Eastern Standard Time will be considered as evidence for a challenge rebuttal.

## Evidence for Latency Challenges

Latency Challenges must provide evidence that the round-trip latency of the broadband service exceeds 100 milliseconds and will require multiple speed tests by the subscriber at each challenged location. Each latency challenge must consist of three measurements, taken on different days. The measurements do not need to occur on consecutive days. The median of the three tests is used to evaluate the challenge.

Speed tests that provide latency information for Latency Challenges 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 web page
- A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using a speed test application approved by WVDED

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 service provider
- The name and street address of the customer conducting the speed test
- A certification of the subscriber's speed tier (e.g., a copy of the customer's last invoice)
- An attestation from the challenger that consent was obtained by the named customer to grant access to these information elements to WVDED, any contractors supporting the challenge process, and the service provider.

The IP address and the subscriber's name 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).

## Evidence for Latency Rebuttals

Only the challenged provider may submit a rebuttal to a latency challenge. This evidence must include countervailing speed test evidence showing latency at or below 100 milliseconds, using

either their own network management system or another acceptable performance measurement method used by the FCC.<sup>11</sup>

Only speed tests must consist of three measurements, taken on different days. The measurements do not need to occur on consecutive days but must be conducted between the hours of 7:00 p.m. and 11:00 p.m. Eastern Standard Time will be considered as evidence for a challenge rebuttal. The median of the three tests is used for the rebuttal.

Each measurement must include the following details:

- The time and date each speed test was conducted
- The provider-assigned internet protocol (IP) address identifying the residential gateway where the test is conducted

If an Area Challenge is triggered for a latency challenge, the rebuttal must include evidence 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 latency that does not exceed 80 milliseconds.

## Enforceable Commitment Challenges

In preparation for the deployment of the BEAD program, WVDED is required to identify every BSL that has already been awarded funding from an existing federal, state, or local broadband grant program that obligates a broadband provider to provide the location with services offering speeds of at least 100/20 Mbps. The Enforceable Commitment Challenge allows eligible organizations to provide evidence that an unserved or underserved location has such a buildout and service commitment.

### Evidence for Enforceable Commitment Challenges

The following information and evidence will be required:

1. Obligation Deployment Download Speed in Mbps
2. Obligation Deployment Upload Speed in Mbps
3. Obligation Deployment Technology
4. An attestation to confirm that the round-trip latency of deployed service will be under 100 milliseconds
5. An attestation to confirm that the network will be fully deployed to the challenged locations by the dates required by the award
6. Whether the deployed service be available as residential service, business service, or both
7. List of funded locations included in award

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<sup>11</sup> See Universal Services Administrative Company (USAC), “Performance Measures Testing,” <https://www.usac.org/high-cost/annual-requirements/performance-measures-testing/>, accessed December 2023.



Challengers should include the following types of evidence if available:

- Grant authorization letter and executed agreement with funding entity
- If applicable, methodology used to match awarded locations to Fabric IDs

## Evidence for Enforceable Commitment Rebuttals

Any eligible organization may file a rebuttal to an Enforceable Commitment Challenge if they have documentation that the provider has defaulted on the commitment, is otherwise unable to meet the commitment, or that the locations are in an area that are subject to an enforceable commitment to less than 100% of locations and the location(s) are not covered by that commitment.

## Enforceable Commitment Identification Process and Methodology

WVDED has made its best effort to create a list of broadband serviceable locations subject to enforceable commitments utilizing the following datasets:

- The Broadband Funding Map published by the FCC pursuant to IJJA § 60105.
- Datasets 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
- West Virginia and local data collections of existing enforceable commitments.

In some cases, WVDED translated polygons or other geographic designations (e.g., a municipality or utility district) describing the area to a list of Fabric locations.

