



# New Mexico BEAD CHALLENGE PROCESS RESOURCE GUIDE

Version 1.3

## Change Control Log

Version	Date Published	Key Changes
1.0	4/10/2024	Initial Publication
1.1	4/11/2024	Email Address Change
1.2	4/23/2024	Corrected typos, clarified evidence required for area challenge rebuttal, and updated definition of CAIs to match OBAE's approved IPV1.
1.3	5/16/2024	Corrected typos, clarified challenge revision process.

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# BEAD Challenge Process Guide

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 is designed to provide stakeholders in New Mexico with an opportunity to challenge the eligibility of locations. Based on the process approved by the National Telecommunications and Information Administration (NTIA), challengers can dispute the data from the National Broadband Map using local data.

Questions related to policy or procedural items should be directed to [Broadband@connect.nm.gov](mailto:Broadband@connect.nm.gov). Questions related to technical assistance issues should be directed to [helpdesk@ready.net](mailto:helpdesk@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 official channels, with any changes documented in a change log.

## Allowable Challenges

### What Can Be Challenged?

The BEAD Challenge Process is designed to accommodate different categories of challenges that are necessary to develop a more accurate list of BEAD eligible locations.

There are different challenge types within each category, but generally, the NM Office of Broadband Access and Expansion can only accept challenges on the following grounds:

- BEAD eligibility determinations for Broadband Serviceable Locations (BSLs),
- Enforceable commitments for existing BSLs (locations with existing funding)
- Planned or existing service for existing BSLs
- The identification of eligible Community Anchor Institutions (CAIs), as defined in New Mexico Initial Proposal Volume 1
- CAI BEAD eligibility determinations

### Area & MDU Challenges

The NM Office of Broadband Access and Expansion (OBAE) will administer area and multi-dwelling unit (MDU) challenges for Availability, Technology, Latency, and Data Cap challenge types. An area challenge is triggered if 6 or more broadband serviceable locations using a particular technology and

a single provider within a census block group<sup>1</sup> are challenged under the same challenge type. An MDU challenge requires challenges for one unit for MDUs having fewer than 15 units, for two units for MDUs of between 16 and 24 units, and at least three units for larger MDUs.

Each type of challenge and each technology and provider will be considered separately in the determination of area and MDU challenges. If a provider offers multiple technologies, each will be treated separately because they are likely to have different availability and performance.

The provider receiving an area challenge or MDU challenge must demonstrate that they are indeed meeting the availability/technology, latency, and data cap requirement, respectively, for all locations within the area or all units within an MDU. The provider can use any of the permissible rebuttals described in this document for the respective challenge type.

Area challenges for Availability need to be rebutted with evidence that service is available for all BSLs within the census block group. For wireline providers this should include network diagrams that show fiber or HFC infrastructure and/or customer subscribers. For fixed wireless service, the challenge system will offer a representative random sample of the area in contention, but no fewer than [10], where the provider has to demonstrate service availability and speed (e.g., with a mobile test unit).<sup>2</sup>

For a Speed Test Area Challenge, the challenged provider will be required to submit a rebuttal 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. 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.

For a Latency Area Challenge, the challenged provider will be required to submit a rebuttal 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 100ms.

In the event of a representative random sample being used for a rebuttal, such as with a latency area challenge for a fixed wireless provider, the rebuttals against the original challenged locations will not count toward the minimum number of locations required for the area challenge rebuttal. In other words, the original challenged locations must be rebutted separately and in addition to locations being used in a representative sample for a rebuttal.

## Permissible Challengers

### Who can submit a challenge?

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<sup>1</sup> Area challenge determinations will be determined based on 2020 Census Block Groups

<sup>2</sup> 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.

Under the federal policy for the BEAD Program, only the following entities are permitted to submit formal challenges during the BEAD Challenge Process:

- Units of Local Governments
- Tribal Nations
- 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 many types of challenges, the data submitted by the permissible challengers will be gathered directly from residents and/or businesses that have not been provided the level of broadband service that is reportedly available to them the broadband that is reportedly available to them.

## Structure and Timing

The BEAD Challenge Process is required to be completed before the state can distribute the funds. This ensures that the list of eligible locations is finalized before the grant application window opens.

Prior to the kickoff of the challenge process, the NM Office of Broadband Access and Expansion will post the final eligibility determinations on a public map and available through the portal.

