

TERRITORY OF AMERICAN SAMOA

# **BROADBANDiNEI** INITIAL PROPOSAL

**VOLUME 1**

BROADBAND EQUITY, ACCESS  
AND DEPLOYMENT (BEAD)  
PROGRAM

2023 - 2028



This document is submitted to the National Telecommunications Information Administration (NTIA) as part of the requirements for the Broadband Equity, Access, and Deployment Program (BEAD).

|                                  |  |
|----------------------------------|--|
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*Front cover image: Fibers of the trunk of the heliconia laufao plant called tauaga in Sāmoan. The laufao is native to the Sāmoa Islands and the Pacific. These strainers are used for many everyday tasks, from making coconut milk to washing dishes. Like broadband, a tauaga is a tool for simple and complex tasks.*

*Back cover image: A view of the beach of Swains Island, American Samoa.*



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# 1 Volume I (Requirements 3, 5, 6 and 7)

This document shall be known as the BROADBANDiNEI Initial Proposal Volume 1 Broadband Equity, Access, and Deployment Program (BEAD).

American Samoa has submitted its BROADBANDiNEI Five-Year Action Plan August 2023 for review and approval by the National Telecommunications Information Administration (NTIA).

The American Samoa BROADBANDiNEI Five-Year Action Plan is Addendum 1 to the 2021-2026 American Samoa Territorial Broadband Strategy (2021-2026 ASTBS) and reflects priorities, strategies, collective needs and opportunities identified through local coordination with regards to providing affordable, accessible, reliable, secure, equitable, internet-for-all. The concept of broadband information Network for Expansion and Inclusion (BROADBANDiNEI) focuses on an island-wide initiative aimed to encourage the immediate transition to all things digital thereby fostering a more efficient, productive, and resilient American Samoa. This includes an overarching framework for the application and implementation of broadband. At a territory level, this initiative is to be led by the BCORD Office working in collaboration with government, private sector, organizations and community-at-large to adopt BROADBAND iNEI to promote the fast-track adaptation of broadband-anchored services and processes.

## 1.1 Existing Broadband Funding (Requirement 3)

**Identify existing efforts funded by the federal government or an Eligible Entity within the jurisdiction of the Eligible Entity to deploy broadband and close the digital divide, including in Tribal Lands**

Table 1 includes existing broadband funding available to American Samoa to support BROADBANDiNEI.

| Source  | Purpose   | Total        | Expended    | Available   |
|---|---|--------------|-------------|-------------|
| ARPA (ASG)<br><br>The American Samoa Government, received \$479.1m in Federal, State, and Local Fiscal Recovery Funds (SLFRF), of which \$10m was allocated for Broadband Purposes.<br><br>Funding Year: 2022 | BROADBANDiNEI Program (BCORD): The BroadbandiNEI ARPA Grants were awarded to eligible entities to deliver high speed internet service that reliably meets or exceeds symmetrical up/down speeds of 100Mbps prioritizing under-served areas. <ul style="list-style-type: none"> <li>• ASTCA - Domestic submarine cable repair</li> </ul> | \$10,000,000 | \$4,349,992 | \$5,650,008 |



|   |  |             |          |             |
|---|--|-------------|----------|-------------|
|   | <p>(interisland cable to Manu'a)</p> <ul style="list-style-type: none"> <li>• ASTCA - 5G Network Upgrade</li> <li>• Bluesky - 5G Network Upgrade</li> </ul>  |             |          |             |
| <p>BEAD Planning (NTIA)</p> <p>Broadband Equity, Access and Deployment planning grant award under the US Department of Commerce, via the National Telecommunications and Information Administration - through the Infrastructure Investment Jobs Act (IIJA).</p> <p>Funding Year: 2022 (FY23)</p> | <p>BEAD Planning Funding (BCORD)</p> <p>This was equally awarded to each Territory to plan and prepare the respective jurisdictions for the BEAD program deployments.</p>  | \$1,244,300 | \$38,784 | \$1,205,516 |
| <p>DE Planning (NTIA)</p> <p>Digital Equity planning grant award under the US Department of Commerce, via the National Telecommunications and Information Administration - through the Infrastructure Investment Jobs Act (IIJA).</p>   | <p>Digital Equity Planning (BCORD)</p> <p>This was equally awarded to each Territory to plan and prepare the respective jurisdictions for the Digital Equity Capacity (formula grant) and Digital Equity Competitive grants.</p> | \$150,000   | \$18,805 | \$131,195   |



|   |   |                     |                 |                     |
|---|---|---------------------|-----------------|---------------------|
| <p>Funding Year:<br/>Announced 2022<br/>(FY23)</p>  |   |                     |                 |                     |
| <p>BEAD Allocation (NTIA)</p> <p>Broadband Equity, Access and Deployment grant award under the US Department of Commerce, via the National Telecommunications and Information Administration - through the Infrastructure Investment Jobs Act (IIJA).</p> <p>Funding Year:<br/>Announced 2023</p> | <p>BEAD Program Allocation (BCORD)</p> <p>American Samoa has received an automatic allocation of \$25m, in addition to \$12.m in additional funding for the implementation of the BEAD program. The Initial Proposal Volume 1 (this document) and Volume 2 - are the program plans respectful to the administration of these funds.</p> | <p>\$37,564,827</p> | <p>\$0</p>      | <p>\$37,564,827</p> |
| <p>Capital Projects Fund (U.S. Treasury) was awarded to the American Samoa Department of Commerce to fund critical capital projects that enable work, education, and health monitoring in response to the public health emergency.</p> <p>Funding Year:<br/>2023</p>                              | <p>Technology &amp; Innovation Park (ASDOC)</p>   | <p>\$14,285,714</p> | <p>\$82,783</p> | <p>\$14,202,931</p> |
| <p>Connecting Minority Communities (NTIA)</p> <p>The CMC program is awarded to the</p>  | <p>The A'oa'oga Aso Nei initiative under ASCC is designed to bring major new improvements to the campus</p>   | <p>\$2,994,869</p>  | <p>\$9,900</p>  | <p>\$2,984,969</p>  |