WVDED has deduplicated the list of BEAD-eligible locations based on existing funding from current programs. To date, the broadband providers in West Virginia have participated in ten programs to spur investment in broadband infrastructure. Table 6 lists the programs that were analyzed to remove the enforceable commitments from the set of locations eligible for BEAD funding. Each of the programs has already been awarded funding, unless otherwise specified. In some cases, this funding has already led to additional broadband deployment; in other cases, deployment is still in progress. Additional information about each of the programs can be found in Section 5.2 of the West Virginia Initial Proposal Volume I.

**Table 6: List of State and Federal Broadband Deployment Programs Considered**

<b>Program</b>	<b>Funding Source</b>	<b>Starting Year of Funded Awards</b>
Rural Digital Opportunity Fund	Federal	2020
Connect America Fund II Auction	Federal	2018
USDA ReConnect	Federal	2018
Community Development Block Grant	Federal	2019

Appalachian Regional Commission	Federal	2020
USDA Community Connect	Federal	2017
U.S. Treasury WVBIP: GigReady	Federal	2022
U.S. Treasury WVBIP: Major Broadband Project Strategies	Federal	2022
U.S. Treasury WVBIP: Line Extension Advancement and Development	Federal	2022
WVBIP: Wireless Internet Networks	State	2022

WVDED is aware that the FCC adopted rules for the Enhanced Alternative Connect America Model (A-CAM), allowing providers to participate in the extension of the program and deploy networks delivering speeds of 100/20 Mbps or greater. As of the publication of Version 1.0 of this guide, the FCC has not made the locations funded by Enhanced A-CAM available in an analyzable format. However, an additional deduplication process will follow the Challenge Process. This second round of deduplication will occur in March 2024. If you are a provider electing to participate in Enhanced A-CAM, we encourage you to notify WVDED proactively.

## Evidence for “Not Part of an Enforceable Commitment” Challenges

The “Not Part of an Enforceable Commitment” Challenge allows eligible entities to provide evidence that a location is not covered by an Enforceable Commitment identified by WVDED. This evidence provided for the challenge type should demonstrate on the following:

- Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment, such as:
  - Public notice of default published by the funding agency
  - Default notice sent to the provider
- Documentation that the locations are in an area that are subject to an enforceable commitment to less than 100% of locations and the locations are not covered by that commitment

## Evidence for “Not Part of an Enforceable Commitment” Rebuttals

Only the provider with the challenged Enforceable Commitment can submit a rebuttal to a “Not Part of an Enforceable Commitment” Challenge. The rebuttal must produce evidence that counters the challenge and may include the following:

- Evidence that provider has not defaulted on the commitment
- Evidence that the provider is able to meet the commitment
- Evidence that 100% of the locations are covered by the commitment

## Planned or Existing Service Challenges

If a provider has deployed service or will deploy service that will be available by June 30, 2024, they can file a Planned or Existing Service Challenge.

## Evidence for Planned Service Challenges

If you have begun building out broadband service to unserved and/or underserved locations, you may submit a challenge under the “Planned Service” subtype and provide evidence that service will be available to the locations by June 30, 2024.

The information and evidence required for this challenge type includes:

1. Maximum Advertised Download Speed in Mbps
2. Maximum Advertised Upload Speed in Mbps
3. Technology Type of Service
4. Confirmation that the Round-Trip Latency will not exceed 100 milliseconds
5. An attestation to confirm that service will be deployed to the locations included in this challenge by June 30, 2024, with the technology, speeds, and latency provided
6. Evidence that the deployment is on track to be completed on time, which should include, at a minimum:
  - a. Planned network diagrams
  - b. Evidence of all necessary permits that were applied for and/or obtained
  - c. Inspection results
  - d. Construction contracts and invoices
  - e. You are also encouraged to submit other evidence that may demonstrate that the deployment is in progress

For a Planned Service Challenge to be successful, you will be required to enter into a binding agreement with WVDED that the service will be deployed and available as documented in the challenge. Additional guidance will be provided on a case-by-case basis by WVDED.