## The Challenge Process Phases

### Timeline

Challenge Submission Window	April 18, 2024 – May 18, 2024
Rebuttal Submission Window	June 3, 2024 – July 3, 2024
Final Determination	July 4, 2024 – August 3, 2024

### *Challenge Phase*

The challenge phase will run for 30 calendar days. During this phase, eligible challengers will be able to submit challenges using the Challenge Portal. After a challenge is submitted, the NM Office of Broadband Access and Expansion team will review the evidence and determine if it meets the evidentiary requirements. If a challenge is determined to meet the minimum level of evidence, it will be considered a ‘valid challenge’.

### **Speed Test Modification**

OBAE will treat as “underserved” locations that the National Broadband Map shows to be “served” if rigorous speed test methodologies (i.e., methodologies aligned to the BEAD Model Challenge Process Speed Test Module and New Mexico IPV1) demonstrate that the “served” locations

actually receive service that is materially below 100 Mbps downstream and 20 Mbps upstream. This modification will better reflect the locations eligible for BEAD funding because it will consider the actual speeds of locations. As described below, such speed tests can be rebutted by the provider during the rebuttal period.

### **DSL Modification**

OBAE 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. This designation cannot be challenged or rebutted by the provider.

After all the challenges have been reviewed, the valid challenges will be processed collectively to determine which challenges require a rebuttal and identify any Area Challenges.

***Tip:** Submit your challenges early. If there are errors in your submission, you’ll be given an opportunity to re-submit, but ONLY until 11:59pm on Wednesday, May 29<sup>th</sup>. You will not be allowed to fix errors or omissions in your challenge after this date.*

### *Rebuttal Phase*

After the Challenge Phase closes and challenges are processed, the Rebuttal Phase will run for 30 calendar days. At the beginning of the Rebuttal Phase, all the challenges that require a rebuttal will be posted in the challenge portal. For challenges directed against providers, only the challenged provider may submit a rebuttal. For other challenge types, any Permissible Challenger may submit a rebuttal.

Broadband providers will be directly notified via email of any challenges directed against them and provided the details necessary to respond during the Rebuttal Phase. The challenged provider will have 30 days to agree with the challenge or dispute the challenge. If no rebuttal is filed in the allotted time, the challenge will be sustained.

Units of Local governments, Tribal Nations, and non-profit organizations will receive an email notification when the Rebuttal Phase has opened. However, they will not receive direct notifications for specific challenges since they will not be named parties in the challenges. Accordingly, these challenges will remain open for the entirety of the 30-day period. Unlike the provider challenges, other challenge types are still subject to the final review and determination by the NM Office of Broadband Access and Expansion team.

After a rebuttal is submitted, the NM Office of Broadband Access and Expansion team will review the evidence and determine if it meets the evidentiary requirements. If a rebuttal submission is determined to meet the minimum level of evidence, it will be considered a ‘valid rebuttal.’ At the end of the Rebuttal Phase, all challenges with valid rebuttals submitted will be marked as “disputed” and proceed to the Final Determination Phase.

**Tip:** Submit your rebuttals early. If there are errors in your submission, you'll be given an opportunity to re-submit, but ONLY until 11:59pm on Wednesday, July 3<sup>rd</sup>. You will not be allowed to fix errors or omissions in your rebuttal after the 30-day submission window closes.

## Final Determination Phase

Within 30 days of the close of the Rebuttal Phase, the NM Office of Broadband Access and Expansion 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 fully review all the information included in each challenge and rebuttal prior to making any final determinations.

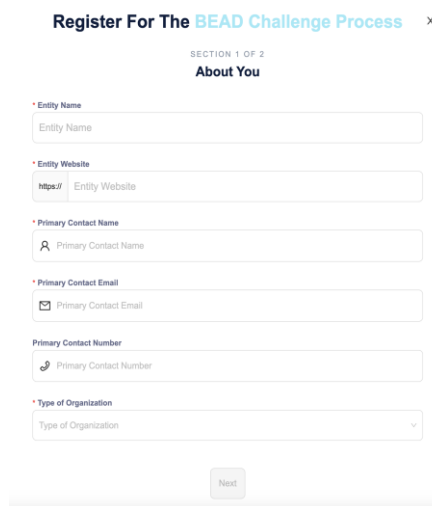
# How to Participate in the Challenge Process

## Account Registration

Before a Permissible 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 provide the necessary information.
3. **Complete the intake form** – The intake form will ask you for the information needed to verify your account as a permissible challenger.
  - a. **General information** – Every registrant for the challenge process will be asked to provide the following information:
    - i. Entity Name
    - ii. Entity Website
    - iii. Primary Contact name
    - iv. Primary Contact Email (Please use domain affiliated with entity)
    - v. Primary Contact Phone Number
    - vi. Type of Entity (select from dropdown)
  - b. **Broadband Providers Information**
    - i. Provider Name (select from dropdown)
    - ii. FRN