|  |  |           |           |           |
|--|--|-----------|-----------|-----------|
| <p>American Samoa Community College through the US Department of Commerce, via the National Telecommunications and Information Administration - through the Consolidated Appropriations Act, 2021</p> <p>Funding Year: 2023</p>  | <p>internet service, technology loaning capabilities, and technical curriculum. ASCC was awarded by NTIA as part of the Connecting Minority Communities pilot program offered to institutions of higher education nationwide.</p>  |           |           |           |
| <p>Affordable Connectivity Program Outreach Grant (FCC) The ACP Outreach Grant is awarded to the American Samoa Department of Commerce, via the Federal Communications Commission - through the Infrastructure Investment Jobs Act (IIJA).</p> <p>Funding Year: 2023</p> | <p>Establish an outreach program for ACP (BCORD) The ACP Outreach Grant is established to encourage participation in the ACP. It is designed to help inform ACP-eligible households about the program with funding and resources to support outreach and community engagement.</p> | \$342,760 | \$0       | \$342,760 |
| <p>FCC COVID-19 Telehealth Program (LBJ Tropical Medical Center)</p> <p>Funding Year: 2021</p>   | <p>FCC COVID-19 Telehealth Program funds to LBJ Tropical Medical Center to support the purchase of telehealth equipment and related service to enable provider to offer wider telehealth services</p>  | \$334,519 | \$334,519 | \$0       |
| <p>US Department of Agriculture Distance Learning</p>  | <p>USDA DLT grant was awarded to LBJ Tropical</p>  | \$677,675 | \$0       | \$677,675 |





|   |   |                    |  |  |
|---|---|--------------------|--|--|
| <p>Telemedicine (DLT) Grant</p> <p>Funding Year: 2021</p>                               | <p>Medical Center in 2020 to establish the Pacific Maternal Telehealth Network. The network will be a collaboration between LBJ, the University of Hawaii John Burns School of Medicine, the Fetal Diagnostic Center at Kapiolani Medical Center for Women &amp; Children, and the University of Hawaii-Pacific Basin Telehealth Resource Center.</p> |                    |  |  |
| <p>FCC COVID-19 Telehealth Program (Department of Health)</p> <p>Funding Year: 2021</p> | <p>FCC award FCC COVID-19 Telehealth Program funds to DOH to support the purchase of telehealth equipment and related service to enable provider to offer wider telehealth services</p>   | <p>\$187,297</p>   | <p>TBC - Pending information from local and funding department/agency.</p> | <p>TTBC - Pending information from local and funding department/agency</p> |
| <p>FCC's High Cost USF Program</p> <p>Funding Year: 2023</p>                            | <p>ICC - CAF Inter-carrier Compensation Support; ACAMII - Alternative Connect America Model Phase II; and FHCS_CETC - Frozen High-Cost Support for CETCs</p> <p>Funds were awarded to AST TELECOM, LLC DBA BLUE SKY COMMUNICATIONS, AMERICAN SAMOA TELECOMMUNICATIONS AUTHORITY</p>   | <p>\$3,166,892</p> | <p>\$967,248</p>   | <p>\$2,149,644</p>   |



|                          |   |                     |  |  |
|--------------------------|---|---------------------|--|--|
|                          | WIRELESS<br>DIVISION and<br>AMERICAN<br>SAMOA |                     |  |  |
| <b>TOTAL<br/>FUNDING</b> |   | <b>\$70,948,853</b> |  |  |

**Table 1. Broadband Funding**



## 1.2 Unserved and Underserved Locations (Requirement 5)

***Identify each unserved location and underserved location under the jurisdiction of the Eligible Entity, including unserved and underserved locations in applicable Tribal Lands, using the most recently published Broadband DATA Maps as of the date of submission of the Initial Proposal, and identify the date of publication of the Broadband DATA Maps used for such identification.***

American Samoa is utilizing the FCC's Broadband DATA Map as of October 24, 2023. The publication date of the National Broadband Map does not predate the submission of the Initial Proposal by more than 59 days.

Included are CSV files titled `unserved.csv` and `underserved.csv` with IDs for unserved and underserved locations in American Samoa.

The Pacific Territories face a unique challenge regarding latency. The vast distance between American Samoa and the contiguous United States increases the latency of internet traffic over this route – which can negatively impact latency-sensitive applications and result in poor user experience. Latency is a measure of the time it takes a broadband packet to travel between two points, and often is measured as the round-trip time it takes to transmit a data packet to a certain destination and for the sender to receive an acknowledgment the packet was received, reflecting the interactive nature of internet traffic.

The Federal Communications Commission does not prescribe a methodology for measuring latency for purposes of data submitted to the National Broadband Map, which in turn is the data that feeds into the NTIA BEAD Eligible Entity Planning Toolkit (EEPT). Certain internet service providers reported all their broadband service in American Samoa as “high latency,” presumably primarily due to the extraordinary distance between the territory and the contiguous United States rather than due to congestion on those providers’ local access networks or other factors.

