How to Challenge State Broadband Service Maps

Pew memo outlines ways to improve targeting of federal BEAD Program funds

On Dec. 14, 2023, The Pew Charitable Trusts sent a memo to state broadband offices that participate in Pew's broadband education and training initiative, detailing the process for challenging information included in the Federal Communications Commission National Broadband Map, which indicates where high-speed service is lacking and informs funding decisions within the Broadband Equity, Access, and Deployment (BEAD) Program. The challenge process provides a mechanism for local and Tribal governments, nonprofit organizations, and broadband service providers to improve the accuracy of the map and to identify locations that are eligible for BEAD funding.

BEAD Challenge Process

The Broadband Equity, Access, and Deployment (BEAD) Program requires state and territory broadband offices to implement a challenge process to confirm the accuracy of BEAD-eligible locations. This process will allow local governments, nonprofits, and providers to work directly with their broadband office to improve upon the Federal Communication Commission's (FCC) map and verify existing commitments. While similar to the FCC's challenge process, these state and territory-run BEAD challenge processes will differ in several ways.

The FCC's Map

The FCC National Broadband Map has two datasets: Location Fabric and Broadband Availability. The Location Fabric dataset is created by the FCC and includes all locations in the United States where fixed broadband internet is available or could be installed. The Broadband Availability layer uses data collected from internet service providers (ISPs) to show what type of broadband service they provide and where. ISPs provide broadband availability data to the FCC every six months. The FCC administers a running challenge process for both the Location Fabric and the Broadband Availability layers twice a year.

BEAD Challenge Process overview

First, each broadband office will start with the FCC National Broadband Map to create a list of unserved and underserved locations. The FCC map displays all types of reported broadband service, including those below BEAD's baseline speed and reliability standards, which is why broadband offices must collect information to determine which locations are eligible for funding. States will generally adhere to the following process:

1. Public challenge: States publish a preliminary map of the BEAD-eligible locations and instructions on how to submit a challenge. This must be completed within 90 days.
2. ISP rebuttal: Providers can respond to the locations challenged in the public process.
3. Final determination: Broadband offices will adjudicate discrepancies and finalize the list of eligible locations.
4. Submission: States will submit the results to the National Telecommunications Information Administration (NTIA) for final approval. Upon approval, states may move forward with accepting grant applications.

Although each state will follow these steps, they are also allowed to modify the challenge process, such as by using existing data or reclassifying specific technologies based on their functional capabilities. This process also allows the broadband office to accept and adjudicate challenges with evidence the FCC does not accept (e.g., speed tests). Each broadband office has outlined their process in a public document called Initial Proposal Volume I.

Who can participate?

Although the BEAD Challenge Process will accept broader evidence than the FCC one, participation is more limited. Unlike the FCC National Broadband Map, which allowed individuals to submit challenges on service available to their homes or businesses, only local and Tribal governments, nonprofit organizations, and broadband service providers are deemed "eligible challengers" and will be able to submit BEAD challenges to their broadband office.

These entities can collect challenge evidence from individuals and submit them on their behalf in a bulk challenge.

Preparing for the challenge process

Request a free CostQuest license

To fully participate in the BEAD Challenge Process, eligible challengers will need to acquire an NTIA Fabric License from CostQuest Associates. This will ensure that the broadband office can share the FCC's Location Fabric data with the challenger. Importantly, the NTIA Fabric License differs from the FCC Fabric License. Visit the NTIA Fabric Licensing FAQ to learn more. Please use the following resources to request the appropriate license for your organization. Licenses should be requested as soon as possible to prepare for the challenge window.

The two license tiers available for the BEAD Challenge Process are:

- Tier D: for entities expecting to receive, or have been awarded, federal broadband funding, such as internet service providers (equivalent to the FCC Fabric Tier 2 License). Follow the guide to request a TIER D License.
- Tier E: for entities that will submit challenges to the coverage maps, such as local governments or nonprofit organizations (equivalent to the FCC Fabric Tier 4 License). Follow the guide to request a TIER E License.

Review your state or territory's Initial Proposal Volume I

As noted above, every state and territory will operate their challenge process slightly differently. Each broadband office has outlined the allowable challenges and relevant deadlines in a document submitted to NTIA, titled Initial Proposal Volume I. Find your state or territory's process here.

Understanding Map Terminology

Maps will include specific terminology, such as "unserved," "underserved," and "community anchor institution" (CAI). Statute defines unserved as those that lack access to a reliable broadband service at speeds of 25 megabits per second (Mbps) download and 3 Mbps upload while underserved locations lack access to 100/20 Mbps service. States may not change the minimum standards for unserved and underserved, but they may adopt modifications to classify those locations based on the technology available. For example, a broadband office could automatically classify a location that only has access to

a DSL network as underserved, based on the inability of that technology to provide consistent access to 100/20 speed connections, despite advertised claims.

States have more flexibility regarding the definition of a CAI. At a minimum, each state's CAI list must include schools, health facilities, libraries, public safety buildings, higher education campuses, and public housing units, though some states have also included other community support organizations, government buildings, religious institutions, and public outdoor spaces. Depending on the type of connectivity available to these CAIs, they will be eligible to receive BEAD funding to reach symmetrical speeds of 1 gigabit per second. per second.

NTIA provides model language for CAIs, but broadband offices may propose unique definitions based on the needs of their respective states and territories. The inclusion of CAIs in the BEAD challenge process is an important evolution from the FCC map, which does not consistently display the location or speeds available to CAIs.

Eligible challenges:
Challenges can be submitted to a broadband office on the following topics, regardless of a state or territory's modifications:

- Eligibility determinations, such as the availability of service, speed offered, latency, technology type, etc.
- Enforceable commitments from other state or federally funded programs, such as the Department of Treasury's Capital Projects Fund.
- Planned service (e.g., broadband will be deployed at this location by June 30, 2024).
- Identifying a location as a CAI.
- The reported service available to the CAI.

Review the exact requirements for your state or territory's challenge process for more details.

Conclusion

The BEAD Challenge Process is implemented by state and territory broadband offices to verify which locations are eligible for funding, taking into account the quality of any service currently available and the commitments made by other broadband programs. The process operates as a final check on the accuracy of the unserved and underserved locations—without an accurate map, broadband offices risk leaving areas without broadband services behind. NTIA has given states and territories some flexibility in designing this challenge process, so it will be critical for all those interested in submitting a challenge to check with their broadband offices for the exact details on allowable evidence and the deadlines to submit.