Register For The **BEAD Challenge Process** x

SECTION 1 OF 2  
About You

\* Entity Name  
Entity Name

\* Entity Website  
https:// Entity Website

\* Primary Contact Name  
Primary Contact Name

\* Primary Contact Email  
Primary Contact Email

Primary Contact Number  
Primary Contact Number

\* Type of Organization  
Type of Organization

Next

- iii. Physical Address
  - iv. Additional documentation to verify identity
  - c. Unit of Local Government Information**
    - i. Physical Address
    - ii. Additional documentation to verify identity
  - d. Tribal Nation Information**
    - i. UEI Number assigned by Sam.gov
    - ii. Tribe's name as listed by BIA
    - iii. Physical Address
    - iv. Additional documentation to verify identity
  - e. Non-Profit Organization Information**
    - i. EIN
    - ii. Physical Address
    - iii. Additional documentation to verify identity
4. **Click “Finish” and submit form** - After you submit the form, you will receive an email confirmation. **You do not need to do anything at this point.**
5. **Wait for Account Approval** – After submitting your account request, each registration will be manually reviewed by the NM Office of Broadband Access and Expansion 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 request with the necessary information.
6. **Complete setting up your account** – 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'll be able to file challenges and rebuttals while the respective phases are open.

### Submitting Challenges

In general, all Permissible Challengers are eligible to submit challenges of any type. The primary exception is that “Planned Service or Existing Service” may require an agreement between the provider and the Office.

### Challenge Steps

1. **Log-in to the Challenge Portal** - Users can log-in using email/password combo or use an “Account Setup” email which appears as a link to log-in directly without password.



2. **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.”
3. **Click on either “Dashboard” or “Challenge Map”** – Both options provide different functionality, but each of them will allow you to open a challenge submission window. The Challenge Map provides a geospatial representation of the eligibility designations under BEAD, 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 your Dashboard.
4. **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.
5. **Create a Challenge** – When creating a challenge in the challenge portal, there are several steps included in the flow:
  - a. **Select Challenge Category and Type** – Each challenge category includes multiple challenge types to select from:
    - i. **Planned or Existing Service**
      1. Planned Service
      2. Existing Service
    - ii. **Enforceable Commitments**
      1. Covered by Enforceable Commitment
      2. Not Covered by Enforceable Commitment
    - iii. **Provider Service Level**
      1. Availability
      2. Latency
      3. Data Cap
      4. Technology
      5. Business Service Only
    - iv. **Anchor Institution Classification**
      1. Location is a CAI
      2. Location is not a CAI
      3. Location Does Not Receive 1 Gbps Service
      4. Location Does Receive 1 Gbps Service
  - b. **Select Challenge Details** – After selecting the Challenge Type, the data in the map will be filtered to display only those locations that are eligible for the selected challenge type. For example, if an area is already unserved, you will not be able to file an Availability challenge. From the locations eligible for the selected challenge type, you will be prompted to provide the challenge details that will further filter the locations,

based on the options you select. The required challenge details will vary by challenge type, as described further throughout this document.

- 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, you will be prompted to select the location(s) that you want to challenge. You can add locations one-by-one or select a group of locations.
- i. Adding individual locations** – To add an individual location, click on the location on the map, which will then provide a pop-up of the address of that location and an “Add to Challenge” button. If the address aligns with the location you intend to add to the challenge, click “Add to Challenge” and then click “Confirm” in the following prompt. You can multiple locations to the same challenge submission using this method.
  - ii. Add locations in bulk** – When filing bulk challenge submissions, you can add locations in groups, rather than adding each location individually. To add multiple locations as a group, there are two methods available.
    - 1. Shift+Click+Drag cursor** - This method allows you to quickly select multiple locations directly on the map. This is the quickest, but less precise method of selecting multiple locations, because the selection boundaries are in a rectangular shape. Once you’ve selected locations using this method, you’ll be prompted to confirm that you want to add these locations to your challenge. The prompt will include the number of locations that you’ve selected.
    - 2. Select or Upload Area by creating a “Zone”** - This method allows you to 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. Removing locations from selection** - If you inadvertently added locations you do not wish to challenge, you can remove the locations by clicking the trash icon next to the location in the right panel, or remove all of the selected locations by clicking “Remove All.”
- d. Upload Evidence and Documentation** - Once you’ve finalized the location(s) that you want to challenge you will be asked to provide any evidence and documentation that you want included in the review of your challenge. For challenges that require you to separate evidence files per location, you will be prompted to download a .csv file with the selected Locations.

