

North Dakota BEAD Challenge Process Frequently Asked Questions (FAQs):

Q1: What is the BEAD Program?

A: The Broadband Equity, Access, and Deployment (BEAD) Program is a federal initiative aimed at expanding access to reliable, high-speed internet across the United States. It provides funding and guidance to states and territories to enhance broadband infrastructure, particularly in unserved and underserved areas.

Q2: What is the Challenge Process in the BEAD Program?

A: The Challenge Process is a procedure set up by each state or territory participating in the BEAD Program. It allows nonprofit organizations, units of local and tribal governments, and broadband service providers to contest the eligibility determinations made in a state's Initial Proposal regarding whether specific locations or community anchor institutions are eligible for grant funds.

Q3: What is the Importance of the Challenge Process in the BEAD Program?

A: The challenge process is crucial for facilitating distribution of BEAD funds based on accurate, up-to-date information about broadband needs. It helps identify truly underserved areas and allows for allocation of resources where they are most needed.

Q4: How Does the Challenge Process Work?

A: The Challenge Process will include four phases:

- Publication of Eligible Locations: Initial list of locations eligible for funding is published.
- Challenge Phase: Eligible challengers submit their challenges through a designated portal.
- Rebuttal Phase: Service providers can rebut the challenges.
- Final Determination Phase: The State makes final decisions on the challenges.

Q5: How do I participate?

A: During the BEAD Challenge Process, federal requirements only allow challenges from nonprofit organizations, units of local and tribal governments, and broadband service providers. While NTIA guidelines state that residents cannot submit challenges directly, they are encouraged to work with local governments and non-profit entities to provide speed test data to support challenges.

Q6: What will the Publication of Eligible Locations Phase Entail?

A: Prior to beginning the Challenge Phase, the State Broadband Program 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). The State will also publish locations considered served, as they may be challenged.

Q7: What will the Challenge Phase Entail?

A: During the Challenge Phase, the challenger will submit the challenge through the State Broadband Program Office challenge portal. This challenge will be visible to the service provider whose service availability and performance is being contested. The portal will notify the provider of the challenge by email, which will include related information about timing for the provider's response. After this stage, the location will enter the "challenged" state.

Q8: What will the Rebuttal Phase Entail?

A: 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.

Q9: What will the Final Determination Phase Entail?

A: During the Final Determination phase, the State Broadband Program Office will make the final determination of the classification of the location, either declaring the challenge “sustained” or “rejected.”

Q10: What Types of Challenges will North Dakota Permit?

A: The State Broadband Program Office will allow challenges on the following grounds:

- **Availability:** The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).
- **Speed:** The actual speed of the service tier falls below the unserved or underserved thresholds. For locations reclassified through the Speed Test Modification, the actual speed of the service tier is above underserved thresholds.
- **Latency:** The round-trip latency of the broadband service exceeds 100 ms.
- **Data cap:** The only service plans marketed to consumers impose an unreasonable capacity allowance (“data cap”) on the consumer.
- **Technology:** The technology indicated for this location is incorrect.
- **Business Service Only:** The location is residential, but the service offered is marketed or available only to businesses.
- **Enforceable Commitment:** The challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation.
- **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.
- **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.)
- **Location is a CAI:** The location should be classified as a CAI.
- **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.

Q11: How Does the State Plan to Maintain Transparency During the Challenge Process?

A: The State is committed to maintaining transparency during the challenge process, conducting information sessions, actively engaging with stakeholders, and publicly posting final determinations.

Q12: What Happens After the Challenge Process is Completed?

A: After the challenge process has concluded, the State Broadband Program Office will make final determinations on the challenges. Successful challenges will inform the State’s broadband deployment plans and the allocation of funds.