

# New Jersey State Broadband Challenge Process



NJ Office of Broadband Connectivity

# Agenda

- Process overview
- Challenge requirement basics
- Examples of allowable challenges
- After the challenge Process
- Speed test requirements
- Q&A
- *All date are subject to change based on NTIA approval and guidance*

# Challenge Process Overview

The Office of Broadband Connectivity will launch a map which has been developed through the cooperation and support of numerous internet service providers (ISPs) that deliver service across the state. To improve its accuracy, the Office of Broadband Connectivity Broadband Map Bulk Challenge Process enables Non-Profits, Local Governments and ISPs in New Jersey to petition for changes to service availability data at multiple addresses.

# Who Can Challenge?

Under the federal policy for the BEAD Program, only the following entities (“Permissible Challengers”) will be permitted to submit formal challenges during the Broadband Challenge Process:

- Units of local and Tribal governments
- Nonprofit organizations
- Broadband service providers

# Permissible Challenges

The OBC will only allow challenges on the following grounds:

- The identification of eligible community anchor institutions, as defined by the **State of New Jersey**,
- Community anchor institution BEAD eligibility determinations,
- BEAD eligibility determinations for existing broadband serviceable locations (BSLs),
- Enforceable commitments, or
- Planned service.

# Challenge Process Overview

The challenge process conducted by the OBC will include four phases

- **Publication of Eligible Locations**
- **Challenge Phase**
- **Rebuttal Phase**
- **Final Determination Phase**

# Publication of Eligible Locations

- Prior to beginning the Challenge Phase, the OBC will publish the set of locations eligible for BEAD funding
- The office will also publish locations considered served, as they may be challenged.

*Locations eligible for BEAD funding will be tentatively published in March 2024, assuming OBC receives NTIA approval.*

# Challenge Phase

- During the Challenge Phase, the challenger will submit the challenge through the OBC 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 through an automated email, which will include related information about timing for the provider's response.
- After this stage, the location will enter the “challenged” state.



# 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.

**Timeline:** Providers will have 30 calendar days from notification of a challenge to provide rebuttal information to the OBC (*Tentative date: May 1<sup>st</sup>, 2024 – June 1<sup>st</sup> 2024*)

# Final Determination Phase

- During the Final Determination phase, the OBC will make the final determination of the classification of the location, either declaring the challenge “sustained” or “rejected.”

**Timeline:** Following intake of challenge rebuttals, the OBC plans to make a final challenge determination within 30 calendar days, and in no more than 60 days, of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received. *(Tentative date: June 1st, 2024 – July 1<sup>st</sup> 2024, but OBC will reserve an additional 30 days if needed)*

# Evidence & Review Approach

- The OBC 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.
  - Ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted.
  - Require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.

# Challenge Evidence

- **Availability** –service noted is not offered
  - Screenshots from provider website, letters, emails, etc.
- **Latency** –speed of latency threshold
  - Speed test showing excessive latency
- **Data Cap** –unreasonable capacity allowance
  - Screenshots from provider website
- **Technology** –type of service incorrectly listed
- Details from network equipment
- **Business Service Only** –business service offered at residence. Screenshots from provider website
- **Enforceable Commitment (Yes/No)** –tied to existing funding project
- **Community Anchor Institution (Yes/No)** – whether a location is a CAI
- **Planned Service** –service to be offered by ISP by June 30, 2024

# Area and Multi-Dwelling Unit Challenges

- The OBC will administer area and MDU challenges for challenge types availability, speed, latency, data caps and technology.
- 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.
  - Is triggered if 6 or more broadband serviceable locations using a particular technology and a single provider within a census block group are challenged.
- MDU challenge
  - Requires challenges by at least 3 units or 10% of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

# Speed Test Requirements

- Speed tests will be accept 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 Test Requirements

- Speed tests can take four forms:
  - 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.
  - A reading of the speed test available from within the residential gateway web interface.
  - A reading of the speed test found on the service provider's web page.

A speed test performed on a laptop or desktop computer within immediate proximity of the residential gateway, using a [speed test application from the list of applications approved by NTIA](#).

# Speed Test Requirements

## Each speed test measurement must include:

- The time and date the speed test
- The provider-assigned internet protocol (IP) address,

## 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 which will be provided by the **State of New Jersey**, that grants access to these information elements to the **State of New Jersey**, any contractors supporting the challenge process, and the service provider.
- 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.
- 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



**Any questions, please contact  
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