

STATE OF FLORIDA
FLORIDACOMMERCE
INITIAL PROPOSAL
VOLUME I

BROADBAND EQUITY
ACCESS AND
DEPLOYMENT (BEAD)

NOVEMBER 2023

FLORIDACOMMERCE



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1. Executive Summary and Introduction

In 2021, Congress passed the Infrastructure Investment and Jobs Act (IIJA) establishing the Broadband, Equity, Access and Deployment (BEAD) program and Digital Equity program, among others. The BEAD Program is administered by the National Telecommunications and Information Administration (NTIA) and allocates \$42.5 billion to help states deploy high-speed, reliable broadband Internet to remaining unserved and underserved locations within their jurisdictions. In June 2023, NTIA announced Florida would receive \$1.16 billion of this funding to supplement existing efforts to bring universal Internet service to all Floridians. Under section 288.9961(5), Florida Statutes, the FloridaCommerce Office of Broadband (Office), is tasked with administering state and federal funds for deployment of broadband Internet access to every location in the state.

The Notice of Funding Opportunity (NOFO) NTIA-BEAD-2022 requires states to create an initial proposal to establish a roadmap to guide elimination of the digital divide through use of BEAD funding. Florida's Initial Proposal builds upon the solid foundation established through the Florida Strategic Plan for Broadband, the BEAD Five-Year Action Plan, and the Digital Adoption and Use Plan. The state has elected to provide the Initial Proposal in two parts: Volume I and Volume II.

Volume I (this volume) addresses four of the 20 BEAD NOFO requirements (sections 3,5,6, and 7), including identifying existing broadband funding, listing the unserved and underserved locations throughout the state, defining and listing Community Anchor Institutions (CAIs), and plans to conduct evidence-based, fair and expeditious challenge and de-duplication processes.

2. Existing Broadband Funding (Requirement 3)

The IIJA defines "reliable broadband service" as "broadband service that meets performance criteria for service availability, adaptability to changing end-user requirements, length of serviceable life, or other criteria other than upload and download speeds, as determined by the Assistant Secretary in coordination with the Commission" *Id.* § 60102(a)(2)(L). For purposes of this definition, the Assistant Secretary adopts the criteria that reliable broadband service must be (1) a fixed broadband service that (2) is available with a high degree of certainty, (3) both at present and for the foreseeable future. The NTIA, in its Notice of Funding Opportunity (NOFO) NTIA-BEAD-2022, defines "priority broadband project" as those that use end-to-end fiber-optic architecture, as only end-to-end fiber will "ensure that the network built by the project can easily scale speeds over time to meet the evolving connectivity speeds of households and businesses and support the deployment of 5G, successor wireless technologies, and other advanced services." Accordingly, fiber to the home is the preferred method of deployment to the extent it is cost effective. To ensure 100 percent access to all

citizens, Florida will continue to be technology neutral and consider solutions such as fixed wireless and satellite, provided they adhere to minimum standards required in the Infrastructure Act¹ Volume II will separately address the remainder of the 20 requirements, including a description of the BEAD application process, non-deployment activities and workforce initiatives.

2.1 Florida BEAD Allocations

In June 2023, the NTIA announced the final BEAD allocations by state with Florida receiving approximately \$1.16 billion to achieve universal broadband coverage across the state. Florida has already begun its work to bring reliable, high-speed broadband Internet access to every unserved and underserved location within its boundaries, estimated to be 408,416 locations according to the Federal Communications Commission’s (FCC) Broadband Data Map dated December 30, 2022.

2.2 Existing Broadband Funding

Table 1 below depicts the existing federal, state, Tribal, and local broadband-related programs supporting the mission to achieve a fully connected, digitally literate Florida.

Table 1: Broadband Funding

Source	Florida Office of Broadband Administered	Purpose	Total	Obligated	Expended	Available
State of Florida Broadband Opportunity Program ² in Fiscal Year (FY) 2022-2023	Yes	Provides funding for the installation and deployment of broadband Internet infrastructure in unserved Florida communities, providing	\$380,000,000 ²	\$377,447,514	\$2,552,486	\$0

¹ The definitions of “unserved location” and “underserved location” set forth in Section 60102(a)(1) require that a location have Reliable Broadband Service with “a latency sufficient to support real-time, interactive applications.” See Infrastructure Act § 60102(a)(1)(A)(ii)(II), (C)(ii)(II). NTIA interprets this to mean a latency of less than or equal to 100ms for the reasons articulated by the FCC’s Wireline Communications Bureau in the 2013 Connect America Fund Phase II Service Obligations Order. See Connect America Fund, WC Docket No. 10-90, Report and Order, 28 FCC Rcd 15060, 15068-76 paras. 19-38 (Phase II Service Obligations Order).

