Key Differences between the BEAD Model Challenge Process and the CPUC's approved Initial Proposal Volume 1 Challenge Process

Comparing the Model to the Commission-Approved Challenge Process

May 14, 2024

California Public Utilities Commission

Welcome

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Agenda

1. Welcome
2. BEAD Overview
3. Challenge Process overview
4. Challenge Phase
5. Rebuttal Phase
6. Final Determination Phase
7. Next Steps

Housekeeping

Tips for getting the most out of this webinar

Closed Captions: English closed captions are available. Select "Show captions" on your toolbar. (Click the small arrow on the 'Show captions' button for more settings or to see a full transcript)

Q&A: Please add your questions via the Q&A function and answers will be added to the FAQs on the BEAD Challenge Process webpage.

Chat: Keep an eye on the chat because we will use it to send useful links to you.

BEAD overview

Andy Spurgeon

Chief Operating Officer

CTC Technology and Energy

BEAD Overview

What is the BEAD Program?

- The **Broadband Equity, Access, and Deployment** (BEAD) **Program** was created by the **bipartisan Infrastructure Investment and Jobs Act (IIJA)** in 2021

- Allocates **$42.45 billion of federal funding** to all 50 states, Washington D.C., and territories

- Administered by the **National Telecommunications and Information Administration (NTIA)**

- Goal of **expanding high-speed internet access** through infrastructure deployment

Funding priority
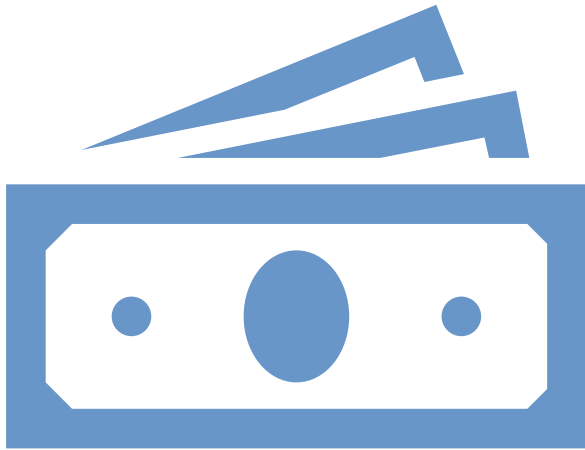
How will BEAD funding be prioritized?

🎯 **Unserved areas** that do not have access to internet service speeds ≥ 25/3 Mbps are the **top priority for BEAD funding**

🎯 **Underserved areas** that have internet service between 25/3 Mbps and 100/20 Mbps will **receive funding after unserved areas are connected**

🎯 **Community anchor institutions** with internet service under 1 Gbps symmetrical will receive funding **only if all unserved and underserved locations are connected**

The BEAD Program in California

In June 2023, California was allocated $1.86 billion in BEAD funds that will become available following completion of the federal planning and approval cycle.