- e. **Attestation** - After you've uploaded your evidence, you will be required to accept and complete an attestation that the details and to the best of my 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, notifications will be sent to all registered Permissible Challengers to provide formal notice that the challenges are open for rebuttal. All permissible challengers will be notified of the opportunity to submit rebuttals to open rebuttal challenges, which includes any challenge not submitted directly against a provider. In addition to the standard notification the Broadband Providers notification will include a notification of whether challenges were received against them. The formal notice will initiate the 30 day rebuttal window.
2. **Log-in to the Challenge Portal** – Users can log-in using email/password combo, or use an “Account Setup” email which appears as a link to log-in directly without password.
3. **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.” 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, you will have 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 details.
  - b. **Open for Rebuttal** – The Open for Rebuttal tab will display all the 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 details, including the challenging entity, challenge type, number of challenged locations, and other 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 will pull up an interface with a map displaying the locations and details on the challenged locations included in the submission. The information on the 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 but 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 submit or accept all the challenges, you can do so using the Rebut All/Accept All button. Note that the option to accept challenges is only available for providers reviewing challenges against them, since they are the only ones eligible to rebut those challenges. 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 you’ve finalized the location(s) that you want to rebut you will be asked to provide any evidence and documentation that you want included in the review of your rebuttal.
8. **Attestation** – After you’ve uploaded your evidence, you will be required to accept and complete an attestation that, to the best of my knowledge and belief, the challenge is true, complete, and accurate, subject to potential civil or administrative penalties.

## Evidence and Documentation Requirements

The evidence and documentation submission is the most important part of the challenge submission. If your 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.

## Provider Service Level Challenges

This section describes the following challenge types:

- [Availability](#)
- [Data Cap](#)
- [Technology](#)
- [Business Service Only](#)
- [Speed](#)
- [Latency](#)

### Availability Challenges (BEAD challenge type “A”)

The Availability challenge type in the BEAD Challenge Process closely resembles the FCC Challenge Process. It supports challenges that have evidence that the service reported in the maps at a specific location is not actually currently available, or cannot be delivered within 10 days, over the reported technology and maximum advertised speeds.

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 (see Table 1 below) from the *FCC Broadband Data Collection: Data Specifications for Bulk Fixed Availability Challenge and Crowdsource Data*.<sup>3</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 1 outlines the acceptable evidence for each reason code and the maximum 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.

Table 1 - Availability Challenge (BEAD challenge type “A”) Reason Codes

Code	Reason	Acceptable Evidence Types for Challenges	Data Age
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

<sup>3</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](#).

Code	Reason	Acceptable Evidence Types for Challenges	Data Age
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>4</sup> (Does not constitute a formal challenge)	N/A	N/A

<sup>4</sup> The Availability challenge does not adjudicate whether the actual speeds of the service falls below the advertised speeds. The FCC uses Code 7 is used for consumer complaints when “Subscribed Speed Not Achievable”

Code	Reason	Acceptable Evidence Types for Challenges	Data Age
8	No wireless signal is available at this location (only for technology codes 70 and above [see <a href="https://help.bdc.fcc.gov/hc/en-us/articles/12271133620763-Technology-Codes-for-Terrestrial-Fixed-Wireless-for-more-information">https://help.bdc.fcc.gov/hc/en-us/articles/12271133620763-Technology-Codes-for-Terrestrial-Fixed-Wireless-for-more-information</a> ]).	<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 an availability challenge. This evidence must include evidence that counters the reason code and evidence provided by the challenger. The acceptable forms of evidence are provided in Table 2.

Table 2 - Reason codes for rebuttals to Availability Challenges (BEAD challenge type “A”)

Code	Reason	Acceptable Evidence Types for Rebuttals
1	Provider failed to schedule a service installation within 10 business days of a request.	<p>Provider shows that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill.</p> <p>If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</p> <p>Provider provides a copy of an offer sent to the location for the service at the speeds shown on the Broadband Map.</p>
2	Provider did not install the service at the agreed-upon time.	<p>Provider shows that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill.</p>



Code	Reason	Acceptable Evidence Types for Rebuttals
		<p>If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</p> <p>Provider provides a copy of an offer sent to the location for the service at the speeds shown on the Broadband Map.</p>
3	Provider requested more than the standard installation fee to connect the location.	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.
4	Provider denied the request for service.	<p>Provider shows that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill.</p> <p>If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</p> <p>Provider provides a copy of an offer sent to the location for the service at the speeds shown on the Broadband Map.</p>
5	Provider does not offer the technology entered above at this location.	Provider has countervailing evidence from their network management system showing an appropriate residential gateway that matches the provided service.
6	Provider does not offer the speed(s) shown on the Broadband Map for purchase at this location.	<p>Provider shows that the location subscribes or has subscribed within the last 12 months, e.g. with a copy of a customer bill.</p> <p>If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.</p> <p>Provider provides a copy of an offer sent to the location for the service at the speeds shown on the Broadband Map.</p>
7	Intentionally Omitted <sup>5</sup> (Does not constitute a formal challenge)	N/A
8	No wireless signal is available at this location	Provider has countervailing evidence to demonstrate