² FloridaCommerce Office of Broadband: Broadband Opportunity Program, www.FloridaJobs.org/broadband. Florida's Legislature originally appropriated \$400 million to its Broadband Opportunity Program. The Legislature subsequently reduced the Broadband Opportunity Program's funding by \$20 million pursuant to Section 233 of Senate Bill 2500 (2023).

		valuable telehealth, economic, educational, and workforce development opportunities ²				
Broadband Equity, Access, and Deployment (BEAD) Program – Infrastructure Investment and Jobs Act	Yes	Provides federal funding for broadband planning, deployment, mapping, and adoption.	\$1,169,947,393	\$4,301,558	\$698,419	\$1,164,947,416
Digital Equity Planning Grant – Infrastructure Investment and Jobs Act	Yes	Provides funding to research and create a plan to reduce or eliminate barriers to an individual's ability to access and understand information in our digital economy.	\$2,407,224	\$1,885,322	\$521,902	\$0
U.S. Treasury Capital Projects Fund - Admin	Yes	Funding provided for management of the Capital Projects Fund grant.	\$18,301,843	\$14,635,956	\$3,665,887	\$0
U.S. Treasury Capital Projects Fund - Broadband Infrastructure Program	Yes	Provides funds for broadband infrastructure deployment in areas where broadband Internet service is not available from a terrestrial provider.	\$247,761,206	\$247,503,055	\$0	\$258,151
U.S. Treasury Capital Projects Fund – Digital Connectivity Technology Program	Yes	Provides funds for digital devices (tablets, laptops, desktops, and routers) to subgrantees for distribution through short-	\$13,040,063	\$13,040,063	\$0	\$0

		or long-term loan.				
U.S. Treasury Capital Projects Fund – Multi-purpose Community Facility Program	Yes	Provides funds for construction or rehabilitation of community facilities that directly enable work, education, and healthcare monitoring.	\$86,933,756	\$86,933,756	\$0	\$0
Universal Service Fund Administration - Rural Digital Opportunity Program (RDOF)	No	Provides funding to bring high-speed fixed broadband services to rural homes and small business.	\$191,753,609	\$191,753,609	unknown	unknown
Tribal Connectivity Act – Infrastructure Investment and Jobs Act	No	To provide high-speed Internet to Tribal lands, including telehealth, distance learning, affordability, and digital literacy	\$499,921	\$499,921	unknown	unknown
Enabling Middle-Mile Broadband Infrastructure Program – Infrastructure Investment and Jobs Act	No	To reduce the cost of bringing high-speed internet service to unserved and underserved communities by connecting local networks to major networks.	\$2,812,086	\$2,812,086	unknown	unknown
Connecting Minority Communities Pilot Program	No	Support for colleges and institutions serving minority and Tribal Communities	\$10,809,668	\$10,809,868	unknown	unknown

The Affordable Connectivity Program (ACP)	No	Provides eligible households with a discount of up to \$30.00/month for high-speed Internet service and up to \$100.00 toward a laptop, desktop or tablet offered by participating Internet Service Providers.	\$465,111,464	\$465,111,464	unknown	unknown
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2.3. Existing Broadband Deployment Projects

2.3.1 Broadband Opportunity Program Application Cycle 1

The Broadband Opportunity Grant Program, administered through the Office was established under section 288.9962, Florida Statutes to award grants to applicants seeking to expand broadband Internet service to unserved areas of the state. Applications for the program were accepted between November 7 and December 6, 2022. Figure 1 depicts the locations of the awarded projects.

