



May 7, 2024

Dear Tribal Leader and Tribal Broadband Specialist:

The Broadband Equity, Access, and Deployment (BEAD) Program provides \$42.45 billion in funding to states, territories and the District of Columbia (“Eligible Entities”) for broadband planning, deployment, mapping, equity, and adoption activities. The National Telecommunications and Information Administration (NTIA), as the agency responsible for administering the BEAD program, issued a Notice of Funding Opportunity (NOFO) describing the program’s requirements. One requirement is that each Eligible Entity must submit an Initial Proposal that includes a BEAD “challenge process” under which a unit of local government (including Tribal governments), nonprofit organization, or broadband service provider may challenge the Eligible Entity’s initial determination whether a particular location or community anchor institution is eligible for BEAD funds, including whether a particular location is unserved or underserved.

While there are multiple reasons for a Tribal government to participate in the BEAD Challenge Process, NITA once again wants to remind tribes that they may want to challenge the status of “enforceable commitments” on their lands. The BEAD NOFO states that locations subject to enforceable commitments are not eligible for BEAD funding. With the exception of Tribal lands, the BEAD Program defines “enforceable commitment” as public funding commitments for the provision of qualifying broadband service. However, for Tribal lands, a public funding commitment meeting the above criteria constitutes an “enforceable commitment” only if accompanied by a legally binding agreement, which includes a Tribal Government Resolution, between the relevant Tribal Government and the provider receiving the public funding.

We encourage Tribal governments to examine and participate in this critical aspect of the BEAD program. Specifically, Tribal governments should consider filing challenges related to locations on tribal lands are shown as served on the broadband data maps — during the BEAD challenge process — including any overstatements of availability of service, overstatement of speed of networks on tribal lands, lack of availability in apartments, condominiums, or other multi-family structures (MDUs), or an Eligible Entity’s determination that locations on Tribal lands are subject to an enforceable commitment. Successful challenges will make challenged locations available for BEAD-funded infrastructure. Increasing Tribal participation in the BEAD Challenge process will assist states and NTIA in having accurate information in order to ensure that this critical funding reaches intended areas. If Tribal Governments do not challenge the enforceable commitments on their land, then locations may be marked as “served” (and ineligible for BEAD) even though the commitment does not include a legally binding agreement or Tribal Government Resolution.

Attached is a technical assistance document NTIA prepared on this topic. For more information on active BEAD challenge processes, including dates for the opening and closing of online portals to submit challenges as well as links to those portals, please visit - [State and Territory Challenge Process Tracker | Internet for All](#).

Should you have further questions or require additional information, please contact Margaret Gutierrez, Acting Division Chief, at 202-235-5467.

Sincerely,

A handwritten signature in black ink, appearing to read 'Douglas Kinkoph', written in a cursive style.

Douglas Kinkoph

Associate Administrator
Office of Internet Connectivity and Growth