<sup>5</sup> The Availability challenge does not adjudicate whether the actual speeds of the service falls below the advertised speeds. The FCC uses Code 7 is used for consumer complaints when “Subscribed Speed Not Achievable”



Code	Reason	Acceptable Evidence Types for Rebuttals
	(only for technology codes 70 and above).	service availability and speed (e.g., with a mobile test unit).
9	New, non-standard equipment had to be constructed at this location.	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.

## Speed Challenges (BEAD Challenge Type “S”)

### Evidence for Speed Challenges

The NM Office of Broadband Access and Expansion 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 Challenges must provide evidence that the download/upload speeds of the broadband service are materially lower than 100/20 Mbps, as described below. This will require multiple speed tests by the subscriber at each challenged location, showing the excessive round-trip latency.

Each speed 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 trigger the challenge.

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.

Each speed test measurement must include:

1. Each speed test measurement must include: The time and date the speed test was conducted.
2. The provider-assigned internet protocol (IP) address, either version 4 or version 6, identifying the residential gateway conducting the test.
3. Download and Upload speed results

Each group of three speed tests must include:

1. The name and street address of the customer conducting the speed test.
2. A certification of the speed tier the customer subscribes to (e.g., a copy of the customer's last invoice). Tier must be  $\geq 100/20$  Mbps.
3. 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).

### Evidence for Speed Challenge Rebuttals

Only the challenged provider may submit a rebuttal to a speed challenge. This evidence must include countervailing speed test evidence showing download/upload speeds at or below 100/20 Mbps.

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 pm and 11 pm local time to be considered as evidence for a challenge rebuttal. The median of the three tests is used for the rebuttal to the challenge.

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 ms.

### Latency Challenges (BEAD challenge type "L")

#### Evidence for Latency Challenges

Latency Challenges must provide evidence that the round-trip latency of the broadband service exceeds 100ms. This will require multiple speed tests by the subscriber at each challenged location, showing the excessive round-trip latency.

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 trigger the challenge.

Speed tests for Latency Challenges 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.

Each group of three speed tests must include:

1. The name and street address of the customer conducting the speed test.
2. A certification of the speed tier the customer subscribes to (e.g., a copy of the customer's last invoice). Tier must be  $\geq 100/20$  Mbps.
3. An agreement, using an online form provided by the Eligible Entity, 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 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).

To be considered valid, the speed tests must be performed using one of the following options:

1. A reading of the physical line speed provided by the residential gateway, e.g. DSL modem, cable modem, ONT, 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 commonly used speed test application, such as those provided by Ookla or Measurement Lab.

## 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 ms, e.g., from their own network management system or the CAF performance measurements.

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 pm and 11 pm local time to be considered as evidence for a challenge rebuttal. The median of the three tests is used for the rebuttal to the challenge.

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 100 ms.

## Additional Provider Service Level Challenges (BEAD challenge types “D”, “T”, and “B”)

In addition to the Availability, Latency, and Speed challenge types in the BEAD Challenge Process, there are three additional challenge types available under the Provider Service Level navigation: Data Cap, Technology, and Business Service Only.

### Evidence for Additional Provider Service Level Challenges

The 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.

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.

Table 3 - Evidence for BEAD challenge types “D”, “T”, and “B.”

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	<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> </ul>	365 days

Type	Reason	Acceptable Evidence Types for <u>Challenges</u>	Data Age
	incorrect.)	<ul style="list-style-type: none"> <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>	
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 Provider Service Level Rebuttals

Only the challenged provider may submit a rebuttal to a data cap, technology, or a business service only challenges. This evidence must include evidence that counters the reason code and evidence provided by the challenger. The acceptable forms of evidence are provided in Table 4.

Table 4 - Evidence for rebuttals to BEAD challenge types “D”, “T”, and “B”.

Type	Reason	Acceptable Evidence Types for <u>Rebuttals</u>
Data Cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the 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
Technology	Provider does not offer the technology entered above at this location (The technology indicated for this location is incorrect.)	Provider has countervailing evidence from their network management system showing an appropriate residential gateway that matches the provided service.
Business Service Only	The location is residential, but the service offered is marketed or available only to businesses.	Provider documentation that the service listed in the BDC is available at the location and is marketed to residential customers.