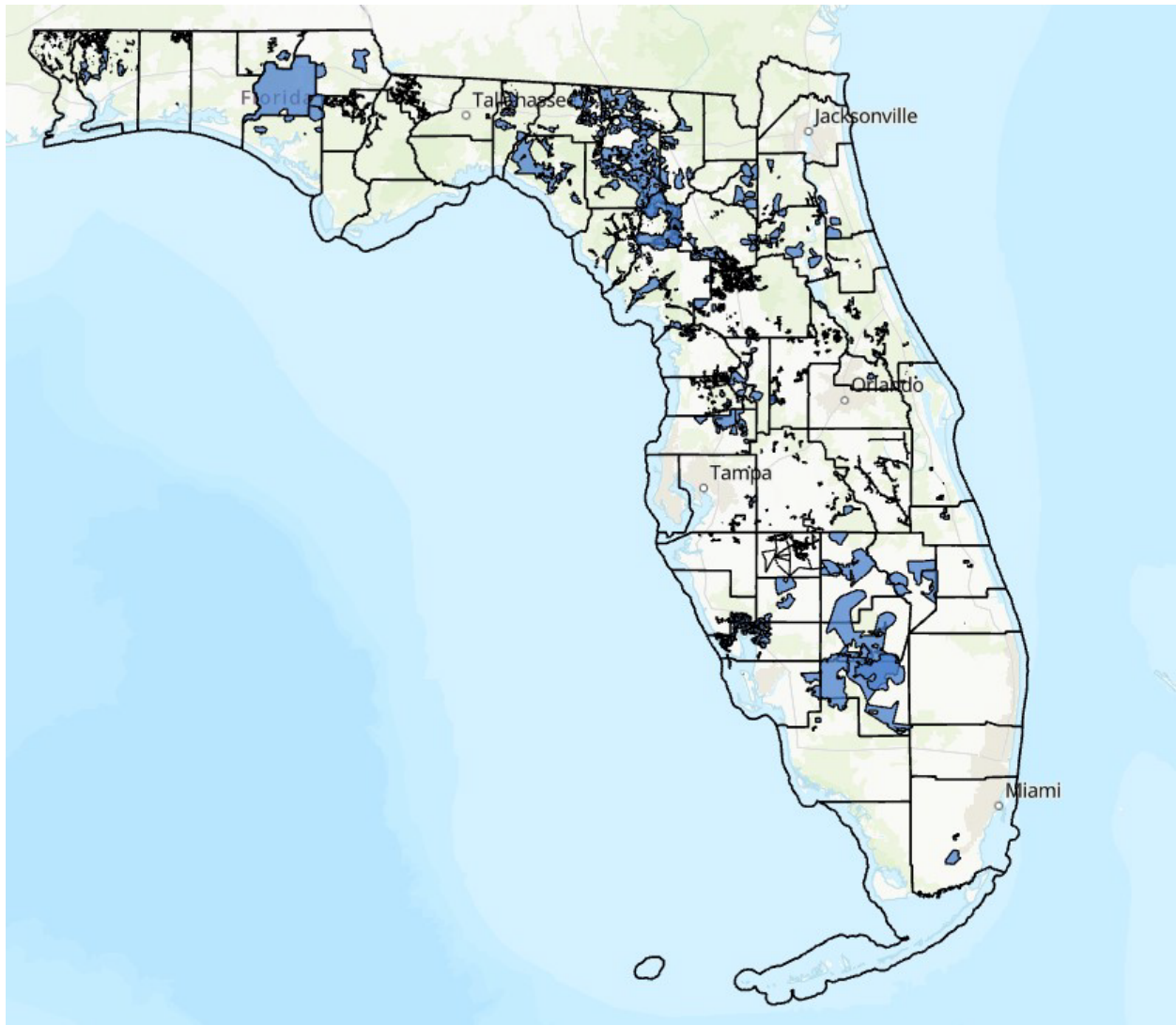


Figure 1. Broadband Opportunity Program - awarded projects.

2.3.2 Capital Projects Fund – Broadband Infrastructure

The Capital Projects Fund- Broadband Infrastructure Program, administered through the Florida Office of Broadband, consists of three separate programs: Broadband Infrastructure, Multi-purpose Community Facilities, and Digital Connectivity Technology. Figure 2, below, shows awarded projects for the Broadband Infrastructure Program.

