Arkansas BEAD Challenge Process
MARKUP

SECTION 1. BACKGROUND.

The Arkansas Economic Development Commission (AEDC) and the Arkansas State Broadband Office (ARConnect) issue this Rule to implement the Broadband, Equity, Access, and Deployment (BEAD) program. The BEAD program allocates state grants for the construction of broadband networks, establishment of affordable high-speed internet access, and creation of training programs to equip users with digital skills. This Rule details the process for challenging the Broadband Funding Map published by the Federal Communications Commission (FCC) identifying locations that are eligible for BEAD funding.

SECTION 2. DEFINITIONS.

(1) "25/3 Mbps" means an internet speed of 25 megabits per second for downloading content, and 3 megabits per second for uploading content.

(2) "100/20 Mbps" means an internet speed of 100 megabits per second for downloading content, and 20 megabits per second for uploading content.

(3) "Affordable Connectivity Program" means an FCC benefit program that provides a discount of up to $30 per month for internet access for households below a certain income threshold, or $75 per month for areas which qualify as high-cost according to the FCC.

(4) "Area" means a Census Block Group (CBG) as that term is used by the United States Census Bureau.

(5) "Area or MDU challenge" means a single challenge lodged by two or more permissible challengers, rather than those challengers each filing their own challenge.

(6) "BEAD" means the Broadband Equity, Access, and Deployment Program established by the Infrastructure Investment and Jobs Act of 2021.

(7) "Broadband Serviceable Location" or "BSL" means a business or residential location at which mass-market fixed broadband Internet access service is, or can be, installed.

(8) "Buy It Now Threshold" means the threshold above which competitive tranche-1 bids will be granted provisional awards.

(9) "Community Anchor Institution" or "CAI" means 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, but not limited to, low-income individuals, unemployed individuals, children, and aged individuals.

(10) "Competitive bid" means an applicant's bid for a project area that overlaps with a bid from a different applicant.

(11) "Conduit" means a protective tube or trough through which fiber is run.

(12) "Data cap" means an internet service provider-imposed limit on the amount of data that a consumer can use over a certain time period.

(13) "Deployment" means the build-out of broadband infrastructure to unserved and underserved locations.

(14) "Digital Skills and Opportunity Plan" means Arkansas' document outlining the State's vision for digital opportunity in the context of its overarching strategy and goals.

(15) "Download speed" means the rate that digital data is transferred from the Internet to a computer.

(16) "Digital Subscriber Line" or "DSL" means a networking technology that provides broadband over conventional telephone lines.

(17) "Enforceable commitment" means a National Telecommunications and Information Administration (NTIA) classification for locations that are receiving broadband infrastructure buildouts from federal or state programs excluding BEAD. Such locations are considered served by these programs and are therefore ineligible for BEAD funding.

(18) "Extremely High Cost Per Location Threshold" means the point at which fiber deployment is no longer cost effective and alternate technologies are considered.

(19) "High-cost area" means an unserved area in which the cost of building out broadband service is higher, as compared with the average cost of building out broadband service in underserved areas

(20) "Infrastructure Investment and Jobs Act" or "IIJA" means the federal law passed in 2021 that established the BEAD program.

(21) "Latency" means the time it takes to send data and receive a response.

(22) "Low-cost plan" means a reduced cost internet service plan for areas below a certain income threshold.

(23) "Mbps" means megabits per second.

(24) "Minimum application score threshold" means a threshold below which ARConnect will consider other coverage options for an area that does not receive any bids scoring above the threshold.

(25) "Mobile test unit" means 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.

(26) "Multiple dwelling unit" or "MDU" means residential duplexes, triplexes, fourplexes, apartment buildings, condominiums, mobile home parks, trailer courts, or similar types of multi-unit arrangements on one parcel of land often served by one internet service provider.

(27) "National Broadband Map" means the map provided by the FCC that provides information about the internet services available to individual locations across the country, along with new maps of mobile coverage, as reported by ISPs in the FCC's ongoing broadband data collection;

(28) "National Telecommunications and Information Administration" or "NTIA" means the division of the United State Department of Commerce that is responsible for overseeing the BEAD program.

