



New Mexico BEAD Challenge Process UPDATES AND FREQUENTLY ASKED QUESTIONS

Version 1.3

Change Control Log

Version	Date Published	Key Changes
1.0	4/17/2024	Initial Publication
1.1	4/18/2024	Added Table of Contents and Updates sections. Organized FAQs by topic, dated response to each FAQ.
1.2	4/18/2024	Updated response to FAQ – General, Question 3.

1.3	4/23/2024	Added FAQ – Challenges, Question 7 and Question 8. Updated response to FAQ – Data, Question 1. Added Appendix section, added sample Planned/Existing Service Binding Agreement.
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Challenge Process Updates

4/18/2024

Due to technical difficulties, OBAE was unable to open the Challenge portal on April 17th as scheduled. In the interest of fairness to all concerned, OBAE will open the Challenge Portal April 18th. The Challenge Phase will extend until May 18th to allow the full 30-day process to occur as planned. There will be no change to the Rebuttal or Final Determination Phases at this time.

Frequently Asked Questions - General

1. I am an individual and I wish to participate in the Challenge Process. Who should I contact?

OBAE encourages individuals who wish to participate in the Challenge Process to partner with an eligible challenger who represents them, such as an internet service provider, tribal government, local government, or non-profit. *04/17/2024*

2. I am an eligible challenger, but I do not have the resources/skills/expertise to participate in the Challenge Process. Who can I contact for help?

Please review our [BEAD Challenge Process page](#). OBAE plans to have contracted support for eligible challengers during the challenge process. Please note these contractors will operate independently of OBAE. *04/17/2024*

3. The FCC has a similar challenge process on a national level. Is the State of NM able to utilize it to augment their map?

Yes, OBAE will have an opportunity to incorporate new information from the FCC, including federal grant funding status, BSL locations, and provider service claims. This will happen once, after the entire BEAD Challenge Process (challenge, rebuttal, determination) is complete, which is currently scheduled for end of July 2024. Note that for BSL location data, only challenges submitted to the FCC before March 15, 2024, will be released by the FCC in time to be incorporated by OBAE. *04/18/2024*

4. Are there any plans for the State of New Mexico to fund underserved communities when funding for the Affordable Connectivity Program runs out at this month or sometime mid-May? Does BEAD have any solutions for this by utilizing other federal funding sources?

OBAE does not currently have adequate funding to replace the ACP. We strongly support a permanent replacement and urge stakeholders to contact their Congressional representatives to express the same. *04/17/2024*

5. I am a nonprofit/ISP acting on behalf of a Tribe. Should I register as the Tribe, and if so, what evidence should I provide with my registration?

In this scenario, registering as either entity would be viable. However, if your challenge evidence relies on Tribal consent or lack thereof, documentation that you are representing the Tribe would carry more weight. *04/17/2024*

6. I'm looking at the BSL map and it looks like there are locations missing.

Points on the map render differently as you zoom in and out. When zoomed out, fewer points will show, and as you zoom in, more points with more accurate locations will display. This is particularly important with the yellow CAI points, which because they are so sparsely located, often do not show until you are zoomed in to the neighborhood level. *04/18/2024*

Frequently Asked Questions – Challenges

1. Can you add a CAI in the BEAD Challenge Process?

You can challenge whether a location is or is not a CAI in the BEAD Challenge Process. However, only locations that already appear on the New Mexico Broadband Map can be challenged. If a location does not appear on the map, it cannot be added in the BEAD Challenge Process. *04/17/2024*

2. Are the Challenge and Rebuttal periods rolling? In other words, does the Rebuttal Period start as soon as a Challenge is submitted, or does it start after the 30-day Challenge Period ends?

The Challenge and Rebuttal Periods are not rolling. The Rebuttal Period starts on May 27, 2024.
04/17/2024

3. Is there any requirement that ISP websites make it possible to check availability by address? How to deal with ISPs where the website says to submit your address and wait for them to get back to you?

There is no federal or state requirement that OBAE is aware of that ISPs include a tool to check availability on their websites. In cases where the ISP does not have such a tool, challengers can submit email documentation to show an ISP is non-responsive to a request for service or is unable to serve a location. *04/17/2024*

4. What if a provider plans to offer service at a location but it is not expected to be in service by June 30, 2024? Can this be challenged?