## Evidence for Planned Service Rebuttals

Any eligible entity may submit a rebuttal for Planned Service Rebuttal. The rebuttal must include evidence that demonstrates that the planned service cannot be deployed by June 30, 2024. It is anticipated that these rebuttals will be primarily submitted by units of Local or Tribal government that have knowledge and evidence that necessary permits, reviews, or other pre-construction requirements have not been met.

## Evidence for Existing Service Challenges

If you have completed broadband deployment to locations currently designated as unserved and/or underserved locations, you may submit a challenge under the “Existing Service” subtype and provide evidence that your service is currently available. The information and evidence required for this challenge type includes:

1. Maximum Advertised Download Speed in Mbps
2. Maximum Advertised Upload Speed in Mbps
3. Technology Type of Service

4. Confirmation that the Round-Trip Latency does not exceed 100 milliseconds
5. Indicate if this additional available broadband service has already been reported to the FCC's Broadband Data Collection Program (BDC).
  1. If yes, you will need to confirm which BDC filing window you filed the service under.
  2. If no, you will need to attest that the service availability will be reported to the FCC during the next BDC filing window.
6. Evidence that service is deployed and available, including:
  1. Submitted BDC Filing (if applicable)
  2. Evidence of subscribers
  3. Network diagram of deployments
  4. Evidence of completed deployment, such as evidence of all necessary permits that were obtained, inspection results, or construction contracts and invoices

## Evidence for Existing Service Rebuttals

Any eligible organization may submit a rebuttal for an Existing Service Challenge. The rebuttal must include countering evidence that demonstrates the claimed service is not available. The evidence may include the allowable evidence from Table 2 but may also include additional evidence not mentioned in that table, such as failure to pass inspection or other evidence that demonstrates that the provider is unable to deliver service to Broadband Serviceable Locations as claimed.

## CAI Challenges

There are two categories of Community Anchor Institutions (CAI) challenges:

- Identification of CAIs
- Eligibility based on Broadband Need

The BEAD program requires that state program administrators identify all CAIs present in the state. Section 4 of WVDED's Initial Proposal Volume 1 explains how Community Anchor Institutions were defined and outlines the process used to identify different CAI categories. The databases used to generate the CAI information used in the current map is provided below:

- **Schools:** A list of public and private K-12 schools across West Virginia was derived from a combination of the U.S. Department of Homeland Security Homeland Infrastructure Foundation-level Dataset and the WV State GIS Data Clearinghouse.
- **Libraries:** A list of public libraries in West Virginia was derived from a combination of the Institute of Museum and Library Services Public Library Survey and the WV State GIS Data Clearinghouse Libraries dataset.
- **Healthcare Facilities:** A list of healthcare facilities across West Virginia was derived from a combination of the West Virginia Department of Health and Human Services Office of Health Facility Licensure and Certification dataset and the West Virginia GIS

Data Clearinghouse Health category datasets. These include emergency vehicle facilities, hospitals, clinics, care centers, and more.

- **Public safety entity:** A list of public safety entities was derived from the U.S. Department of Homeland Security Homeland Infrastructure Foundation-Level fire station and local law enforcement location dataset and the West Virginia GIS Data Clearinghouse Law Enforcement dataset.
- **Institutions of higher education:** A list of higher education institutions was derived from the U.S. Department of Homeland Security Homeland Infrastructure Foundation-Level Colleges and Universities and Supplemental Colleges dataset, the WVU Extension Offices dataset, and the West Virginia GIS Data Clearinghouse Higher Education Facilities dataset.
- **Public housing organizations:** A list of public housing in West Virginia was derived from NTIA-recommended sources: the National Housing Preservation Database, maintained by the Public and Affordable Housing Research Corporation (PAHRC) and National Low-Income Housing Coalition. Regarding locations composed of multi-dwelling units, for the purposes of the BEAD Program, the core facility is considered the CAI, not individual units.
- **Community support organizations:** Any organizations that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals was included in this category.<sup>12</sup> WVDED added four subcategories to the statutory definition of Community Support Organizations: correctional and rehabilitation facilities; town halls (including state and local courthouses within the State); job training centers; and senior centers. A list of correctional and rehabilitation facilities was derived from the U.S. Department of Homeland Security Homeland Infrastructure Foundation-Level Local Law Enforcement dataset and the West Virginia GIS Data Clearinghouse Courthouse dataset. A list of courthouses was derived from the U.S. Department of Homeland Security Homeland Infrastructure Foundation-Level Courthouse dataset and the West Virginia GIS Data Clearinghouse Courthouse dataset. Other town halls were derived from the Municipal League's directory. A list of job training centers was derived from the American Job Center Finder through CareerOneStop. A list of senior centers was derived from the National Council on Aging.