The BEAD NOFO does prescribe a methodology for measuring latency for BEAD-funded broadband deployment projects. See BEAD NOFO at 64, Section IV.C.2.a.i. Under the BEAD NOFO’s performance metrics, providers serving non-contiguous areas greater than 500 air miles from an FCC-designated Internet Exchange Point (IXP) are permitted to conduct testing between the customer premises and the point in the non-contiguous area where traffic is aggregated for transport to the continental U.S. Applying this methodology to internet traffic in American Samoa likely will yield “latency less than or equal to 100 milliseconds” for all unserved and underserved locations where a high latency condition likely exists solely due to distance from the continental United States. This is the standard for measuring latency the BCORD Office adopts for purposes of our implementation of the BEAD Program.

Our goal is to begin the challenge process with an accurate list of which locations are served, unserved, and underserved using the measurement methodologies applicable to the BEAD Program. This requires that we adopt a pre-challenge process modification to deem all broadband services in American Samoa as low latency, in accord with the BEAD NOFO’s methodology for determining latency described above. Failure to apply the BEAD NOFO’s latency methodology will result in a mischaracterization of, and failure to prioritize BEAD deployment funding to, unserved BSLs and then to underserved BSLs. It also would prevent potential participants in the challenge process from focusing their efforts based on an accurate



list of served, unserved and underserved locations, resulting in a less robust challenge process that is contrary to the policy goals of our office and NTIA.

This pre-challenge process modification for latency may be challenged and any such challenge may be rebutted by the provider. To the extent testing shows that data transmitted round trip between the customer premises and the point in the non-contiguous area where traffic is aggregated for transport to the continental U.S. exceeds 100 ms, that would be a legitimate basis for a latency challenge during the Challenge Process. Whether such a challenge would be sustained would depend on whether it met applicable evidence requirements, the information provided in any possible rebuttal, and other relevant factors under the rules adopted for our Challenge Process.

### 1.3 Community Anchor Institutions (Requirement 6)

***Describe how the Eligible Entity applied the statutory definition of the term “community anchor institution,” identified all eligible CAIs in its jurisdiction, identified all eligible CAIs in applicable Tribal Lands, and assessed the needs of eligible CAIs, including what types of CAIs it intends to serve; which institutions, if any, it considered but declined to classify as CAIs; and, if the Eligible Entity proposes service to one or more CAIs in a category not explicitly cited as a type of CAI in Section 60102(a)(2)(E) of the Infrastructure Act, the basis on which the Eligible Entity determined that such category of CAI facilitates greater use of broadband service by vulnerable populations.***

Based on the statutory definition of “community anchor institution” as defined in 47 USC 1702 (a)(2)(E), the broadband office applied the definition of “community anchor institution” to mean a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization (including any public housing agency, HUD-assisted housing organization, or Tribal housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals. American Samoa will consider the participation of other community service-based organizations that meet the requirements of an eligible CAI listed below, such as faith-based organizations or organizations that are designated as evacuation centers, emergency shelters, staging locations for emergency health services overflow, outreach and training based on an official list provided by the Department of Homeland Security. These organizations are not automatically qualified for inclusion as a Community Anchor Institution and are encouraged to submit a challenge to classify their organization as a CAI for the purposes of the BEAD program if they engage in a program or service to close the digital divide.

Based on the statutory definition above, the following criteria were used to determine the inclusion or exclusion of community support organizations not specifically listed in 47 USC 1702(a)(2)(E):

1. Whether the community support organization facilitates greater use of broadband service by vulnerable populations, including, but not limited to, low-income individuals, unemployed individuals, children, the incarcerated, and aged individuals.

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



- **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” as well as schools identified by the American Samoa Department of Education.
- **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). Include all libraries identified by the American Samoa Government and American Samoa Community College.
- **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) certification number (CCN). During the Initial Proposal comment period, the BCORD Office will consider comments on the threshold for what constitutes a medical provider, e.g., individual physicians’ offices, optometrists, etc.
- **Public safety entity:** The list includes entities such as fire houses, emergency medical service stations, police stations, 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 [911 Master PSAP Registry | Federal Communications Commission \(fcc.gov\)](#).
- **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 are identified by contacting the Public Housing Agencies (PHAs) for the state or territory enumerated by the U.S. Department of Housing and Urban Development.<sup>1</sup> 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 BCORD Office will include any organizations that facilitate greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals. The Eligible Entity included senior centers and job training centers in this category. The Department of Labor maintains a database of “American Job Training” training centers, established as part of the Workforce Investment Act, and reauthorized in the Workforce Innovation and Opportunities Act of 2014. The database can be accessed at the American Job Center Finder<sup>2</sup>. The National Council on Aging (NCOA) helped identify senior centers<sup>3</sup>. Community support organizations also include faith-based organizations or organizations that are designated as evacuation centers, emergency shelters, staging locations for emergency health services overflow, outreach and training. These organizations are not automatically qualified for inclusion as a CAI and are encouraged to submit a challenge to classify their organization as a CAI for the purposes of the BEAD program if they engage in a program or service to close the digital divide.
- The requirements of an eligible CAI include:
  - Lacks access to a 1 Gbps upload/ 1 Gbps download broadband internet connection.