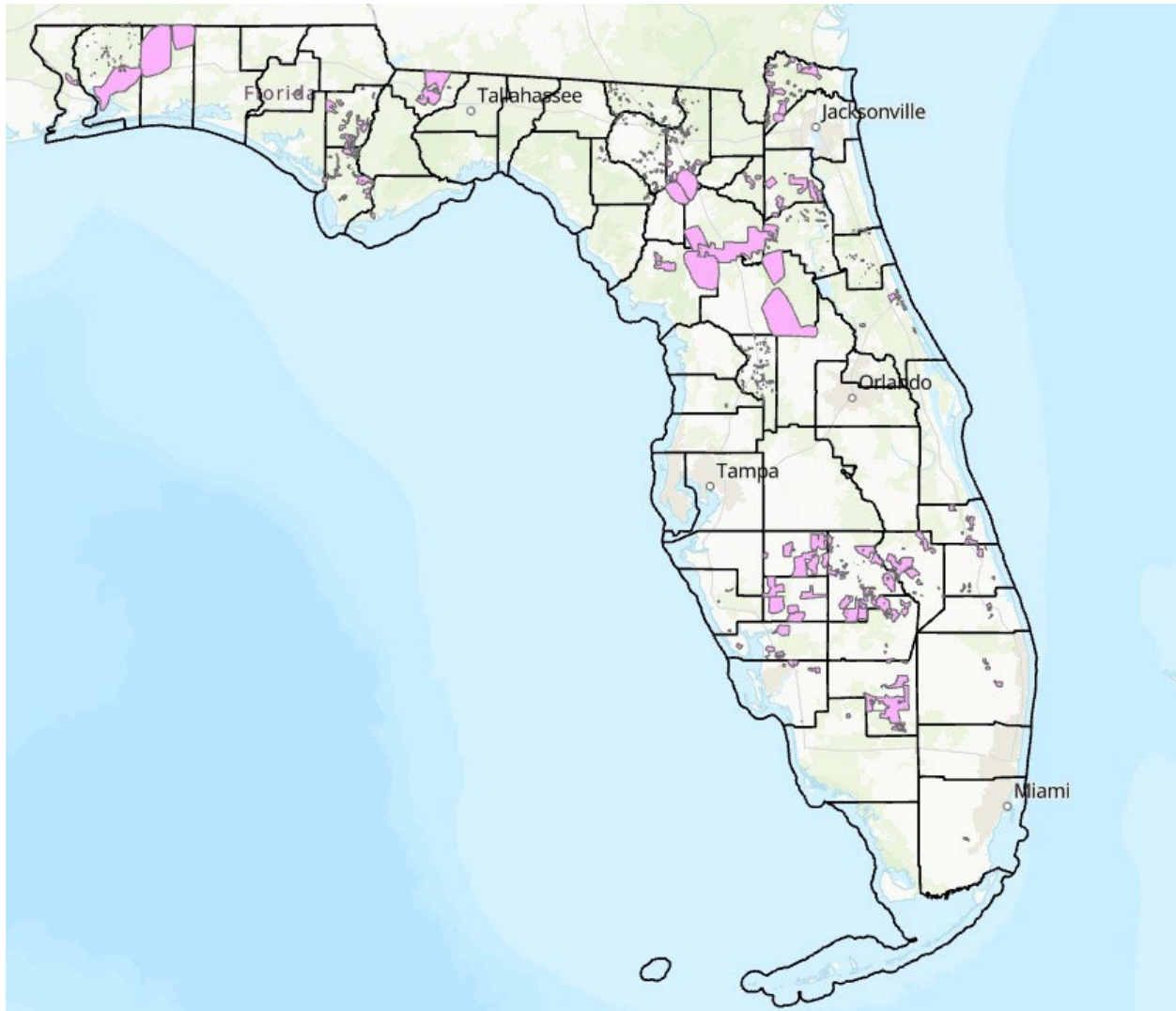


Figure 2. Capital Project Fund-Broadband Infrastructure Program - awarded projects.

2.3.3 Broadband Opportunity Program Application Cycle 2

Applications submitted during the second application cycle, from May 10 through July 21, 2023, is currently under challenge review. The map below (figure 3) identifies the service areas covered by the applications received during this cycle. The map will be updated as project areas are awarded.