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<sup>12</sup> In discussions with WVDED, NTIA emphasized that CAIs should be assessed, where possible, on an individual basis. This means just because a location falls within the category of a CAI type that does not mean that individual location should be considered a CAI. With this in mind, WVDED included whole categories of CAIs only when it could reasonably be inferred that all locations within that category would meet the definition provided above.

## Identification of CAIs

All Eligible Challengers can challenge the designation of the location as a CAI, based on the categories described above.

### Evidence for “Location is a CAI” Challenge

If you believe that a location is incorrectly identified as a non-CAI, you may challenge to have that location included as a CAI. To submit a successful challenge, the following information and evidence is required:

- Official entity name of the institution
- The type of CAI, selecting from the categories defined above
  - Depending on the entity type, you will be asked to provide different types of identification numbers, e.g. CMS Certification Number (CCN) for hospitals
  - If a Community Support Organization, explanation of how organizations facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals.
- Evidence to support the challenge, which may include:
  - Registration documents
  - Contact information for confirmation
  - Other evidence that demonstrates that the organization meets the requirements of the selected category of CAI

Challenges to classify a location as a CAI will also provide the challenger with the opportunity to indicate whether the institution has unmet broadband needs based on the standard of 1/1 Gbps. If the location for a CAI is missing entirely from the map, please reach out to [wvbroadband@wv.gov](mailto:wvbroadband@wv.gov).

### Evidence for “Location is a CAI” Rebuttal

Any eligible organization may submit a rebuttal for a “Location is a CAI” Challenge. The information and evidence must include:

- The basis for the challenge:
  - Location is a residence
  - Location is a non-CAI business
  - Institution does not fall under a listed category
    - Identify the institution type that the location should be listed as
  - CAI has ceased operations
    - Identify date CAI ceased operations
- Evidence to support rebuttal

## Evidence for “Location is Not a CAI” Challenge

If you believe that a location is incorrectly identified as a CAI, you may submit a challenge to have that location removed from the list. Please note that WVDED is not allowed to add Broadband Serviceable Locations (BSLs) to the map, so a successful challenge will remove this location from BEAD eligibility altogether.

To submit a successful challenge, you will need to submit the following information and evidence:

- The basis for the challenge:
  - Location is a residence
  - Location is a non-CAI business
  - Institution does not fall under a listed category
    - Identify the correct institution type to reclassify the location
  - CAI has ceased operations
    - Identify date CAI ceased operations
    - Is there another CAI currently operating at this location? If so, provide the following information:
      - Official entity name of the institution
      - The type of CAI, selected from the categories defined above<sup>13</sup>
        - Depending on the entity type, you will be asked to provide different types of identification numbers, e.g. CMS Certification Number (CCN) for hospitals
        - If a Community Support Organization, explanation of how organizations facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals.
        - Other evidence that demonstrates that the organization meets the requirements of the selected category of CAI.
- Evidence that demonstrates that the location is a non-CAI or is no longer in operation

## Evidence for “Location is Not a CAI” Rebuttal

Any eligible organization may submit a rebuttal for a “Location is Not a CAI” Challenge. The rebuttal must include evidence that the location falls within the definitions of CAIs established above or is still operational.