The CPUC has submitted to the federal government the Five-Year Action Plan and Initial Proposal Volumes I & II.
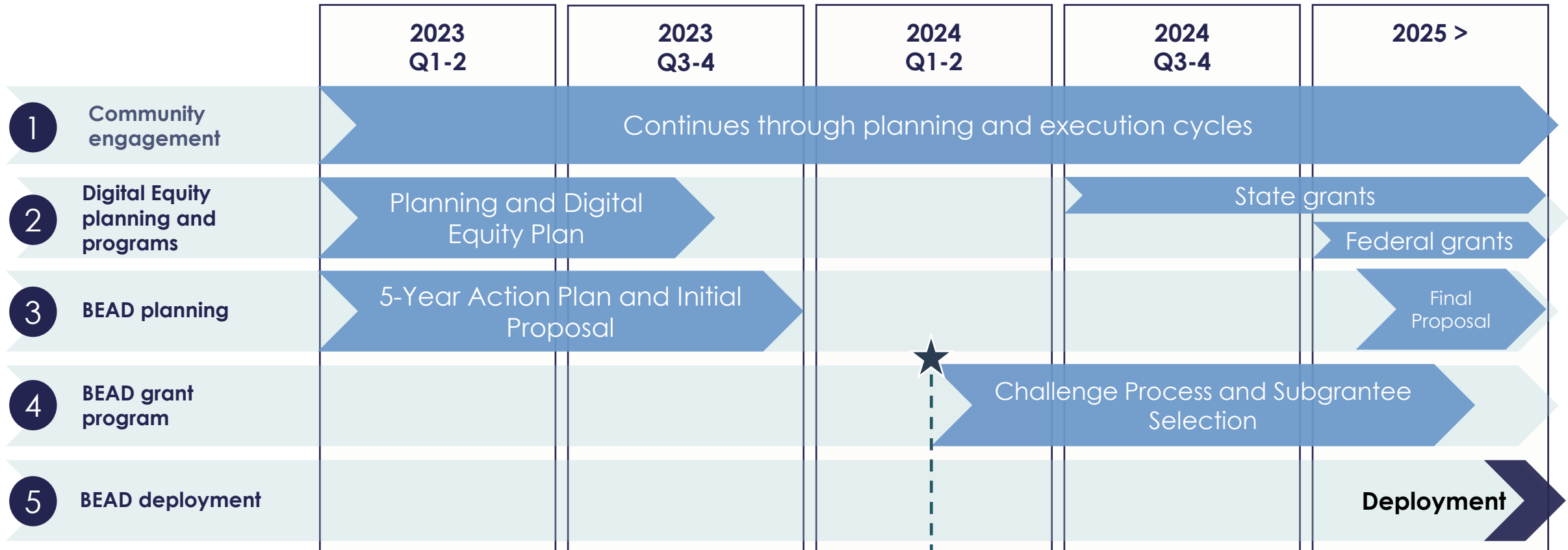
BEAD Planning	Challenge Process, followed by grant program	Deployment
2023	**2024**	**2025**

Overall BEAD status and timeline

		2023 Q1-2	2023 Q3-4	2024 Q1-2	2024 Q3-4	2025 >
1	Community engagement	Continues through planning and execution cycles				
2	Digital Equity planning and programs	Planning and Digital Equity Plan			State grants / Federal grants	
3	BEAD planning	5-Year Action Plan and Initial Proposal				Final Proposal
4	BEAD grant program			Challenge Process and Subgrantee Selection		
5	BEAD deployment					Deployment

We are here: Challenge Process

Challenge Process overview

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Chief Operating Officer

CTC Technology and Energy

Purpose

What is the BEAD Challenge Process?

🎯 Will determine **locations** and **community anchor institutions** within the state that are **eligible for BEAD funding**

🎯 Allows entities the **opportunity to offer input on** whether **specific locations** are not accurately reported in the datasets and therefore **should be eligible for BEAD funding**