<sup>1</sup> [PHA Contact Information - HUD | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)

<sup>2</sup> <https://www.careeronestop.org/localhelp/americanjobcenters/find-american-job-centers.aspx>

<sup>3</sup> National Institute of Senior Centers



- o Has community members that identify with at least one of the following covered populations AND/OR the institution serves at least one of the covered populations:
  - Aging Individuals
  - Incarcerated or Recently Incarcerated Individuals
  - Individuals with a Language Barrier
  - Individuals with a Disability
  - Low-Income Households
  - Racial/Ethnic Minorities
  - Rural Residents
  - Veterans
- o To verify that the institution facilitates broadband use to vulnerable populations, it must provide at least one of the following digital services for their community's use:
  - Has a process for offering community members access to laptops, desktops, tablets, hotspots, and/or other digital devices.
  - Hosts digital skills training for their community.
  - A staff member that serves as a digital navigator, technical support, and/or broadband adoption support.
- It is important to note that American Samoa does not have street addresses. Address verification will be based on documentation provided by CAI or publicly available or searchable information.

The BCORD Office also drew on state, territorial, county and municipal resources to identify additional eligible community anchor institutions that were not contained in the data sources listed above. In addition, the Eligible Entity used the Initial Proposal public comment process to ensure that all relevant institutions meeting the CAI criteria are included.

The BCORD Office, through members of the BROADBANDiNEI Working Group and BROADBAND Steering Committee members, created a CAI list by inventorying and surveying existing organizations and agencies; reviewing their broadband accessibility data, available technical resources availability, covered population served, and digital services provided. Members of these groups are inclusive of representatives from public and private sectors, civil society, non-profit organizations and community-at-large. The information collected will allow the BCORD office to verify eligible CAIs and their broadband speeds and services. During the challenge process, all additional identified CAIs within American Samoa will be considered in the final CAI list. American Samoa will consider the participation of other community service-based organizations that meet the requirements of an eligible CAI listed above, such as faith-based organizations or organizations that are designated as evacuation centers, emergency shelters, staging locations for emergency health services overflow, outreach and training based on an official list provided by the Department of Homeland Security. These organizations are not automatically qualified for inclusion as a Community Anchor Institution and are encouraged to submit a challenge to classify their organization as a CAI for the purposes of the BEAD program if they engage in a program or service to close the digital divide.



An organization may be deemed ineligible by the BCORD Office if the organization does not meet all the criteria including one or more of the following: unable to verify a physical location; unable to confirm broadband connectivity; does not serve at least one of the following covered populations AND/OR the institution serves at least one of the covered populations: Aging Individuals, Incarcerated or Recently Incarcerated Individuals, Individuals with a Language Barrier, Individuals with a Disability, Low-Income Households, Racial/Ethnic Minorities, Rural Residents and Veterans; unable to verify that the institution facilitates broadband use to vulnerable populations or provide at least one of the following digital services for their community's use: (1) has a process for offering community members access to laptops, desktops, tablets, hotspots, and/or other digital devices.; (2) Hosts digital skills training for their community.; and 3) A staff member that serves as a digital navigator, technical support, and/or broadband adoption support. Thus, while these are important institutions for our communities, they do not qualify under the existing definition of community anchor institutions.

To assess the network connectivity needs of the types of eligible community anchor institutions listed above, the broadband office conducted ongoing weekly working group meetings, monthly broadband steering committee meetings, direct outreach meetings, webinars, office hours with internet service providers, government agencies as well as community organizations at large. The BCORD Office, as an office of the American Samoa Department of Commerce, has a long-standing relationship with various community anchor institutions in community development, planning and services. The BCORD Office will continue to engage CAIs with work and planning towards the development of the BROADBANDiNEI Digital Equity Plan.

The file cai.csv with the current list of CAI locations, location ID, and/or latitude and longitude is available for download.

#### **1.4 Challenge Process (Requirement 7)**

##### **NTIA BEAD Model Challenge Process Adoption**

American Samoa is electing to adopt the NTIA BEAD Model Challenge (1.4.1). The BCORD Office may make additional modifications (1.4.2). The BCORD Office will adopt the BEAD Eligibility Entity Planning Toolkit (1.4.3).

##### **Modifications to Reflect Data Not Present in the National Broadband Map**

***If applicable, describe any modifications to classification of broadband serviceable locations in the Eligible Entity's jurisdiction as "served," "underserved," or "unserved," and provide justification for each modification.***

1. DSL Modification - The BCORD Office 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.
2. Speed Test Modifications - The BCORD Office 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) 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.