## Enforceable Commitment Challenges (BEAD challenge types “E” and “N”)

In preparation for the deployment of the BEAD program, the NM Office of Broadband Access and Expansion is required to identify every location where an “Enforceable Commitment” exists to deploy qualifying broadband service at or above 100/20 Mbps, regardless of the current service available at the funded locations. This includes identifying the broadband serviceable locations served by federal and state funding programs.

### Enforceable Commitment Challenges

#### Evidence for Enforceable Commitment Challenges

The Enforceable Commitment Challenge allows Permissible Challengers to provide evidence that an unserved or underserved locations have an existing federal, state, or local funding that should make those locations ineligible for BEAD.

The following details 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 100ms
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. Evidence should include:
  - a. Evidence of award such as authorization letter and executed agreement with funding entity.
  - b. List of funded locations included in award
  - c. If available, methodology used to match awarded locations to Fabric IDs
  - d. If any locations included in the award are on Tribal Lands, you will need to attach a legally binding agreement with Tribal Government, certified by Tribal Resolutions

#### Evidence for Enforceable Commitment Rebuttals

Any Permissible Challenger 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 location(s) 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.

## Not Part of an Enforceable Commitment Challenges

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

The Enforceable Commitment Challenge allows Permissible Challengers to provide evidence that a location is not covered by an Enforceable Commitment identified by the NM Office of Broadband Access and Expansion. 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. This may include:
  - Public notice of default published by the funding agency
  - Default notice sent to the provider
- Documentation that the location(s) 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.
- If locations are on Tribal lands, the Tribal Government may challenge based on a failure of the provider to obtain consent from the Tribal Council for the application and/or receiving the award.

### 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
- A Tribal Council Resolution or requisite legally binding agreement with the Tribal Government supporting the Enforceable Commitment

## Enforceable Commitment Identification – Process and Methodology

The NM Office of Broadband Access and Expansion has deduplicated the list of BEAD-eligible locations, based on existing funding from current programs, using the following process:

### Federally-Administered Grant Programs

The NM Office of Broadband Access and Expansion used the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments, which includes data on funding from the following programs (not all applicable to New Mexico):

- NTIA Broadband Infrastructure Program (BIP)



- NTIA Tribal Broadband Connectivity Program (TBCP)\*
- FCC Rural Digital Opportunity Fund (RDOF)
- FCC Connect America Fund II (CAFII)
- USDA Rural eConnectivity Broadband Loan and Grant Program (ReConnect)
- USDA Telephone Loan Program (TLP)
- USDA Community Connect Grant Program (CCGP)
- Puerto Rico Together (BPRT)\*
- Connect U.S. Virgin Islands (CUSVI)\*

\*Programs did not fund any infrastructure deployment in New Mexico

An additional deduplication process will be run following the Challenge Process. This second round of deduplication will tentatively occur in August 2024. If you are a provider electing to participate in any ongoing funding programs (ex. TBCPII, Reconnect 4, and Connect NM Fund), we encourage you to notify the NM Office of Broadband Access and Expansion proactively.

## Planned or Existing Service Challenges (BEAD challenge type “P”)

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.”

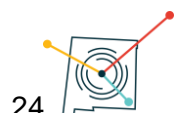
### Planned Service Challenges

#### Evidence for Planned Service Challenges

If you have begun building out broadband service to unserved and/or underserved locations, you may 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 100ms
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. Will the planned deployment, including the listed speeds, latency, and technology be deployed to the selected locations by June 30, 2024?
7. Evidence that the deployment is on track to be completed on time, which should at least include:
  - a. Planned network diagrams
  - b. Evidence of all necessary permits that were obtained
  - c. Inspection results





- d. Construction contracts and invoices
- e. You are also encourage to submit other evidence that may demonstrate that the deployment in progress

For a Planned Service Challenge to be successful, you may be required to enter into a binding agreement with the NM Office of Broadband Access and Expansion/New Mexico 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 the NM Office of Broadband Access and Expansion.

### Evidence for Planned Service Rebuttals

Any permissible challenger may submit a rebuttal for Planned Service Rebuttal. The rebuttal must include countering evidence that demonstrates that the planned service cannot be deployed by June 30, 2024.

It is anticipated that the primary rebuttals will be submitted by units of Local government or Tribal Nations that have knowledge and evidence that necessary permits, reviews, or other pre-construction requirements have not been met.