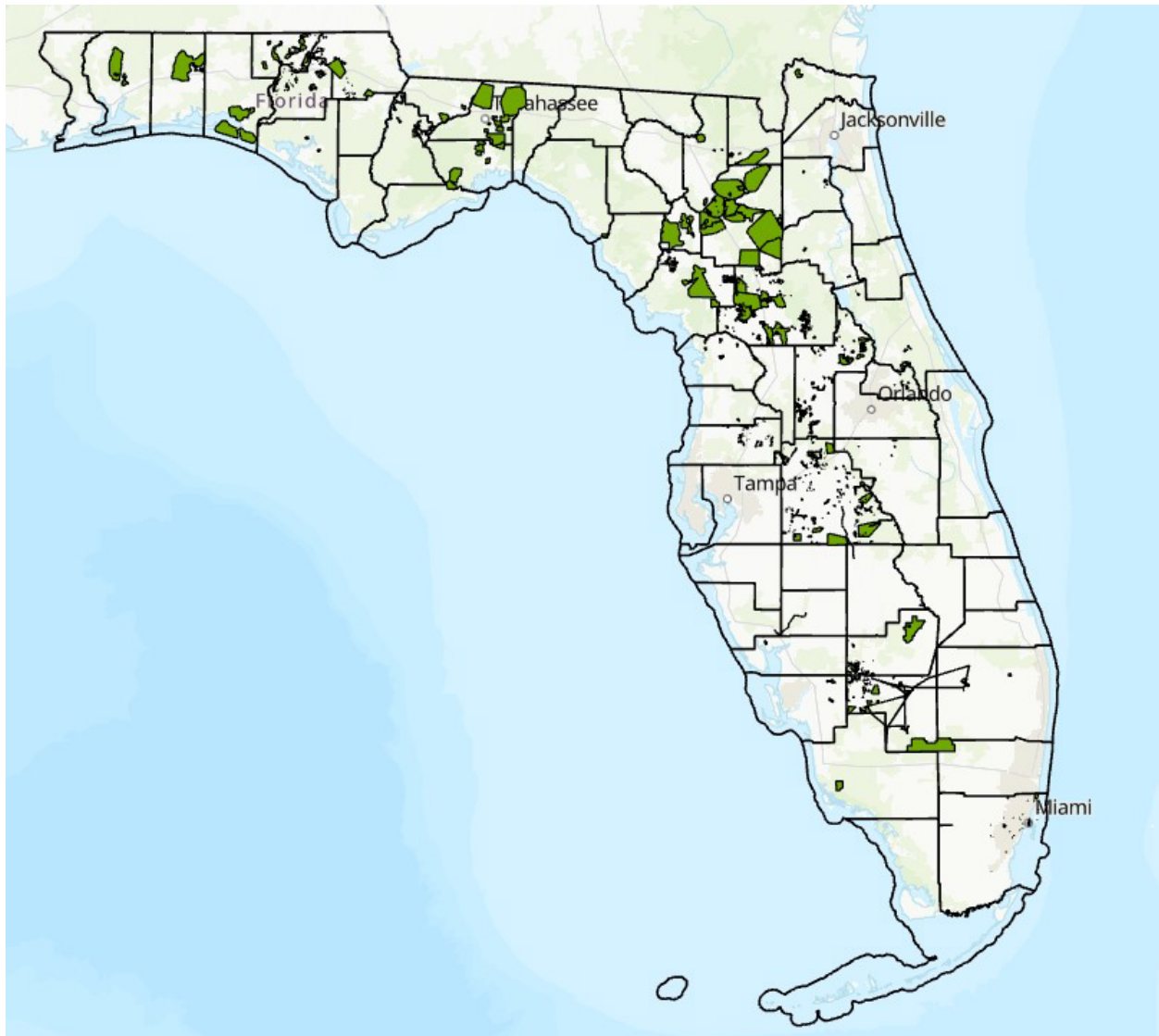


Figure 3. Service areas covered by applications from Broadband Opportunity Program's second application cycle.

2.3.4. Rural Digital Opportunity Fund (RDOF)

The Rural Digital Opportunity Fund (RDOF) is a federal program that is not administered through the Florida Office of Broadband, but rather the Federal Communications Commission (FCC) under the Universal Service Administrative Company (USAC). Through this program, USAC provided funding to bring high-speed fixed broadband services to rural homes and small business. In 2020, the USAC awarded funding to eight Florida providers for projects serving more than 103,000 locations over a 10-year period. Project start dates are as early as March 2022, and completion dates on or before May 2034. The below map (figure 4) depicts the current RDOF projects.

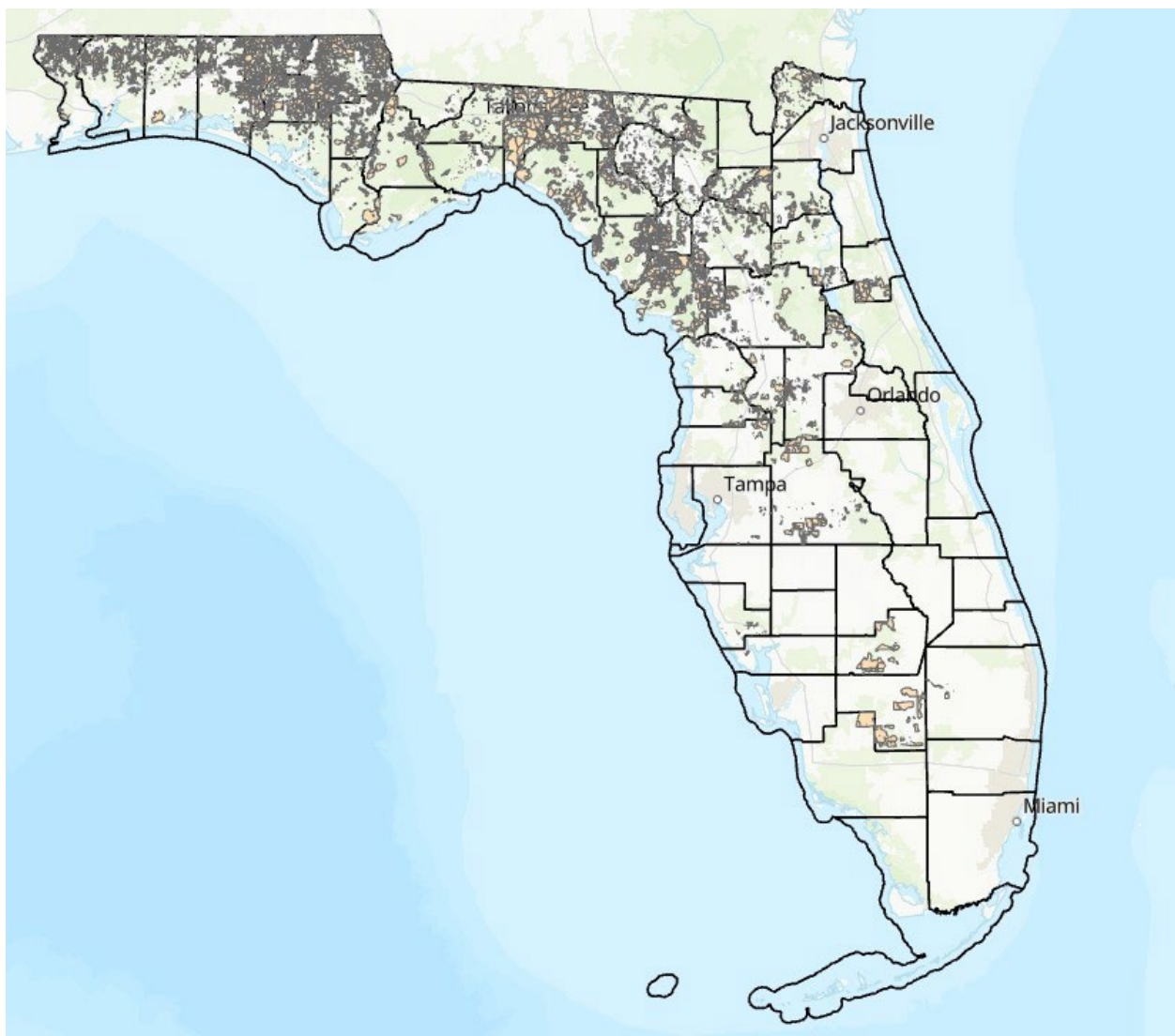


Figure 4. Current Rural Digital Opportunity Fund (RDOF) Projects.