(29) "Non-deployment projects" means projects that boost technological capacity, educational resources, and digital skills and opportunity for the adoption of broadband.

(30) "Project area" means the set of one or more areas that will be serviced as part of a bid.

(31) "Reference subsidy" means a target BEAD subsidy for each area that ARConnect will establish to guide applicants' bids.

(32) "Right-of-way" means a legal right, established by a grant from a landowner or long usage, to pass along a specific route through property belonging to another.

(33) "Served" means receiving an internet speed greater than or equal to 100/20 Mbps.

(34) "Severe convective storm" means a local storm associated with thunder, lightning, heavy rain, hail, strong winds, or sudden temperature changes; capable of producing a tornado, hail greater than or equal to one (1) inch in diameter, and/or winds greater than fifty-eight (58) miles per hour.

(35) "Speed test" means a measurement of speed between a device and a test server using a device's internet connection.

(36) "Standard operating procedure" means a specific process for challenge evaluators to follow when reviewing challenge applications.

(37) "Subgrantee" means an internet service provider (ISP) that has been awarded a portion of Arkansas' federal BEAD grant to build broadband infrastructure for a given area of the state. For non-deployment projects, a subgrantee may be a non-profit organization, unit of local government, business, or other entity awarded a portion of BEAD funding to implement non-deployment initiatives.

(38) "Underserved" means receiving an internet speed less than 100/20 Mbps but greater than or equal to 25/3 Mbps.

(39) "Unserved" means receiving an internet speed less than 25/3 Mbps.

(40) "Upload speed" means the rate that data is transferred from a computer to the Internet.

SECTION 3. CHALLENGE PROCESS

3.1. DSL Modifications

ARConnect 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.

3.2. Enforceable Commitments

ARConnect will enumerate locations subject to enforceable commitments by using the BEAD Eligible Entity Planning Toolkit, and consult several data sets, including, but not limited to:

1. The Broadband Funding Map published by the FCC pursuant to IIJA § 60105;[1]

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; and

3. State and local data collections of existing enforceable commitments.

ARConnect will create a list of BSLs subject to enforceable commitments based on state/territory and local grants or loans. If necessary, ARConnect will translate polygons or other geographic designations (e.g., a county or utility district) describing the area to a list of Fabric locations. ARConnect will submit this list to NTIA in the format specified by the FCC Broadband Funding Map.

ARConnect 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. Where state or local programs did not specify broadband speeds, or when there is reason to believe provider deployed higher broadband speeds than required, ARConnect will verify the deployment speeds of the binding commitment with the provider. ARConnect will document this process by requiring providers to sign a binding agreement certifying the actual broadband speeds deployed.

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

3.3. Permissible Challengers.

[1] The broadband funding map published by FCC pursuant to IIJA § 60105 is referred to as the "FCC Broadband Funding Map."

During the BEAD Challenge Process, ARConnect will only allow challenges from nonprofit organizations, units of local government, and internet service providers, as recognized by the State of Arkansas.

3.4 Permissible Challenges.

ARConnect will only allow challenges on the following grounds:

1. The identification of eligible Community Anchor Institutions, as defined by ARConnect;

2. Community Anchor Institution BEAD eligibility determinations;

3. BEAD eligibility determinations for existing Broadband Serviceable Locations ;

4. Enforceable Commitments; or

5. Planned service.

3.5. Challenge Process Overview

The challenge process conducted by ARConnect will include four phases, spanning approximately 90 days:

1. **Publication of Eligible Locations**: Prior to beginning the Challenge Phase, ARConnect will publish the 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). ARConnect will also publish a list of ineligible locations, as they may be challenged.

2. **Challenge Phase**: During the Challenge Phase, a permissive challenger will submit the challenge through ARConnect 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 be considered challenged.

    a. **Minimum Level of Information 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 portal 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, ARConnect 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**: Following the publication of eligible locations, the challenge phase will commence on a set date determined by ARConnect. Permissible challengers will have 30

calendar days to submit a challenge from the time the initial list of eligible and ineligible locations is posted.