### Existing Service Challenges

#### Evidence for Existing Service Challenges

If you have completed broadband deployment to locations currently designated as unserved and/or underserved locations, you may 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 100ms
5. Indicate if you have already reported the available broadband service to 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 the the service is deployed and available (As many of the following as possible):
  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 Permissible Challenger may submit a rebuttal for an Existing Service Challenge. The rebuttal must include countering evidence that demonstrates that the claimed service is not available.

The evidence may include the allowable evidence from Tables 1 and 2, but may also include evidence 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 (BEAD challenge types “C” and “R”)

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

- Identification of CAIs
- Eligibility based on Broadband Need

The identification of Community Anchor Institutions for the purposes of BEAD is based on the definition and process outlined in Section 1.3 of New Mexico’s Initial Proposal Vol. 1, which includes:

- **Schools:** K-12 schools include all K-12 schools participating in the FCC E-Rate program or that have an NCES (National Center for Education Statistics) ID in the categories “public schools” or “private schools”
- **Libraries:** Including all libraries participating in the FCC E-Rate program as well as all member libraries, and their branches, of the American Library Association (ALA).
- **Health clinic, health center, hospital, or other medical providers:** The list of health clinics, health centers, hospitals and other medical providers includes all institutions that have a Centers for Medicare and Medicaid Services (CMS) identifier.
- **Public safety entity:** The list includes entities such as fire houses, emergency medical service stations, police stations, sheriff and constable offices, and public safety answering points (PSAP), based on records maintained by the Eligible Entity and units of local government. The list of public safety answering points (PSAPs) includes all PSAPs in the FCC PSAP registry.
- **Institutions of higher education:** Institutions of higher education include all institutions that have an NCES ID in the category “college,” including junior colleges, community colleges, minority serving institutions, historically black colleges and universities, other universities, or other educational institutions.
- **Public housing organizations:** Public housing organizations were identified by contacting the Public Housing Agencies (PHAs) for the state or territory enumerated by the U.S. Department of Housing and Urban Development. The nonprofit organizations Public and Affordable Housing Research Corporation (PAHRC) and National Low-Income Housing Coalition maintain a database of nationwide public housing units at the National Housing Preservation Database (NHPD).
- **Community support organizations:** The list includes organizations identified by OBAE, in the context of its multi-year broadband engagement work, that facilitate greater public use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, aged individuals, and incarcerated individuals. Such facilities include boys and



girls clubs, senior centers, job centers, daycares, youth centers, and detention centers. Facilities such as job centers and senior centers provide opportunities such as digital skills training, access to computers, and other programs to help enhance the use of broadband by aging individuals and unemployed individuals. Facilities such as boys and girls clubs, daycares, and youth centers provide digital training programs to children in addition to providing access to devices that enable access to broadband. As the digital world becomes steadily more important, people are learning to use devices and access broadband at steadily younger ages. Even a decade ago, NTIA provided grants for digital skills programs designed for young people, whose households are likely to be members of one or more covered populations, given the prevalence of covered populations in New Mexico. Several stakeholders commented that such centers should be included due to their existing and future roles in digital skills development, and no comments objected to their inclusion. Detention centers can facilitate greater use of broadband for incarcerated individuals by providing limited access to the internet for educational or rehabilitative programs.

- **Government facilities:** This category of CAIs includes all of the facilities that are owned or operated by local, state, federal, or Tribal entities that facilitate greater use of broadband service by vulnerable populations. Such facilities include, for example, chapter houses and cultural centers, which in Tribal areas often function as community centers that are venues for digital skills classes and that offer free Wi-Fi to Tribal members. OBAE relied on its existing relationships, facilitated, for example, by the Tribal Working Group (TWG), to identify the correct facilities on Tribal lands. Tribal stakeholders requested that these be specifically included as eligible CAIs and no comments were received objecting to their inclusion.
- **Other sources of data:** OBAE also drew on State, Tribal, county, and municipal resources to identify additional eligible community anchor institutions that were not contained in the data sources listed above. In addition, OBAE used the Initial Proposal Volume I public comment process to ensure that all relevant institutions meeting the CAI criteria are included.

## Identification of CAI

All Permissible 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, you will need to submit the following information and evidence:

1. Official entity name of the institution
2. The type of CAI, selecting from the categories defined above
  1. Depending on the entity type, you will be asked to provide different types of identification numbers, e.g. CMS Certification Number (CCN) for hospitals
  2. 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.

3. Evidence to support the challenge, which may include:
  1. Registration documents
  2. Contact information to confirm
  3. Other evidence that demonstrates that the organization meets the requirements of the selected category of CAI.

When challenging to add a location as a CAI, you will be given an opportunity to indicate whether the institution has unmet broadband needs based on the standard of 1000/1000 Mbps.

