



PUBLIC NOTICE

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CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU SEEKS COMMENT ON THE NATIONAL DEAF-BLIND EQUIPMENT DISTRIBUTION PROGRAM

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I. Introduction

1. In this Public Notice, we seek comment on a range of issues related to the establishment of a permanent National Deaf-Blind Equipment Distribution Program (NDBEDP). The NDBEDP is a program of the Federal Communications Commission (FCC or Commission) that supports the distribution of communications devices to low-income individuals who are deaf-blind.

2. The Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA) directed the Commission to establish rules to provide up to \$10 million annually from the interstate telecommunications relay service fund (TRS Fund) to support programs that distribute communications equipment to low-income individuals who are deaf-blind.¹ In accordance with this directive, the Commission established the NDBEDP,² which has been operating as a pilot program since July 1, 2012.³ The rules governing this pilot program will expire on June 30, 2015.⁴ In this Public Notice, we invite the public to tell us which rules governing the NDBEDP pilot program have been effective and should remain in place and which should be modified to make the permanent NDBEDP more effective and more efficient.⁵ Comments filed in response to this Public Notice will help inform the

¹ Pub. L. No. 111-260, 124 Stat. 2751, § 105 (2010); Amendment of Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA). Section 105 of the CVAA adds Section 719 to the Communications Act of 1934, as amended, and is codified at 47 U.S.C. § 620.

² See *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Report and Order, 26 FCC Rcd 5640 (2011) (*NDBEDP Report and Order*).

³ See *Commission Announces Launch of the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 7403 (CGB 2012).

⁴ See *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Order, 29 FCC Rcd 1234 (CGB 2014) (*NDBEDP Third Year Order*).

⁵ See 47 C.F.R. § 64.610 (NDBEDP pilot program rules).

preparation of a Commission Notice of Proposed Rulemaking for the development of rules to continue the NDBEDP after the pilot program ends.⁶

II. Program Structure

3. Currently, there are 53 entities – one entity per state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands – certified by the Consumer and Governmental Affairs Bureau (CGB or Bureau) to receive support for the distribution of equipment to low-income individuals who are deaf-blind.⁷ Each certified program has primary oversight and responsibility for compliance with program requirements, but may fulfill its responsibilities directly or through collaboration, partnership, or contract with other individuals or entities within or outside of their states or territories.⁸ We seek comment on whether this program structure should be retained for the permanent NDBEDP. Specifically, what are the advantages or disadvantages of having separately certified programs across the United States and its territories? Would it be more efficient or effective to have a single entity operate the NDBEDP nationwide, or fewer entities operate multistate regional programs across the country? Which would be preferable for consumers who are deaf-blind: localizing oversight of individual NDBEDP programs or centralizing the responsibilities currently handled by these programs?

4. At present, each certified program is responsible for both the distribution of equipment and various administrative functions associated with the NDBEDP. Tasks associated with the distribution of equipment include outreach, assessment, installation of devices, and training.⁹ Administrative functions include the submission of reimbursement claims, the fulfillment of reporting obligations, and conducting annual audits.¹⁰ What would be the advantages or disadvantages of transferring some of the responsibilities in either or both of these categories (distribution of equipment and/or administrative functions) to a single administrator? Which tasks would be appropriate for assignment to a central administrator? Would it be preferable to maintain individual certified programs for certain tasks – for example, those related to the distribution of equipment – while centralizing some or all of the administrative functions in a single entity? To what extent would there be advantages to adopting centralized web-based systems for processing reimbursement claims or reporting? We note that during the NDBEDP pilot program, some state programs relinquished their certification, requiring the Commission to seek replacements in those states.¹¹ We ask interested stakeholders to comment on

⁶ The resulting record will be shared with the NDBEDP Administrator so that it can help the Commission “obtain, review, and analyze data to assess the effectiveness of the pilot program” and “work with Commission staff on the adoption of rules for a permanent program.” *NDBEDP Report and Order*, 26 FCC Rcd at 5685-86, ¶ 105.

⁷ See *NDBEDP Report and Order*, 26 FCC Rcd at 5646, ¶ 12. See also *Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*, 27 FCC Rcd 7397 (CGB 2012).

⁸ See *NDBEDP Report and Order*, 26 FCC Rcd at 5647, ¶ 13.

⁹ See *id.*, 26 FCC Rcd at 5668-69, 5670-71, 5679, ¶¶ 65, 69, 79.

¹⁰ See *id.*, 26 FCC Rcd at 5680, ¶ 92.