- a. The BCORD Office 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.
  - b. The BCORD Office will have a speed test available on BCORD website customized for Am.Samoa to be used for both pre-challenge and formal challenge process.
3. Latency Modifications - The BCORD Offices will deem all broadband services in American Samoa as low latency, in accord with the BEAD NOFO's methodology for determining latency described above. Failure to apply the BEAD NOFO's latency methodology will result in a mischaracterization of, and failure to prioritize BEAD deployment funding to, unserved BSLs and then to underserved BSLs. It also would prevent potential participants in the challenge process from focusing their efforts based on an accurate list of served, unserved and underserved locations, resulting in a less robust challenge process that is contrary to the policy goals of our office and NTIA. This pre-challenge process modification for latency may be challenged and any such challenge may be rebutted by the provider. To the extent testing shows that data transmitted round trip between the customer premises and the point in the non-contiguous area where traffic is aggregated for transport to the continental U.S. exceeds 100 ms, that would be a legitimate basis for a latency challenge during the Challenge Process. Whether such a challenge would be sustained would depend on whether it met applicable evidence requirements, the information provided in any possible rebuttal, and other relevant factors under the rules adopted for our Challenge Process.
- (1) Subject to the exceptions identified in Section IV.B.7.a of the BEAD NOFO, Funded Networks shall deliver Reliable Broadband Service with speeds of not less than 100 Mbps for downloads and 20 Mbps for uploads.(2) In addition, 95 percent of latency measurements during testing windows must fall at or below 100 milliseconds round-trip time.(3) This approach ensures a connection that supports reasonably foreseeable real-time applications. Funded Network connections to Eligible Community Anchor Institutions shall be capable of delivering service at speeds not less than 1 Gigabit per second for downloads and 1 Gigabit per second for uploads.(4), and can be used to provide business data services.(5) Notes: (1)Performance Measures Reconsideration Order, 34 FCC Rcd at 10114-16, paras. 17-19. (2)80 percent of a provider's download and upload measurements must be at or above 80 percent of the required speed (i.e., an 80/80 standard). See Performance Measures Order, 34 FCC Rcd at 6528, para. 51. (3)See id., 34 FCC Rcd at 6527-28, para. 50. (4)These requirements are consistent with § 60401(e)(3)(C) of the Infrastructure Act. (5)The term "business data service" refers to the dedicated point-to-point transmission of data at certain guaranteed speeds and service levels using high-capacity connections. See Business Data Services in an Internet Protocol Environment et al., WC Docket No. 16-143 et al., Report and Order, 32 FCC Rcd 3459, 3463 para. 6 (2017).

### **Deduplication of Funding**

American Samoa plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.





***Describe the process that will be used to identify and remove locations subject to enforceable commitments.***

The BCORD Office will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult at least the following data sets:

1. The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.<sup>4</sup>
2. Data sets from state broadband deployment programs that rely on funds from the Capital Projects Fund and the State and Local Fiscal Recovery Funds administered by the U.S. Treasury.
3. American Samoa and local data collections of existing enforceable commitments.

The BCORD Office will make a best effort to create a list of BSLs subject to enforceable commitments based on state/territory or local grants or loans. If necessary, the broadband office will translate polygons or other geographic designations (e.g., a county or utility district) describing the area to a list of Fabric locations. The broadband office will submit this list, in the format specified by the FCC Broadband Funding Map, to NTIA.<sup>5</sup>

The BCORD Office will review its repository of existing state and local broadband grant programs to validate the upload and download speeds of existing binding agreements to deploy broadband infrastructure. In situations in which the American Samoa or local program did not specify broadband speeds, or when there was reason to believe a provider deployed higher broadband speeds than required, the broadband office will reach out to the provider to verify the deployment speeds of the binding commitment. The broadband office will document this process by requiring providers to sign a binding agreement certifying the actual broadband deployment speeds deployed.

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

The BCORD Office has compiled a list of federal, state and local enforceable commitments as documented in Requirement 3, Table 1 of Volume 1 of the Initial Proposal.

### **Challenge Process Design**

***Describe the plan to conduct an evidence-based, fair, transparent, and expeditious challenge process.***

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

### **Permissible Challenges**

The broadband office will only allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by the Eligible Entity,
- Community anchor institution BEAD eligibility determinations,

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<sup>4</sup> The broadband funding map published by FCC pursuant to IIJA § 60105 is referred to as the "FCC Broadband Funding Map."

<sup>5</sup> Guidance on the required format for the locations funded by state or territorial and local programs will be specified at a later date, in coordination with FCC.



- BEAD eligibility determinations for existing broadband serviceable locations (BSLs),
- Enforceable commitments, or
- Planned service.

### Permissible Challengers

During the BEAD Challenge Process, the broadband office will only allow challenges from nonprofit organizations, units of local and tribal governments, and broadband service providers.

### Challenge Process Overview

The challenge process conducted by the broadband office will include four phases spanning 120 days<sup>6</sup>. Implementation of the challenge process may consist of work done by the BCORD office, Broadband Steering Committee (BSC), support team, contractors and other relevant subject matter experts. The BCORD Office and BSC may directly review challenges and verify for accuracy of submissions. Eligibility and funding decisions will be made by the BCORD Office and BSC. This timeline may change depending on the approval of Volume 1 and Volume 2 by NTIA.

1. **Publication of Eligible Locations:** Prior to beginning the Challenge Phase, the BCORD office will publish the set of locations eligible for BEAD funding, which consists of the locations resulting from the activities outlined in Sections 5 and 6 of the NTIA BEAD Challenge Process Policy Notice (e.g., administering the deduplication of funding process). This office will also publish locations considered served, as they may be challenged. The BCORD office will tentatively publish locations considered served June 1, 2024 or sooner.
2. **Challenge Phase:** During the Challenge Phase, the challenger may submit the challenge through a challenge portal available through the BCORD website <https://www.doc.as.gov/broadband>. This challenge will be visible to the service provider whose service availability and performance is being contested. The BCORD Office will notify the provider of the challenge through email, which will include related information about timing for the provider's response. Information relating to the challenge must be uploaded to the portal. All communications regarding the challenge can be obtained and viewed via the challenge portal. Challenger and challenge provider will be notified by the challenge portal and as appropriate via email of the status of the challenge process. After this stage, the location will enter the "challenged" state.
  - a. **Minimum Level of Evidence Sufficient to Establish a Challenge:** The challenge portal will verify that the address provided can be found in the Fabric and is a BSL. The challenge portal will confirm that the challenged service is listed in the National Broadband Map and meets the definition of reliable broadband service. The challenge will confirm that the email address is reachable by sending a confirmation message to the listed contact email. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition (OCR). For availability challenges, the broadband office will manually verify that the evidence submitted falls within the categories stated in the NTIA BEAD Challenge Process Policy Notice and the document is unredacted and dated.
  - b. **Timeline:** Challengers will have 14 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, community anchor

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<sup>6</sup> The NTIA BEAD Challenge Process Policy Notice allows *up to* 120 days. Broadband offices may modify the model challenge process to span up to 120 days, as long as the timeframes for each phase meet the requirements outlined in the NTIA BEAD Challenge Process Policy Notice.



institutions, and existing enforceable commitments are posted. The Challenge Phase will tentatively take place June 1 - 14, 2024.