In this scenario the location could still be challenged, since service would not be deployed by June 30, 2024. *04/17/2024*

5. Can I submit a challenge based on technology when an ISP claims a location is served but uses 'unlicensed' technology/spectrum?

Yes; however, NTIA does not consider unlicensed fixed wireless to be "Reliable Broadband Service," and those locations should already be considered unserved. *04/17/2024*

6. Can churches be CAIs?

Yes, as long as they are providing greater access to broadband to vulnerable populations. Any challenge asserting that a church is a CAI would need to provide evidence showing that the church meets that requirement. *04/17/2024*

7. Is a record of an online chat with an ISP's customer service considered valid evidence for a challenge?

Yes. 04/23/2024

8. Can you explain the requirement that challengers submit, “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” for speed test challenges?

This agreement is built into the Challenge Portal as a checkbox a challenger must check when submitting a Speed Test Challenge. Challengers should understand they may redact irrelevant information they do not wish to be shared from evidence they submit, such as an account number on a bill for internet service. 04/23/2024

Frequently Asked Questions – Data

1. Where can I find the list of eligible locations? Can I download them as a .csv file?

The Eligible Locations can be found in the [Challenge Portal Map](#) and are visible to the public as well as to registered challengers. OBAE has also made available .csv files of the eligible unserved and underserved locations and community anchor institutions which can be downloaded [here](#). 04/23/2024

2. My OBAE BSL data doesn't match what's in the Challenge Portal.

The public-facing “BEAD Eligible” data layer should match the Challenge Portal data except for one critical difference. The DSL Modification (downgrading all DSL locations from “served” to “underserved”) has not been applied to public data layer yet. Look for an update to this which will be announced in this FAQ. 04/18/2024

Appendix

1. Sample Planned/Existing Service Binding Agreement

A sample Planned/Existing Service Binding Agreement is appended to this document.

Agreement for Reliable Broadband Service Deployment

This Agreement ("Agreement") is entered into as of _____, between the State of New Mexico Office of Broadband Access and Expansion ("OBAE") and _____ ("ISP"), collectively referred to herein as the "Parties".

WHEREAS, the State of New Mexico Office of Broadband Access and Expansion aims to provide reliable and qualifying broadband service to its residents, as defined by the Broadband Equity and Deployment (BEAD) requirements, with access at or above 100/20 Mbps; and

WHEREAS, ISP commits to deploying broadband service meeting the BEAD definition and requirements of reliable and qualifying broadband, even if not mandated by its funding source; and

WHEREAS, ISP agrees to complete the deployment of said broadband service on or before June 30, 2024;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Definition of Reliable and Qualifying Broadband Service:

ISP commits to providing broadband service that meets the definition and requirements of reliable and qualifying broadband as defined by the BEAD standards, with access at or above 100/20 Mbps. The specifics of the service, including but not limited to speed, quality, and coverage, are detailed in **Exhibit A** attached hereto and incorporated herein by reference.

2. Deployment Schedule:

ISP shall deploy the broadband service in accordance with the deployment schedule outlined in **Exhibit B** attached hereto. The deployment shall be completed on or before June 30, 2024.

3. Compliance with BEAD Requirements:

ISP shall ensure that the broadband service deployed under this Agreement complies with all BEAD requirements, including access at or above 100/20 Mbps, regardless of the funding source.

4. Confidentiality:

Parties agree to keep proprietary information confidential to the extent permitted by law. Evidence uploaded to OBAE's portal may be accessible by a third-party vendor responsible for hosting OBAE's submission portal.

5. Governing Law:

This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

6. Entire Agreement:

This Agreement constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, whether written or oral, relating to such subject matter.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date of the last required signatory below.

State of New Mexico Office of Broadband Access and Expansion

By: _____

Name: _____

Title: _____

Date: _____

[Internet Service Provider Name]

By: _____

Name: _____

Title: _____

Date: _____

Exhibit A: Broadband Service Details

Exhibit B: Deployment Schedule