Note: The Commission approved the Challenge Process on May 9 as outlined in California's Initial Proposal Volume I
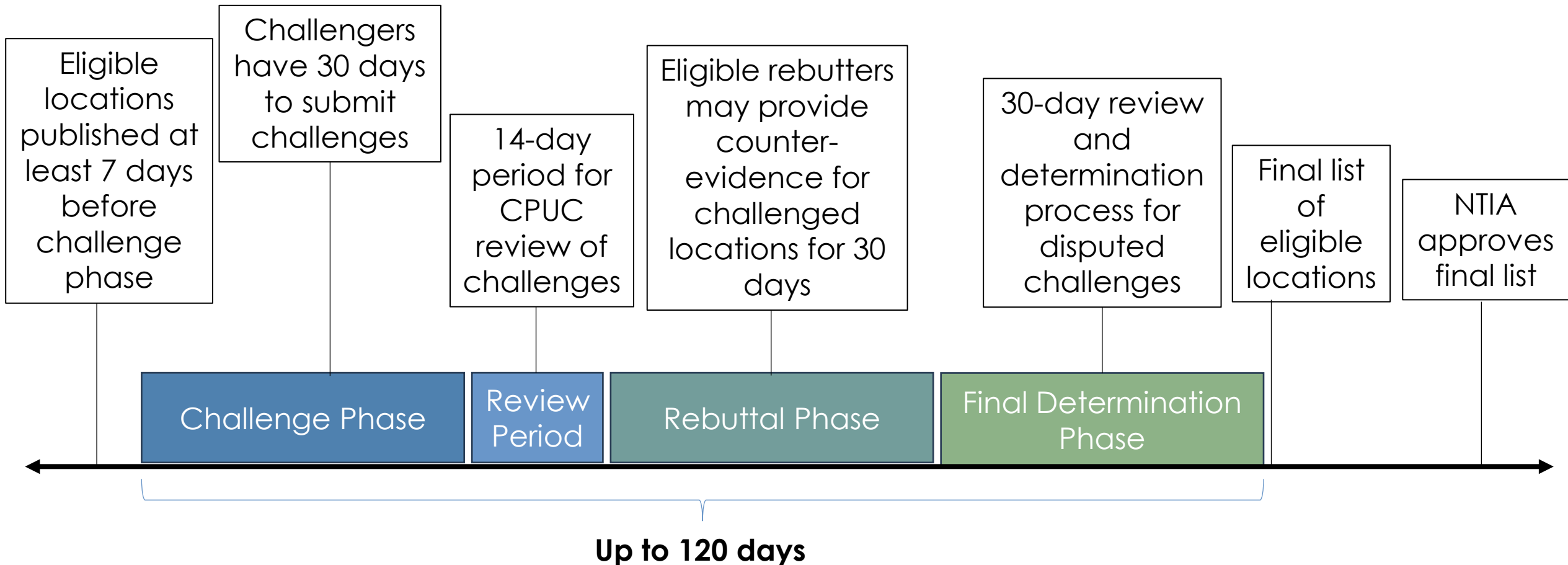
Relevance

Why is the BEAD Challenge Process so important?

Allows stakeholders to challenge the existing broadband map and enables the state to submit the most **updated** and **accurate location data** for NTIA's approval.

🎯 Helps determine which locations are **eligible for BEAD funding**

🎯 Necessary to achieving **the goal of the BEAD program** (providing all Americans with reliable internet service)

🎯 **Prevents the misrepresentation of data** regarding locations that need funding for deployment

Timeline of events according to California's Initial Proposal Volume I

Eligible locations published at least 7 days before challenge phase

Challengers have 30 days to submit challenges

14-day period for CPUC review of challenges

Eligible rebutters may provide counter-evidence for challenged locations for 30 days

30-day review and determination process for disputed challenges

Final list of eligible locations

NTIA approves final list

Challenge Phase

Review Period

Rebuttal Phase

Final Determination Phase

Up to 120 days

Timeline considerations

A number of factors will determine when the Challenge Process can be initiated and when exact dates can be finalized:

1. **The release of Version 4 of the NTIA Broadband Serviceable Location Fabric Data** and associated updates to the National Broadband Map will drive the process. Version 4 is anticipated to be released on the Broadband Map in late May.

2. **Data processing time** for the updated data from Version 4 to be entered into the Challenge Portal

3. **Publishing the list of eligible locations** at least 7 days before the Challenge Phase begins as required by NTIA

Who can submit a challenge?

Local governments

Nonprofit organizations

Tribal governments

Broadband service providers

California Public Utilities Commission

Key Differences between the BEAD Model Challenge Process and the CPUC's approved Initial Proposal Volume I Challenge Process

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Can individuals participate?

- 🎯 While NTIA requirements don't allow individuals to submit challenges directly, **California residents will play an important role in the challenge process** by identifying inaccuracies and working with eligible participating local governments, Tribal nations, or nonprofits to challenge the maps.