If the location for a CAI is missing entirely from the map, please reach out to [obae-gis@doit.nm.gov](mailto:obae-gis@doit.nm.gov).

### Evidence for Location is a CAI Rebuttal

Any Permissible Challenge may submit a rebuttal for a Location is a CAI Challenge. The information and evidence must include:

1. Identify the basis for the challenge that claims the locations is not a CAI
  1. Location is a residence
  2. Location is a non-CAI business
  3. Institution does not fall under listed category
    1. Identify the institution type that the location should be listed as
  4. CAI has ceased operations
    1. Date CAI ceased operations:
2. Evidence to support rebuttal

### Evidence for Location is a Not CAI Challenge

If you believe that a location is incorrectly identified as a CAI, you may challenge to have that location removed from the list. Please note that the NM Office of Broadband Access and Expansion 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:

1. Identify the basis for the challenge that claims the locations is not a CAI
  1. Location is a residence
  2. Location is a non-CAI business
  3. Institution does not fall under listed category
    1. Identify the institution type that the location should be listed as
  4. CAI has ceased operations
    1. Date CAI ceased operations:
    2. Is there another CAI currently operating at this location? If so, provide the following information:
      1. Official entity name of the institution
      2. The type of CAI, selecting from the categories defined above

- a. Depending on the entity type, you will be asked to provide different types of identification numbers, e.g. CMS Certification Number (CCN) for hospitals
  - b. 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.
  - c. Other evidence that demonstrates that the organization meets the requirements of the selected category of CAI.
2. Evidence that demonstrates that the location is a non-CAI or is no longer in operation

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

Any Permissible Challenge may submit a rebuttal for a Location is Not a CAI Challenge. The information and evidence must include evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational.

### CAI BEAD Eligibility based on Broadband Need (BEAD challenge types “G” and “Q”)

#### Evidence for CAI: Qualifying Broadband Unavailable Challenge (BEAD challenge type “G”)

If a CAI that is reported to have 1 Gbps symmetrical service, but you have countering evidence “CAI Does Not Receive 1 Gbps Service” Challenge. To submit this challenge type, you must provide the following information and evidence.

1. Attest that this location does not currently receive 1 Gbps/1Gbps 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.
2. If there is an available Internet connection at the location, you’ll be asked to provide the following information:
  1. Who is the current provider?
  2. What technology is delivering the current services?
  3. What are the speeds of your current plan?
3. Upload evidence of recent bill/invoice, photo of the provider gateway, or other evidence to support the challenge
4. Signed attestation or upload evidence

#### Evidence for CAI: Qualifying Broadband Unavailable Rebuttal (BEAD challenge type “G”)

Any Eligible Challenger may submit a rebuttal for a CAI Does Not Receive 1 Gbps Service. The information and evidence must include evidence that the CAI Location has an existing connection capable of delivering 1 Gbps/1Gbps 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 (BEAD challenge type “Q”)

1. I confirm that selected CAI Location(s) have an existing connection capable of delivering 1 Gbps/1Gbps 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/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 (BEAD challenge type “Q”)

Any Eligible Challenger may submit a rebuttal for a CAI Does Receive 1 Gbps Service. The information and evidence must include evidence that the CAI Location does not have an existing connection capable of delivering 1 Gbps/1Gbps 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, the NM Office of Broadband Access and Expansion is required to use the FCC National Broadband Map as the baseline, which provides reported broadband availability data at the location level and relies on a proprietary dataset to provide the location data.

The NM Office of Broadband Access and Expansion was required to enter into a license agreement with Costquest Associates, the owner of the dataset, to access the data for the purposes of the BEAD program including the challenge process. The terms of this license agreement restrict the NM Office of Broadband Access and Expansion from making the data fully available to stakeholders participating in the challenge process.

While the NM Office of Broadband Access and Expansion cannot make the data fully available to stakeholders, the 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](#)

# Summary List of NM BEAD Challenge Types

Code	Challenge Type	Description
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).
S	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds.
L	Latency	The round-trip latency of the broadband service exceeds 100 ms.
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer.
T	Technology	The technology indicated for this location is incorrect.
B	Business service only	The location is residential, but the service offered is marketed or available only to businesses.
E	Enforceable Commitment	The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation. Tribal entities are among the entities that may file these challenges.
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.
P	Planned (or existing) 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.
C	Location is a CAI	The location should be classified as a CAI.
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.
G	CAI: Qualifying broadband unavailable	The CAI cannot obtain qualifying broadband.
Q	CAI: Qualifying broadband available	The CAI can obtain qualifying broadband
M	Measurement challenge	Pre-challenge modification for a measurement-based challenge using anonymous speed tests