3. **Rebuttal Phase:** Only the challenged service provider may rebut the reclassification of a location or area with evidence, causing the location or locations to enter the “disputed” state. If a challenge that meets the minimum level of evidence is not rebutted, the challenge is sustained. A provider may also agree with the challenge and thus transition the location to the “sustained” state. Providers must regularly check the challenge portal notification method (e.g., email) for notifications of submitted challenges.
  - a. **Timeline:** Providers will have 14 calendar days from notification of a challenge to provide rebuttal information to the broadband office. The Rebuttal Phase will tentatively take place June 15 - 30, 2024.
4. **Final Determination Phase:** During the Final Determination phase, the broadband office will make the final determination of the classification of the location, either declaring the challenge “sustained” or “rejected.”
  - a. **Timeline:** Following intake of challenge rebuttals, the broadband office will make a final challenge determination within 60 calendar days of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received. The Final Determination will tentatively take place July 2024.

Upon completion of the challenge process, the BCORD Office will generate a CSV file that summarizes the challenges received and their adjudication. The BCORD Office will submit the file to the NTIA.

Since the BCORD office functions as both the overarching governing body for the Territory and also as the local governing body, in the absence of distinct local governing bodies for localities within the Territory, to promote a transparent, evidence-based, fair, and expeditious challenge process, the BCORD Office will identify a committee responsible for reviewing all challenges. The review committee will consist of members qualified to review the challenges. If there is a perceived or potential conflict of interest with any committee member, that member must recuse him/herself from the review process. This will ensure that all reviewers apply unbiased standards of review to all challenges, and avoid even the appearance of a conflict of interest, especially when evaluating challenges. An audit log must be kept for all challenges received by the BCORD. This ensures that staff and/or contractors responsible for intake, processing, and adjudication of challenges will maintain operational autonomy from staff and/or contractors who may be submitting challenges.

### **Evidence & Review Approach**

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, the broadband office will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. The broadband office will document the standards of review to be applied in a Standard Operating Procedure and will require reviewers to document their justification for each determination. The broadband office plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted. The broadband office will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations. Unless otherwise noted, “days” refers to calendar days.



| <b>Code</b> | <b>Challenge Type</b> | <b>Description</b>   | <b>Specific Examples</b>  | <b>Permissible rebuttals</b>  |
|-------------|-----------------------|--|---|---|
| A           | Availability          | The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU). | <ul style="list-style-type: none"><li>• Screenshot of provider webpage.</li><li>• A service request was refused within the last 180 days (e.g., an email or letter from provider).</li><li>• Lack of suitable infrastructure (e.g., no fiber on pole).</li><li>• A letter or email dated within the last 365 days that a provider failed to schedule a service installation or offer an installation date within 10 business days of a request.<sup>7</sup></li><li>• A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation</li></ul> | <ul style="list-style-type: none"><li>• Provider shows 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>• 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.</li></ul> |

<sup>7</sup> A standard broadband installation is defined in the Broadband DATA Act (47 U.S.C. § 641(14)) as “[t]he initiation by a provider of fixed broadband internet access service [within 10 business days of a request] in an area in which the provider has not previously offered that service, with no charges or delays attributable to the extension of the network of the provider.”



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|   |         |   | fee to connect this location or that a Provider quoted an amount in excess of the provider's standard installation charge in order to connect service at the location. |   |
| S | Speed   | The actual speed of the service tier falls below the unserved or underserved thresholds. <sup>8</sup> | Speed test by subscriber, showing the insufficient speed and meeting the requirements for speed tests.   | Provider has countervailing speed test evidence showing sufficient speed, e.g., from their own network management system. <sup>9</sup>        |
| L | Latency | The round-trip latency of the broadband service exceeds 100 ms <sup>10</sup> .                        | Speed test by subscriber, showing the excessive latency.   | Provider has countervailing speed test evidence showing latency at or below 100 ms, e.g., from their own network management system or the CAF |

<sup>8</sup> The challenge portal has to gather information on the subscription tier of the household submitting the challenge. Only locations with a subscribed-to service of 100/20 Mbps or above can challenge locations as underserved, while only locations with a service of 25/3 Mbps or above can challenge locations as unserved. Speed challenges that do not change the status of a location do not need to be considered. For example, a challenge that shows that a location only receives 250 Mbps download speed even though the household has subscribed to gigabit service can be disregarded since it will not change the status of the location to unserved or underserved.

<sup>9</sup> As described in the NOFO, a provider's countervailing speed test should show that 80 percent of a provider's download and upload measurements are at or above 80 percent of the required speed. See *Performance Measures Order*, 33 FCC Rcd at 6528, para. 51. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.

<sup>10</sup> *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).



