

With Billions of Dollars of Broadband Funding at Stake, the Timing of the Challenge Process to the FCC's Broadband Map Under Increasing Scrutiny

Article By:

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Just over a month ago, the FCC released its pre-production draft of its [new Broadband Maps](#). The initial map is based on service availability data collected from broadband providers through the ongoing Broadband Data Collection ("BDC") and reflects services available^[1] as of June 30, 2022.^[2]

The release of the Broadband Map initiated a process for individuals and other entities to submit challenges to the accuracy of data for single locations, both in terms of the availability of service and serviceable locations.^[3] The FCC has released guidance on how to submit an [Availability Challenge](#) and how to submit a [Location Challenge](#). Since the release of the map, the FCC has indicated that it has received thousands of individual challenges.

The Broadband Map will play a fundamental role in identifying "unserved" and "underserved" locations and, thus, how much funding each State will be eligible to receive under the \$42.5 billion Broadband Equity, Access, and Deployment ("BEAD") program established under the Infrastructure Jobs and Investment Act. The NTIA has stated that it "expects to" announce the allocations from the BEAD program by June 30, 2023.

The challenge process will remain open and ongoing in order to improve the accuracy of the Broadband Map. The NTIA, however, has announced that challenges must be submitted by a deadline of January 13, 2023, in order to be considered in the version of the map that will be used in allocating the BEAD funding.^{[4][5]}

In the month since the first draft was released, a wide range of public and private entities have asserted that the data is inaccurate and would result in significant misallocations of broadband BEAD funding if errors are not corrected.

Several state and local government entities have raised concerns that the January 13 deadline does not provide sufficient time to submit challenges.^[6] While the NTIA has acknowledged these concerns, the NTIA has not, as of yet, indicated a willingness to extend the January 13 deadline.^[7] Similarly FCC Chairwoman, Jessica Rosenworcel, counseled, "[w]hile we will take a close look at any

availability challenges filed at any time, because of the time frames for availability challenges set forth under the rules and the law, you will have the best opportunity for your availability challenge to be resolved ahead of NTIA's planned funding time frame if you file it by January 13."^[8]

[1] A broadband service is considered "available" if a provider currently provides broadband service of at least 25/3 Mbps, or could provide such service, as part of a "standard broadband installation" within ten business days following a request.

[2] For more information on the FCC's Broadband Data Collection, please see the rest of our BDC blog series: [The FCC's New Broadband Data Collection is About to Launch | Beyond Telecom Law Blog](#); [The Who, What, When, and Where of the FCC's New Broadband Data Collection | Beyond Telecom Law Blog](#); [Overview of the FCC's Broadband Data Collection Resources | Beyond Telecom Law Blog](#); [Overview of the FCC's Broadband Data Collection Bulk Fabric Challenge Process | Beyond Telecom Law Blog](#).

[3] State and local governments, as well as other entities, have already been able to submit "bulk" challenges to the broadband map since September 2022.

[4] <https://ntia.gov/press-release/2022/biden-harris-administration-announces-timeline-national-high-speed-internet>

[5] Note, the January 13 deadline relates to the date that the NTIA has established for challenges to the Broadband Map in order to be included in NTIA's allocation of BEAD Act funding to the States. Each State will in turn be required to establish its own process under which challenges can be made to the State's initial determination as to whether a particular location or community anchor institution within the jurisdiction of the State is eligible for such grant funds.

[6] For example, the Vermont Congressional Delegation and the Vermont Community Broadband Board have indicated that 22% of the addresses in the Vermont Public Service Department's database are not listed on the Broadband Map. They have indicated that there is not sufficient time to make all of these corrections by the January 13 deadline and have requested a thirty day extension. <https://publicservice.vermont.gov/announcements/vcbb-and-vermonts-congressional-delegation-ask-fcc-more-time-challenge-its-maps>

[7] <https://broadbandbreakfast.com/2022/12/ntias-alan-davidson-touts-fcc-map-expresses-worry-about-challenge-deadline/>

[8] <https://www.fcc.gov/about/leadership/jessica-rosenworcel#notes>

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