- 🎯 Residents will be able to **upload evidence to a Challenge Process website** for eligible challengers to submit on their behalf, using a publicly available website that includes a speed test module

Permissible challenges

- 🎯 **Internet speeds and other specifications** for Broadband Serviceable Locations included in the FCC's National Broadband Map (to determine BEAD eligibility for those locations)
- 🎯 **Community anchor institution eligibility and identification**
- 🎯 **Enforceable commitments**
- 🎯 **Planned service**

Challenge types

- Availability
- Speed
- Latency
- Data cap
- Technology
- Business service only
- Enforceable commitment
- Planned service
- Not part of enforceable commitment
- Location is a CAI
- Location is not a CAI
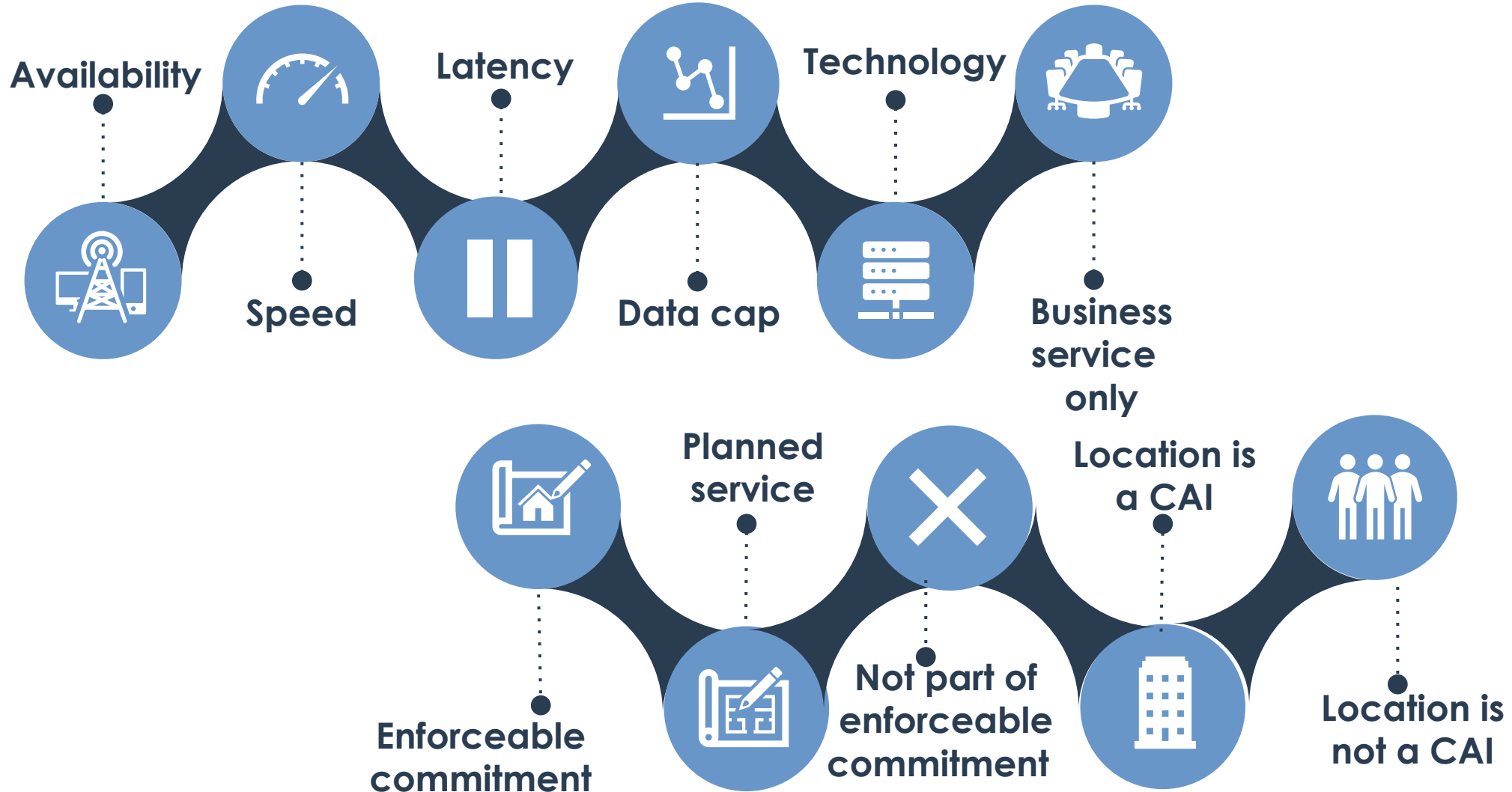
Area and MDU challenges

Area and MDU challenges can apply for the following challenge types:

- Availability
- Speed
- Latency
- Data cap
- Technology

Area and Multiple Dwelling Unit (MDU) challenges **reverse the burden of proof to the provider** if a certain number of challenges have been submitted for a provider serving an area or MDU.