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|   |                       |  |  | performance measurements.<br><sup>11</sup>   |
| D | Data cap              | The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer. <sup>12</sup> | <ul style="list-style-type: none"> <li>• Screenshot of provider webpage.</li> <li>• Service description provided to consumer.</li> </ul> | Provider has terms of service showing that it does not impose an unreasonable data cap or offers another plan at the location without an unreasonable cap. |
| T | Technology            | The technology indicated for this location is incorrect.   | Manufacturer and model number of residential gateway (CPE) that demonstrates the service is delivered via a specific technology.         | Provider has countervailing evidence from their network management system showing an appropriate residential gateway that matches the provided service.    |
| B | Business service only | The location is residential, but the service offered is marketed or available only to businesses.                                  | Screenshot of provider webpage.  | Provider documentation that the service listed in the BDC is available at the location and is marketed to consumers.                                       |

<sup>11</sup> *Ibid.*

<sup>12</sup> An unreasonable capacity allowance is defined as a data cap that falls below the monthly capacity allowance of 600 GB listed in the FCC 2023 Urban Rate Survey (FCC Public Notice DA 22-1338, December 16, 2022). Alternative plans without unreasonable data caps cannot be business-oriented plans not commonly sold to residential locations. A successful challenge may not change the status of the location to unserved or underserved if the same provider offers a service plan without an unreasonable capacity allowance or if another provider offers reliable broadband service at that location.



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| E | Enforceable Commitment | The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.  | Enforceable commitment by service provider (e.g., authorization letter). In the case of Tribal Lands, the challenger must submit the requisite legally binding agreement between the relevant Tribal Government and the service provider for the location(s) at issue (see Section 6.2 above).   | Documentation that the provider has defaulted on the commitment or is otherwise unable to meet the commitment (e.g., is no longer a going concern).   |
| P | Planned service        | The challenger has knowledge that broadband will be deployed at this location by June 30, 2024, without an enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment. | <ul style="list-style-type: none"><li>• Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained.</li><li>• Contracts or a similar binding agreement between the Eligible Entity and the provider committing that planned service will meet the BEAD definition</li></ul> | Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a going concern) or that the planned deployment does not meet the required technology or performance requirements. |



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|   |                                    |   | and requirements of reliable and qualifying broadband even if not required by its funding source ( <i>i.e.</i> , a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2024. |  |
| N | Not part of enforceable commitment | This location is in an area that is subject to an enforceable commitment to less than 100% of locations and the location is not covered by that commitment. (See BEAD NOFO at 36, n. 52.) | Declaration by service provider subject to the enforceable commitment.  |  |
| C | Location is a CAI                  | The location should be classified as a CAI.   | Evidence that the location falls within the definitions of CAIs set by the Eligible Entity. <sup>13</sup>   | Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation. |

<sup>13</sup> For example, eligibility for FCC e-Rate or Rural Health Care program funding or registration with an appropriate regulatory agency may constitute such evidence, but the Eligible Entity may rely on other reliable evidence that is verifiable by a third party.





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| R | Location is not a CAI | The location is currently labeled as a CAI but is a residence, a non-CAI business, or is no longer in operation. | Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation. | Evidence that the location falls within the definitions of CAIs set by the Eligible Entity or is still operational. |
|---|-----------------------|--|--|---|

### Area and MDU Challenge

The broadband office will administer area and MDU challenges for challenge types A, S, L, D, and T. An area challenge reverses the burden of proof for availability, speed, latency, data caps and technology if a defined number of challenges for a particular category, across all challengers, have been submitted for a provider. Thus, the provider receiving an area challenge or MDU challenge must demonstrate that they are indeed meeting the availability, speed, latency, data cap and technology requirement, respectively, for all locations it serves within the area or all units within an MDU. The provider can use any of the permissible rebuttals listed above.

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 are challenged.

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. Here, the MDU is defined as one broadband serviceable location listed in the Fabric.<sup>14</sup> An MDU challenge counts towards an area challenge (i.e., six successful MDU challenges in a census block group may trigger an area challenge).

Each type of challenge and each technology and provider is considered separately, e.g., an availability challenge (A) does not count towards reaching the area threshold for a speed (S) challenge. If a provider offers multiple technologies, such as DSL and fiber, each is treated separately since they are likely to have different availability and performance.

Area challenges for availability need to be rebutted in whole or by location with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or HFC infrastructure or by subscriber information. For fixed wireless service, the challenge system will offer representative random, sample of the area in contention, but no fewer than 10, where the provider must demonstrate service availability and speed (e.g., with a mobile test unit).<sup>15</sup> For MDU challenges, the rebuttal must show that the inside wiring is reaching all units and is of sufficient quality to support the claimed level of service.

<sup>14</sup> For example, a complex of apartment buildings may be represented by multiple BSLs in the Fabric.

<sup>15</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.



## Speed Test Requirements

The BCORF Office 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:

1. A reading of the physical line speed provided by the residential gateway, (i.e., DSL modem, cable modem (for HFC),
2. ONT (for FTTH), or fixed wireless subscriber module.
3. A reading of the speed test available from within the residential gateway web interface.
4. A reading of the speed test found on the service provider's web page.
5. A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using:
  - a. Ookla speedtest.net
  - a. M-lab Speed Test by Measurement Lab,
  - b. Cloudflare Internet Speed Test - Measure Network Performance | Cloudflare
  - c. Netflix [Fast.com](https://www.netflix.com/4ms).

Each speed test measurement must include:

- The time and date the speed test was conducted.
- The provider-assigned internet protocol (IP) address, either version 4 or version 6, identifying the residential gateway conducting the test.