3. **Rebuttal Phase**: Only a challenged service provider may rebut the reclassification of a location or area, causing the challenge to be designated as "disputed." 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 resulting in the challenge being sustained. Providers must regularly check the challenge portal notification method for notifications of submitted challenges.

    a. **Timeline**: Providers will have 30 calendar days from the end of the challenge phase to provide rebuttal information to ARConnect.

4. **Final Determination Phase**: During the Final Determination phase, ARConnect will make the final determination of the classification of the location, either declaring the challenge "sustained" or "rejected."

    a. **Timeline**: ARConnect will make all final challenge determinations within 30 calendar days of the onset of the final determination period.

3.6. Evidence and Review Approach

To ensure that each challenge is reviewed and adjudicated based on fairness for all participants and relevant stakeholders, ARConnect will review all applicable challenge and rebuttal information in detail without bias, before deciding to sustain or reject a challenge. ARConnect will provide justification for all challenge determinations and all challenges will be reviewed uniformly. ARConnect will also require that all reviewers submit affidavits to ensure that there is no conflict of interest in making challenge determinations.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
A	Availability	The broadband service identified is not offered at the location, including a unit of a multiple dwelling unit (MDU).	Screenshot of provider webpage. 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.[2]	Provider shows that the location subscribes or has subscribed within the last 12 months, e.g., with a copy of a customer bill. If the evidence was a screenshot and believed to be in error, a screenshot that shows service availability.

[2] 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."

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
			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 excess of the provider's standard installation charge in order to connect service at the location.	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.
S	Speed	The actual speed of the service tier falls below the unserved or underserved thresholds.[3]	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.[4]
L	Latency	The round-trip latency of the broadband service exceeds 100 ms.[5]	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 performance measurements.[6]
D	Data cap	The only service plans marketed to consumers impose an unreasonable capacity allowance	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

[3] 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.

[4] 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.

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

[6] *Ibid*

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
		("data cap") on the consumer.[7]		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.
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).	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 no later than six (6) months after the challenge process begins, without an enforceable commitment or a provider is building	Construction contracts or similar evidence of on-going deployment, along with evidence that all necessary permits have been applied for or obtained. Contracts or a similar binding agreement between ARConnect 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	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.

[7] 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.

Code	Challenge Type	Description	Specific Examples	Permissible rebuttals
		out broadband offering performance beyond the requirements of an enforceable commitment.	source (*i.e.*, a separate federal grant program), including the expected date deployment will be completed, which must be no later than six (6) months after the challenge process begins.	
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 ARConnect.[8]	Evidence that the location does not fall within the definitions of CAIs set by ARConnect 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 ARConnect or is no longer in operation.	Evidence that the location falls within the definitions of CAIs set by ARConnect or is still operational.

3.7. Area and MDU Challenge.

ARConnect will administer area and multiple dwelling unit ("MDU") challenges for challenge types A, S, L, D, and T.

[8] 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 ARConnect may rely on other reliable evidence that is verifiable by a third party.

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 they are indeed meeting 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 can use any of the permissible rebuttals listed in the table above.

An area challenge is triggered if six (6) or more Broadband Serviceable Locations within a single census block group using a particular technology and a single provider within a census block group submit the same type of challenge.

An MDU challenge requires challenges by at least three (3) units or 10% 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 since they are likely to have different availability and performance.

Area challenges for availability need to be rebutted with evidence that service is available for all BSL 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 randomly sample at least ten (10) broadband serviceable locations from the area in contention where the provider must demonstrate service availability and speed (e.g., with a mobile test unit).

3.8. Speed Test Requirements

ARConnect 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 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), optical network terminal (for fiber-to-the-home), or fixed wireless subscriber module.