- **Area challenges** are triggered if **six or more** broadband serviceable locations using a specific technology and reportedly served by a single provider within a census block group are challenged.

- **MDU challenges** are triggered if challenges are submitted for one unit for MDUs with less than 15 units, two units for MDUs of between 16 and 24 units, and at least three units for larger MDUs.

Challenge Phase

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The CPUC's updated definition of 'community anchor institution'

- The NTIA defines 'community anchor institution' in the **Model Challenge Process** as:

  "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 and U.S. Department of Housing and Urban Development-assisted housing organization), or community support organization that facilitates greater use of broadband service by vulnerable populations"

- The CPUC added to this definition **'community support organizations'**:

  "Community support organizations, such as Headstart locations, family services, and community action agencies, identified through agency-related data, that support vulnerable populations"

The CPUC added the following pre-challenge modifications

- Pre-Challenge Process modifications are made by the State to the **initial list of locatior eligible** for BEAD funding

- To get the most accurate data representing the existing broadband infrastructure landscape, the CPUC has included two types of modifications:

  1. **De-duplication of Funds Process**: Meant to eliminate locations already subject to enforceable commitments that would provide qualifying broadband service

  2. **Data modifications**: Modifies BEAD eligible locations list to incorporate data not already provided by the broadband data map

Pre-challenge data modification

DSL modification
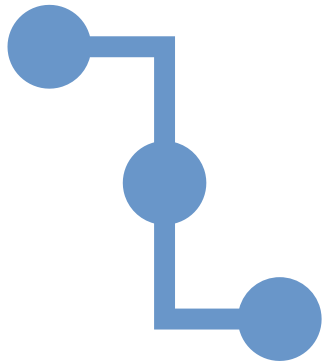
The CPUC will **recategorize locations considered "served" by DSL as "underserved"** for the purposes of the BEAD Program

- This will enhance BEAD eligibility, facilitate the phase-out of legacy copper and promote the **delivery of "future-proof" broadband** service
- This modification **cannot be challenged or rebutted** by the provider

Pre-challenge data modification

Cellular Fixed Wireless modification
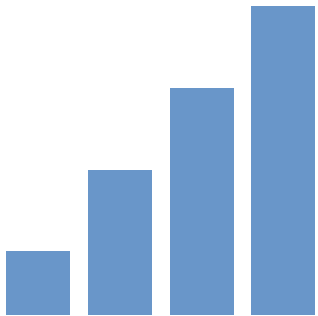
The CPUC will **recategorize** locations that the Broadband Map shows to be "served" **only by cellular fixed wireless as "underserved"** for the purposes of the BEAD Program

- This modification **can be rebutted** by the affected CFWA provider

- The CFWA provider must demonstrate that it: a) is providing 100/20 Mbps or higher service at the relevant locations; and b) has sufficient network capacity to simultaneously serve (i.e., as concurrently active subscribers) at least 80 percent of claimed locations in the relevant coverage areas. A capacity of 5 Mbps for each claimed location is considered sufficient

Publication of eligible locations

- Seven days before the Challenge Phase begins, the CPUC will release a list of all **locations that are eligible for BEAD funding**
- The CPUC will publish the date that eligible locations will be released once the **National Broadband Map Address Fabric version 4** is released and data is incorporated into the Portal
- This list of eligible locations will incorporate **all pre-challenge modifications and deduplication processes**

Challenge Phase summary

- 30-day period – dates TBD

- Eligible challengers must **pre-register in the Portal**
  - (https://register.challenge.cpuc.ca.gov/)

- Challengers can **submit their own evidence or submit a challenge on behalf of a California resident** who has submitted evidence to the Portal

- The **challenge types and evidentiary standards** are consistent with the Model Challenge Process as presented in the first webinar on April 24