Each group of three speed tests must include:

- The name and street address of the customer conducting the speed test.
- A certification of the speed tier the customer subscribes to (e.g., a copy of the customer's last invoice).
- An agreement, using an online form provided by the BCORF Office, grants access to these information elements to the BCORF Office, any contractors supporting the challenge process, and the service provider.

The IP address and the subscriber's name and street address are considered personally identifiable information (PII) and thus are not disclosed to the public (e.g., as part of a challenge dashboard or open data portal).

Each location must conduct three speed tests on three different days; the days do not have to be adjacent. The median of the three tests (i.e., the second highest (or lowest) speed) is used to trigger a speed-based (S) challenge, for either upload or download. For example, if a location claims a broadband speed of 100 Mbps/25 Mbps and the three speed tests result in download speed measurements of 105, 102 and 98 Mbps, and three upload speed measurements of 18, 26 and 17 Mbps, the speed tests qualify the location for a challenge, since the measured upload speed marks the location as underserved.



Speed tests may be conducted by subscribers, but speed test challenges must be gathered and submitted by units of local government, nonprofit organizations, or a broadband service provider.

Subscribers submitting a speed test must indicate the speed tier they are subscribing to. Since speed tests can only be used to change the status of locations from “served” to “underserved”, only speed tests of subscribers that subscribe to tiers at 100/20 Mbps and above are considered. If the household subscribes to a speed tier of 100/20 Mbps or higher and the speed test yields a speed below 100/20 Mbps, this service offering will not count towards the location being considered served. However, even if a particular service offering is not meeting the speed threshold, the eligibility status of the location may not change. For example, if a location is served by 100 Mbps licensed fixed wireless and 500 Mbps fiber, conducting a speed test on the fixed wireless network that shows an effective speed of 70 Mbps does not change the status of the location from served to underserved.

A service provider may rebut an area speed test challenge by providing speed tests, in the manner described above, for at least 10% of the customers in the challenged area. The customers must be randomly selected. Providers must apply the 80/80 rule<sup>16</sup>, i.e., 80% of these locations must experience a speed that equals or exceeds 80% of the speed threshold. For example, 80% of these locations must have a download speed of at least 20 Mbps (that is, 80% of 25 Mbps) and an upload speed of at least 2.4 Mbps to meet the 25/3 Mbps threshold and must have a download speed of at least 80 Mbps and an upload speed of 16 Mbps to be meet the 100/20 Mbps speed tier. Only speed tests conducted by the provider between the hours of 7 pm and 11 pm local time will be considered as evidence for a challenge rebuttal.

**Public Comment**

|                                  |                       |
|----------------------------------|-----------------------|
| Release Draft for Public Comment | 10/06/2023-11/05/2023 |
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The Initial Proposal Volume 1 was released for public comment for a period of 30 days, 10/06/2023 to 11/05/2023. No public comments were received during the 30 day duration.

**Transparency Plan**

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, the broadband office will, upon approval from NTIA, publicly post an overview of the challenge process phases, challenge timelines, and instructions on how to submit and rebut a challenge. This documentation will be posted publicly for at least a week prior to opening the challenge submission window. The broadband office also plans to actively inform all units of local government of its challenge process and set up regular touchpoints to address any comments, questions, or concerns from local governments, nonprofit organizations, and Internet service providers. Relevant stakeholders can sign up on the broadband office website <https://broadband.as.gov/> for challenge process updates. They can engage and contact the BCORD Office through the designated email address [bcord@doc.as.gov](mailto:bcord@doc.as.gov). During the Challenge

<sup>16</sup> The 80/80 threshold is drawn from the requirements in the CAF-II and RDOF measurements. See BEAD NOFO at 65, n. 80, Section IV.C.2.a.



Phase, a challenger will submit the challenge through email [bcord@doc.as.gov](mailto:bcord@doc.as.gov) or a hardcopy may be dropped off the BCORD Office at the A.P. Lutali Executive Office Building (EOB) 2nd Floor, American Samoa Department of Commerce. The BCORD Office will compile a list of challenges received, emails and contacts list of all challengers so they may communicate and be notified about status and updates. Providers and challengers will be notified of challenges via email from the BCORD Office.

Beyond actively engaging relevant stakeholders, the broadband office will also post all submitted challenges and rebuttals before final challenge determinations are made, including:

- the provider, nonprofit, or unit of local government that submitted the challenge,
- the census block group containing the challenged broadband serviceable location,
- the provider being challenged,
- the type of challenge (e.g., availability or speed), and
- a summary of the challenge, including whether a provider submitted a rebuttal.

The BCORD Office will not publicly post any personally identifiable information (PII) or proprietary information, including subscriber names, street addresses and customer IP addresses. To ensure all PII is protected, the broadband office will review the basis and summary of all challenges and rebuttals to ensure PII is removed prior to posting them on the website. Additionally, guidance will be provided to all challengers as to which information they submit may be posted publicly.

The BCORD Office will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law. If any of these responses do contain information or data that the submitter deems to be confidential commercial information that should be exempt from disclosure under state open records laws or is protected under applicable state privacy laws, that information should be identified as privileged or confidential. Otherwise, the responses will be made publicly available.

The BCORD Office will adhere to relevant local laws and regulations pertaining to the protection of PII.

The BCORD Office will create an online challenge portal for these challenges to be made through, this will be available on our website upon the formal launch of the challenge process. The BCORD Office will communicate with the challengers via email. The BCORD Office will collect all necessary information related to the challengers and the information will be exportable into a CSV file that summarizes the challenges and their adjudication for submission to the NTIA.