2. A reading of the speed test available from within the residential gateway web interface.

3. A reading of the speed test found on the service provider's web page.

4. 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 NTIA-approved speed test applications.[9]

Each speed test measurement must include:

1. The time and date the speed test was conducted.

2. 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:

1. The name and street address of the customer conducting the speed test.

2. A certification of the speed tier the customer subscribes to (e.g., a copy of the customer's last invoice).

3. An agreement, using an online form provided by ARConnect, that grants access to these information elements to ARConnect, 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 (3) 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 an internet service provider.

Subscribers submitting a speed test must indicate the speed tier they are subscribing to. If the household subscribes to a speed tier of between 25/3 Mbps and 100/20 Mbps and the speed test results in a speed below 25/3 Mbps, this broadband service will not be considered to determine the status of the location. 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

[9] The NTIA has approved the following speed test applications: speedtest.net; https://speed.measurementlab.net/#/; https://speed.cloudflare.com/; https://fast.com/; or any ARConnect sponsored or operated speed test sites (including commercial aggregators such as https://ready.net/).

served or underserved. 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[10], 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.

3.9. Transparency Plan

To ensure that the challenge process is transparent and open to public and stakeholder scrutiny, ARConnect 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 will include a form for all providers in the state to submit an email at which they would like to be contacted for challenge notifications. This documentation will be posted publicly for at least a week prior to opening the challenge submission window. Relevant stakeholders can sign up on ARConnect's website broadband.arkansas.gov for challenge process updates and newsletters, as well as to view an FAQ page listed under "FAQ." If a question is unanswered by the FAQ page, ARConnect can be reached by emailing broadband.challenges@arkansas.gov.

Beyond actively engaging relevant stakeholders, ARConnect 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 (building off a summary submitted by the challenger), including whether a provider submitted a rebuttal (building off a summary submitted by the provider).

ARConnect 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

[10]. 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

protected, ARConnect 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.

ARConnect will treat information submitted by an existing broadband service provider designated as proprietary and confidential consistent with applicable federal law. Broadband service providers will also be required to submit a redacted version of any documents containing proprietary and confidential information. 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 the Arkansas Freedom of Information Act 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.

SECTION 4. COORDINATION WITH OTHER BROADBAND RULES

This Rule is applicable only to funding allocated under and projects undertaken pursuant to the BEAD program. In the event of any conflict between the terms of this Rule and the Arkansas Rural Connect Broadband Grant Program Rule, or any other state broadband rule, with respect to the BEAD program, the terms of this Rule shall control.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Department of Commerce
BOARD/COMMISSION Arkansas Economic Development Commission
PERSON COMPLETING THIS STATEMENT Glen Howie
TELEPHONE NO. (501) 682-1123 **EMAIL** glen.howie@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Arkansas BEAD Challenge Process

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ☐ No ☑

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
   Yes ☑ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☑ No ☐

   If no, please explain:

   (a) how the additional benefits of the more costly rule justify its additional cost;

   (b) the reason for adoption of the more costly rule;

   (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

   (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

   (a) What is the cost to implement the federal rule or regulation? NTE $450,000

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds $450,000.00	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total $450,000.00	Total_____

(b) What is the additional cost of the state rule?

Current Fiscal Year	**Next Fiscal Year**
General Revenue_____	General Revenue_____
Federal Funds_____	Federal Funds_____
Cash Funds_____	Cash Funds_____
Special Revenue_____	Special Revenue_____
Other (Identify)_____	Other (Identify)_____
Total_____	Total_____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year	**Next Fiscal Year**
$_____	$_____

This rule guides an optional mapping challenge process for internet service providers, nonprofits, and units of local government. These stakeholders are not directly subject to this rule and process, as it is an optional process. There is no mandated/estimated cost.

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year	**Next Fiscal Year**
$ 450,000.00	$_____

The Arkansas State Broadband Office has allocated up to $450,000 to implement this one-time process, using federal grant dollars intended for said purpose. There is no cost or impact to state general revenue, and further, there is no ongoing cost, federal, state, or otherwise.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☑

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
(a) the rule is achieving the statutory objectives;
(b) the benefits of the rule continue to justify its costs; and
(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.