- Today we will review a few common challenge types, but **please revisit the recording** of the first webinar and the Policy Notice for in-depth evidence and challenge type descriptions

Challenge Portal

register.challenge.cpuc.ca.gov/

Minimum level of evidence to submit a challenge

The Challenge Portal will verify whether a challenge meets certain requirements:

- 🎯 **Address provided** for challenge is a **Broadband Serviceable Location** and can be **found in the Fabric** (dataset showing all locations where fixed broadband is or could be deployed)

- 🎯 Challenged service is **on the National Broadband Map** and meets the definition of **reliable broadband service** (service accessible via fiber-optic technology, cable modem/hybrid fiber-coaxial technology, digital subscriber line (DSL) technology, or terrestrial fixed wireless technology with entirely licensed spectrum or a hybrid of licensed and unlicensed spectrum)

- 🎯 **Email address** used to send challenge can be **verified and is reachable** (by sending confirmation message to email listed)

- 🎯 If **scanned images** are used, the quality must be good enough to **allow for optical character recognition (conversion of image with text into a machine-readable text format)** which will be verified by the challenge portal

Challenge type: Availability

Description

- The broadband service identified is not offered at the location, including a unit of a multi-dwelling building

Examples

- **Screenshot** of provider webpage
- **Service request refused** within past 180 days
- Lack of suitable **infrastructure**
- Letter or email dated within past 365 days that provider **failed to schedule service installation** or offer an installation date within10 business days of a request
- Letter or email dated within past 365 days showing provider **requested more than the standard installation fee** to connect location or that provider quoted an amount above provider's standard installation charge

Challenge type: Availability

According to California's Initial Proposc Volume I:

- "The CPUC 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."

Challenge type: Speed

Description

The actual speed of the service tier falls below the unserved or underserved thresholds

Example

Speed test from customer showing the insufficient speed and meeting the requirements for speed tests

Challenge type: Speed

NTIA Speed Test Requirements

- Must conduct **three speed tests on three different days** (none older than 60 days before Challenge Phase begins)
  - **Only submit three tests**

- Can be in the form of:
  - A **reading of physical line speed** from residential gateway
  - A **speed test from** residential gateway **web interface or provider's web page**
  - A **speed test performed on personal computer** within immediate proximity of residential gateway **using NTIA-approved speed test application**
    - NTIA-approved applications include: Ookla, M-Lab, Cloudflare, Netflix
    - Speed test modules will also be available in the Challenge Portal for eligible challengers and on the external Challenge evidence submission webpage for California residents
  - Must include **name, time, date, IP address, street address**, certification of **speed tier subscription**
  - Must subscribe to at least 100/20 Mbps, but it is best to be subscriber of highest-speed plan

Challenge type: Planned Service

Description

- The challenger has knowledge that **broadband will be deployed at location by June 30, 2024**, without an enforcement commitment or beyond an enforceable commitment

- Includes existing broadband service that meets standards to be considered 'served'

Example

- **Construction contracts** or similar evidence of ongoing or completed deployment, including evidence of permits

- **Contracts or similar binding agreement between State and provider** that planned service will meet BEAD requirements and deployment completed by June 30, 2024

Challenge type: Enforceable commitment

Description

- All known state, local, and federal enforceable commitments identified as part of the State deduplication process

- Challenges received by the State whereby challenger has knowledge that broadband will be deployed at this location by the date established in the deployment obligation

- Includes existing broadband service that was deployed under an enforceable commitment and meets standards to be considered 'served'

Examples

- **Enforceable commitment** by service provider (i.e., authorization letter)

- For **Tribal Lands**, challenger **must** submit a legally binding agreement between the relevant Tribal Government and provider for the location(s) at issue

Bulk challenges

- Bulk uploads will be allowed for:
  - Availability
  - Data Cap
  - Business Service Only
  - Technology
  - Enforceable Commitment
  - Planned Service
- Other challenge types are in the process of being considered for bulk challenges or may not be allowed for bulk challenges.
- Maximum of **250 locations** for bulk upload
- File size limit: 100 MB for each individual file (convert into .zip format to compress file size); 500 MB for total upload size of all files