3. Underserved and Unserved Locations (Requirement 5)

3.1. Broadband Deployment

The principal focus for the BEAD Program is to deploy broadband service to *unserved* locations (those without broadband service or service offering speeds less than 25 megabits per second (Mbps) download and 3 Mbps upload), and *underserved* locations (those without broadband service offering speeds of 100 Mbps download and 20 Mbps upload).³

In order to report Florida’s unserved and underserved locations, FloridaCommerce will establish the Florida Open Data Portal in early 2024. The portal will house the “BEAD Unserved Locations.csv” and “BEAD Underserved Locations.csv” files which will list the unserved and underserved location IDs⁴. Provided are the current [unserved data files](#) and [underserved data files](#).

The publication date of the National Broadband Map does not predate the submission of the Initial Proposal by more than 59 days. For the purposes of the BEAD Program, in accordance with the BEAD Notice of Funding Opportunity, locations served exclusively by satellite, services using entirely unlicensed spectrum, or a technology not specified by the FCC for purposes of the Broadband Data Maps, do not meet the criteria for Reliable Broadband Service and so will be considered “unserved.” The status of state or federal funding present at these locations does not impact their service status of served, unserved, or underserved. Locations with an enforceable commitment are not eligible for funding under BEAD. An enforceable commitment for the deployment of qualifying broadband to a location exists when the commitment to deploy qualifying broadband service to that location was made as defined in Footnote 52⁵ of the BEAD Notice of Funding Opportunity.

³ Per Broadband Equity, Access, and Deployment Program’s Notice of Funding Opportunity (NTIA-BEAD-2022), (I)(B)(1), the Program’s principal focus will be on deploying broadband service to unserved locations (those without any broadband service at all or with broadband service offering speeds below 25 megabits per second (Mbps) downstream/3 Mbps upstream) and underserved locations (those without broadband service offering speeds of 100 Mbps downstream/20 Mbps upstream).

⁴ Current unserved/underserved location files are sourced from the December 30, 2022 Broadband Data Map and are for informational purposes only. Data used for the challenge process will be obtained from the December 30, 2023 Broadband Data Map. Note: This date relies upon posting of the Challenge Process.

⁵ <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>

3.1.1 Data Sources and Map Date Selection

To generate an updated database and files of unserved (maximum available speeds below 25/3 Mbps) and underserved locations (maximum available speeds between 25/3 Mbps and 100/20 Mbps), Florida will use the FCC’s Broadband Availability Data from the National Broadband Map from September 30, 2023 (FloridaCommerce will update the map data with the most recent available data prior to initiating the challenge process).

4. Community Anchor Institutions (CAI) (Requirement 6)

4.1 Identification of Community Anchor Institutions

Based on the statutory definition of “community anchor institutions” as defined in 47 USC 1702, (a)(2)(E), the Office adopts the definition of “community anchor institutions” to mean “an entity such as a school, library, health clinic, health center, hospital or other medical provider, public safety entity, institution of higher education, public housing organization, or community support organization that facilitates greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals.” The purpose of defining Community Anchor Institutions is to identify organizations eligible for fiber connections of at least 1Gbps symmetrical speeds. Identification of these institutions facilitates greater use of broadband service by vulnerable populations and advances the goals of the BEAD program.

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, and aged individuals.

The definitions and sources used to identify the types of community anchor institutions are provided in the table below.

Table 2: Community Anchor Institutions Defined

Community Anchor Institution Type	Category and Definition	Source
Schools	All public K-12 schools in Florida with a valid Master School Identification (MSID) number and any private K-12 schools	Florida Department of Education

	included in the Florida Department of Education's Directory of Private Schools. Also included in this category are adult education institutions and technical colleges with MSID numbers, school readiness programs, and voluntary prekindergarten education programs under Chapter 1002, F.S.	
Libraries	All public libraries, as identified by the Florida Department of State.	Florida Department of State, Florida Division of Libraries and Information Services
Health Clinic/Health Center/Hospital/Other Medical Provider	Hospitals, health centers, health clinics and other medical providers which are regulated by the Florida Department of Health, the Florida Department of Veteran's Affairs, the Florida Department of Children and Families, the Florida Department of Elder Affairs, or the Agency for Health Care Administration. These facilities must be able to provide medical care or treatment beyond what is normally provided by a doctor's office.	Florida Department of Health, the Florida Department of Veteran's Affairs, the Florida Department of Children and Families, the Florida Department of Elder Affairs or the Agency for Health Care Administration
Public Safety Entity	Entities such as fire houses, emergency medical service stations, police stations, sheriff and constable offices, and public safety answering points (PSAP). The list of public safety answering points (PSAPs) includes all PSAPs in the FCC PSAP registry. This also includes jails and both local and state corrections institutions.	HIFLD, Florida Department of Corrections, Florida Department of Law Enforcement
Institution of Higher Education	Institutions of higher education include Florida State College System Institutions, Florida	Florida Department of Education, Florida Board of Governors, Independent