## CAI BEAD Eligibility Based on Broadband Availability

### Evidence for CAI: Qualifying Broadband Unavailable

If a CAI is reported to receive symmetrical 1 Gbps service, but you have evidence demonstrating such service is not available, you may file a “CAI Does Not Receive 1 Gbps Service” Challenge. To submit this challenge type, you must provide the following information and evidence:

- Attest that this location does not currently receive 1/1 Gbps broadband service and does not have a connection that is readily scalable to 1 Gbps speeds at a higher tier of service over the existing infrastructure.
- If there is an available Internet connection at the location, you’ll be asked to provide the following information:
  - Who is the current provider?
  - What technology is delivering the current services?
  - What are the speeds of your current plan?
- Upload evidence of recent bill/invoice, photo of the provider gateway, or other evidence to support the challenge
- Signed attestation or upload evidence

### Evidence for CAI: Qualifying Broadband Unavailable Rebuttal

Any Eligible Challenger may submit a rebuttal for a “CAI Does Not Receive 1 Gbps Service” Challenge. This rebuttal must include evidence that the CAI location has an existing connection capable of delivering 1/1 Gbps speeds or a connection that is readily scalable 1 Gbps symmetrical speeds at a higher tier of service over the existing infrastructure.

### Evidence for CAI: Qualifying Broadband Available Challenge

1. Confirm that selected CAI Location(s) have an existing connection capable of delivering 1/1 Gbps symmetrical speeds or a connection that is readily scalable to these speeds at a higher tier of service over the existing infrastructure.
2. (Optional) If available please provide the following information:
  1. Who is the current provider? (Do not use dropdown of providers, as it may not include the network delivering enterprise ISPs)
  2. What technology is delivering the current services? (Dropdown from the Technologies used in other challenges)
  3. What are the speeds of your current plan?
3. Upload evidence of recent bill or invoice, photo of the provider gateway, or other evidence to support the challenge
4. Signed attestation or upload evidence



## Evidence for CAI: Qualifying Broadband Available Rebuttal

Any Eligible Challenger may submit a rebuttal for a “CAI Does Receive 1 Gbps Service” Challenge. The rebuttal must include evidence that the CAI Location does not have an existing connection capable of delivering 1/1 Gbps speeds or a connection that is readily scalable 1 Gbps symmetrical speeds at a higher tier of service over the existing infrastructure.

## Obtaining CostQuest BSL Fabric Licenses

In order to administer the BEAD program, WVDED is required to use the FCC National Broadband Map as the starting point. This map provides reported broadband availability data at the location level and relies on a proprietary dataset to provide data about location’s placement on the map and other geographic information associated with the location.

WVDED was required to enter into a license agreement with CostQuest Associates, the owner of the dataset, to access the data for the BEAD program and this challenge process. The terms of this license agreement restrict WVDED from making the data fully available to stakeholders participating in the challenge process.

While WVDED cannot make the data fully available to stakeholders directly, participants in the challenge process are eligible to apply for their own licenses with CostQuest. The NTIA entered into a contract with CostQuest to cover the cost of these licenses, so there is no expense to the licensees.

**A CostQuest License is not required to file challenges directly through the challenge portal.** However, if you are considering submitting bulk challenges (challenges to more than one location in the same submission), we highly recommend that you obtain a license from CostQuest, which will allow us to provide a bulk challenge template pre-populated with Location IDs that you select.

### License Tiers

There are two tiers of licenses relevant for the BEAD Program:

- **Tier D License** - The Tier D License is available to all qualified, or presumptively qualified, recipients and subrecipients of federal broadband grants. This license is available to broadband providers, including co-ops, and units of Tribal governments. [Request License](#)
- **Tier E License** - The Tier E license is intended for units of local government, non-profits, and other organizations that have signed an FCC Tier 4 license. [Request License](#)