Technical support

- Technical support will be available throughout the Challenge Process:
  - cahelpdesk@ready.net for portal and technical questions
  - BEAD@cpuc.ca.gov for policy and BEAD Program questions

Review period

- Following the 30-day Challenge Phase, there will be a 14-day Review Period before the beginning of the Rebuttal Phase

- During this time, no challenges or rebuttals will be accepted

- The CPUC will use this time to review challenges

Rebuttal Phase

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Chief Operating Officer

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Rebuttal Phase summary

- Designated time for eligible challengers to **provide evidence that counters challenges** submitted during the Challenge Phase

- 30-day period – dates TBD

- Rebuttals will be accepted from **providers that have registered** in the Portal; if a broadband service provider has not registered but is notified of a challenge to their service, it can register during the Rebuttal Phase

- Service providers will be notified of challenges at the beginning of the Rebuttal Phase; rebuttal will not be on a rolling basis

Who can rebut a challenge

- 🎯 **Broadband service providers** are the only entities that can rebut or concede challenges related to reclassification of their service locations (e.g., a speed or availability challenge to their service)

- 🎯 **All eligible challengers** may rebut certain challenges: these include planned service challenges and enforceable commitment challenges

- 🎯 **The relevant community anchor institution** may rebut challenges regarding its CAI status or service levels

Rebuttal options for broadband service providers

1

Rebut

Providers have **30 calendar days** from notification to submit rebuttal **with evidence**, at which point, the location enters the **"disputed" state**.

2

Leave unrebutted

If challenge satisfies minimum evidentiary standards and the **provider does not submit a rebuttal**, the location enters the **"sustained" state**.

3

Concede

If **broadband service provider indicates agreement** with a challenge, the location enters the **"sustained" state**.

Final Determination Phase

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State and NTIA review

- The state conducts **final review** of the challenge and rebuttal
- Final decision is made, in which **challenge is labeled "sustained" or "rejected"**
- Final determinations are made after the end of the Rebuttal Phase
- Following state review and determination, NTIA will review and approve the list of eligible locations

Next Steps

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Program Manager

CPUC BEAD Branch

Upcoming webinars

Webinars are open to all who wish to attend, and registration links will be posted on the [BEAD Events](#) page.

DATE/TIME	TOPIC
Tuesday, May 21 10:00 -11:30 am	Overview of the toolkit for local governments, Tribal governments, and nonprofits
Week of May 20 Week of May 27 Week of June 3	Office Hours
Date to be announced	Challenge Process for Broadband Service Providers

Next Steps

Ways to Prepare to Participate in the Challenge Process

- Attend a webinar

- Register for office hours

- Pre-register to submit a challenge

- Request for a CostQuest License
  - Tier D
  - Tier E

- Sign up for email updates and news

Questions?

If you have questions about the Challenge Portal or need technical assistance, please email cahelpdesk@ready.net.

For general questions about the BEAD Program in California, please email the CPUC BEAD team at BEAD@cpuc.ca.gov.

For more information visit:

The CPUC's BEAD Page – general program information

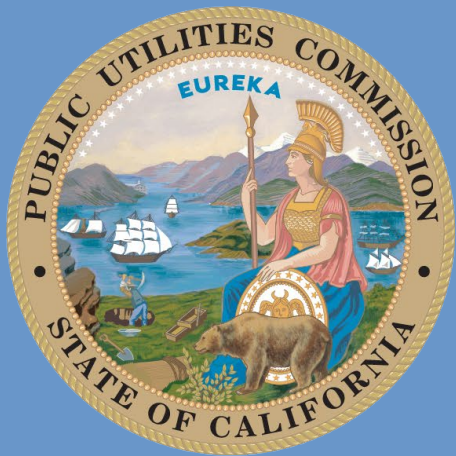CPUC BEAD Challenge Process – Challenge Process information

BEAD Frequently Asked Questions – answers to your BEAD questions

Thank you!

We appreciate your attendance and your questions.

We hope to see you at future webinars!

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Key Differences between the BEAD Model Challenge Process and the CPUC's approved Initial Proposal Volume I Challenge Process

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