	State University System institutions, private college and university members of the Independent Colleges and Universities of Florida, and private colleges and universities regulated by the Commission for Independent Education. Also included (for a second time in this table) in this category are adult education institutions and technical colleges with MSID numbers.	Colleges and Universities of Florida
Public Housing Organization/ Public Housing Agency/ HUD-Assisted Housing Organization	This includes all public housing agencies, and all public housing organizations receiving public housing funds.	U.S. Department of Housing and Urban Development
Community Support Organization	Community support organizations are most often private, nonprofit organizations that facilitate “greater use of broadband service by vulnerable populations, including low-income individuals, unemployed individuals, and aged individuals.”	FloridaCommerce’s Office of Broadband, state and local community support organization partners, Florida Department of State, Florida Division of Corporations

5. Challenge Process (Requirement 7)

5.1 NTIA BEAD Model Challenge Process Adoption

5.1.1 Challenge Process Model Adopted

Florida will adopt the NTIA BEAD Model Challenge Process.

5.1.2 Modifications to Classification of Broadband Serviceable Locations

The Office will treat locations that the National Broadband Map indicates have available qualifying broadband service (i.e., a location that is “served”) that is delivered via digital subscriber line (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.

5.2 Deduplication of Funding

5.2.1 Use of BEAD Eligible Entity Planning Toolkit

The Office plans to use the BEAD Eligible Entity Planning Toolkit to identify existing federal enforceable commitments.

5.2.2 Process to Identify and Remove Locations Subject to Enforceable Commitments

The Office will further consult with at least the following data sets:

1. The Broadband Funding Map published by the FCC pursuant to IIJA § 60105.⁶
2. Data sets from state broadband deployment programs that rely on funds from the Capital Projects Fund and State and Local Fiscal Recovery Funds administered by the U.S. Treasury.
3. Florida and local data collections of existing enforceable commitments.

The Office will create a list of Broadband Serviceable Locations (BSL) subject to enforceable commitments based on state or local grants or loans. If necessary, the 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 Office will submit this list to NTIA in the format specified by the FCC Broadband Funding Map.⁷

The 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 Florida or local program does not specify broadband speeds, or when there is reason to believe a provider deployed higher broadband speeds than required, the Office will reach out to the provider to verify the deployment speeds of the binding commitment. The Office will document this process by requiring providers to sign a binding agreement certifying the actual broadband speeds deployed.

The Office will draw on these provider agreements, along with its existing database of state and local broadband funding programs’ binding agreements, to determine the set of Florida and local enforceable commitments.

⁶ The broadband funding map published by FCC pursuant to IIJA § 60105 is referred to as the “FCC Broadband Funding Map.”

⁷ 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.

5.3 Challenge Process Design

5.3.1 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 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 Office will only allow challenges on the following grounds:

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

Permissible Challengers

During the BEAD Challenge Process, the Office will exclusively recognize challenges from nonprofit organizations, units of local and tribal governments, and broadband service providers, per NTIA challenge model.

Challenge Process Overview

The challenge process conducted by the Office will include four phases, spanning 90 calendar days⁸:

1. Publication of Eligible Locations:

Prior to beginning the Challenge Phase, the 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 Office will also publish locations considered served, as they may be challenged. The tentative posting date is February 5 through May 6, 2024, pending approval of the Initial Proposal by NTIA.

2. Challenge Phase:

During the Challenge Phase, the challenger will submit the challenge through the Office's challenge portal. The challenge will be visible to the

⁸ The NTIA BEAD Challenge Process Policy Notice allows *up to* 120 calendar 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.

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 regarding timing for the provider's response. After this step, 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 address. For scanned images, the challenge portal will determine whether the quality is sufficient to enable optical character recognition. For availability challenges, the 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 30 calendar days to submit a challenge from the time the initial list of unserved and underserved locations, community anchor institutions, and existing enforceable commitments are posted on February 5, 2024, pending approval of the Initial Proposal by NTIA.

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 30 calendar days from notification of a challenge to provide rebuttal information to the Office. The rebuttal period begins once the provider is notified of the challenge, and thus may occur concurrently

with the challenge phase which begins February 5 and ends March 6, 2024, pending approval of the Initial Proposal by NTIA.

4. Final Determination Phase:

During the Final Determination phase, the 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 Office will make a final challenge determination within 30 calendar days of the challenge rebuttal. Reviews will occur on a rolling basis, as challenges and rebuttals are received beginning February 5, 2024, and ending April 4, 2024, pending approval of the Initial Proposal by NTIA.

5. Evidence & Review Approach

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, the Office will review all applicable challenge and rebuttal information in detail, without bias, before deciding to sustain or reject a challenge. The 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 Office plans to ensure reviewers have sufficient training to apply the standards of review uniformly to all challenges submitted and will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.

The table below identifies the types of possible challenges and permissible rebuttals. Florida will allow for the challenge types identified in the Permissible Challenges section above. Unless otherwise noted, “days” refers to calendar days.

Table 3: Types of Challenges and Rebuttals

Code	Challenge Type	Description	Specific Examples	Permissible Rebuttals
A	Availability	The broadband service	<ul style="list-style-type: none"> • Screenshot of provider webpage. 	<ul style="list-style-type: none"> • Provider shows that the location subscribes or has

		<p>identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).</p>	<ul style="list-style-type: none"> • A service request was refused within the last 180 days (e.g., an email or letter from provider). • Lack of suitable infrastructure (e.g., no fiber on pole). • 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.⁹ • A letter or email dated within the last 365 days indicating that a provider requested more than the standard installation fee to connect this location or that a provider quoted an amount in 	<p>subscribed within the last 12 months, e.g., with a copy of a customer bill.</p> <ul style="list-style-type: none"> • If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability. • 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.
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⁹ 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.”

			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. ¹⁰	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. ¹¹
L	Latency	The round-trip latency of the broadband service exceeds 100 milliseconds (ms) ¹² .	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 Connect America Fund (CAF) performance measurements. ¹³
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance ("data cap")	<ul style="list-style-type: none"> • Screenshot of provider webpage. • Service description provided to consumer. 	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.

¹⁰ The challenge portal must 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.

¹¹ 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.

¹² *Performance Measures Order*, including provisions for providers in non-contiguous areas (§21).

¹³ *Ibid.*

		on the consumer. ¹⁴		
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.
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 2,a,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	<ul style="list-style-type: none"> Construction contracts or similar evidence of ongoing deployment, along with evidence that all necessary permits have been applied 	Documentation showing that the provider is no longer able to meet the commitment (e.g., is no longer a corporation or that the planned deployment does not meet the required technology or

¹⁴ 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.

		<p>enforceable commitment or a provider is building out broadband offering performance beyond the requirements of an enforceable commitment.</p>	<p>for or obtained.</p> <ul style="list-style-type: none"> • Contracts or a similar binding agreement between the Office and the provider committing that planned service will meet the BEAD definition and requirements of reliable and qualifying broadband even if not required by its funding source (i.e., a separate federal grant program), including the expected date deployment will be completed, which must be on or before June 30, 2024. 	<p>performance requirements.</p>
N	<p>Not part of enforceable commitment.</p>	<p>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.)</p>	<p>Declaration by service provider subject to the enforceable commitment.</p>	<p>No acceptable rebuttal</p>

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 Office.	Evidence that the location does not fall within the definitions of CAIs set by the Eligible Entity or is no longer in operation.
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 Office.	Evidence that the location falls within the definitions of CAIs set by the Office or is still operational.

5.4 Area and MDU Challenge

The Office will administer area and multi-dwelling unit (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 must demonstrate that it meets the availability, speed, latency, data cap and technology requirement, respectively, for all (served) locations within the area or all units within an MDU. The provider may use any of the permissible rebuttals listed above.

An area challenge is triggered if six or more broadband serviceable locations within a census block group are using a particular technology and a single provider are challenged.

An MDU challenge requires challenges by at least three units or 10 percent of the unit count listed in the Fabric within the same broadband serviceable location, whichever is larger.

Each type of challenge and each technology and provider is considered separately, i.e., 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 as they are likely to have different availability and performance.

Area challenges for availability must be rebutted with evidence that service is available for all BSLs within the census block group, e.g., by network diagrams that show fiber or hybrid fiber coaxial (HFC) infrastructure or customer subscribers. For fixed wireless service, the challenge system will offer a representative random sample of the area in

contention, but no fewer than 10, where the provider has to demonstrate service availability and speed (e.g., with a mobile test unit).¹⁵

5.5 Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, the Office will, upon approval from NTIA, publicly post an overview of 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 the opening of the challenge submission window. The Office also plans to actively inform all units of local government of its challenge process and maintain regular touchpoints to address any comments, questions, or concerns from local governments, nonprofit organizations, and Internet service providers. The Office will issue a press release containing basic challenge process information including a link to the Office of Broadband website for additional information and the challenge portal. Additionally, the Office will notify all applicants of previous broadband solicitations, the Florida Regional Councils Association and the Florida Association of Counties.

Relevant stakeholders can sign up for challenge process updates and newsletters on the Office website floridajobs.org/broadband and engage with the Office via email at Broadband@Commerce.fl.gov. The challenge program will be designed to automatically notify the Office and providers upon submission of a challenge.

Beyond actively engaging relevant stakeholders, the Office will post 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 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 Office will review the basis and summary of all challenges and rebuttals to ensure PII is removed prior to publishing. Additionally, all challengers will receive guidance on which information submitted may be posted publicly.

¹⁵ 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.

The 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.