¹¹ *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Nevada*, Public Notice, 28 FCC Rcd 6360 (CGB 2013); *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Mississippi*, Public Notice, 28 FCC Rcd 14869 (CGB 2013); *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the States of Vermont and Nebraska*, Public Notice, 29 FCC Rcd 3921 (CGB 2014); *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the States of Indiana and Minnesota*, Public Notice, DA 14-775 (CGB, rel. June 4, 2014); *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Iowa*, Public Notice, DA 14-964 (CGB, rel. July 3, 2014).

whether centralizing certain distribution and/or administrative functions would increase the likelihood that programs will fulfill the terms of their certification by creating greater efficiencies. What other measures can the Commission take to improve the structure of the NDBEDP and support certified programs in their efforts to distribute equipment to people who are deaf-blind?

5. The *NDBEDP Report and Order* set forth a series of criteria that has been used by the Bureau to evaluate an entity's qualifications to obtain certification, including expertise and experience in the field of deaf-blindness and communications services, sufficient staffing and facilities, and the ability to communicate effectively with and provide equipment training for people who are deaf-blind.¹² Should the Commission change any of these criteria and, if so, how? If the Commission chooses to centralize some of the functions associated with the distribution or administrative functions of the NDBEDP, what qualifications should the entity chosen to manage these functions have? How should such entity be selected? For example, should the Bureau invite entities to apply and then make a selection from among qualified applicants?¹³

6. At present, all NDBEDP programs are certified for the duration of the pilot program.¹⁴ Should the Commission's rules for a permanent NDBEDP limit the duration of each program's certification? We note that under the Commission's telecommunications relay service (TRS) rules, states are certified by the Commission to operate their own TRS programs for a period of five years, after which they must seek renewal of their certification.¹⁵ Is this certification period similarly appropriate for NDBEDP certified programs? If not, what would be an appropriate period, and why? Should entities that currently have certification to distribute equipment be permitted to carry over their certification into the permanent program, or should they be required to reapply for certification?

7. During the NDBEDP pilot program, the Bureau designated an NDBEDP Administrator who has been responsible for, among other things, reviewing applications from entities for certification to receive NDBEDP funding, allocating NDBEDP funding, reviewing reimbursement claims, maintaining the NDBEDP website, resolving stakeholder issues, and serving as the Commission point of contact for the NDBEDP.¹⁶ The NDBEDP Administrator has worked in collaboration with the current TRS Fund Administrator, Rolka Loube Saltzer Associates, LLC, which is responsible for, among other things, reviewing cost submissions and releasing funds under the NDBEDP for distributed equipment and related services, including outreach efforts.¹⁷ We seek comment on the extent to which any of these administrative responsibilities should be modified, and if so, how and for what purposes.

¹² See 47 C.F.R. § 64.610(b) (full list of certification criteria).

¹³ The Commission employed this procedure for its selection of the NDBEDP national outreach coordinator. See *FCC Invites Applicants to Conduct National Outreach for the National Deaf-Blind Equipment Distribution Program*, Public Notice, 26 FCC Rcd 14517 (CGB 2011).

¹⁴ See *NDBEDP Report and Order*, 26 FCC Rcd at 5647, ¶ 14.

¹⁵ See, e.g., 47 C.F.R. § 64.606(c)(1) (state TRS applications for renewal may be filed one year prior to expiration); 47 C.F.R. § 64.606 (c)(2) (Internet-based TRS provider certification is for five years; applications for renewal must be filed at least 90 days prior to expiration).

¹⁶ 47 C.F.R. § 64.610(h)(1). Among its many public releases, the Bureau has also provided the following guidance with respect to the administration of the NDBEDP pilot program: (1) "NDBEDP Certified Program Expenses," available at <http://r-l-s-a.com/TRS/ExamplesofReimbursableExpenses.pdf> (providing examples of expenses that are and are not reimbursable under the NDBEDP) (last viewed June 30, 2014) (*NDBEDP Expenses*); and (2) "NDBEDP Frequently Asked Questions," available at <http://r-l-s-a.com/TRS/NDBEDP-FAQ.pdf> (last viewed June 30, 2014) (*NDBEDP FAQ*).

¹⁷ 47 C.F.R. § 64.610(h)(2).

III. Funding

8. In the *NDBEDP Report and Order*, the Commission set aside \$500,000 of the \$10 million available annually for the NDBEDP for national outreach efforts during each year of the pilot program.¹⁸ The remaining \$9.5 million of the \$10 million is allocated to each of the NDBEDP certified programs, to be distributed as reimbursement for the reasonable costs of operating these programs in compliance with the Commission's rules.¹⁹ Funding allocations for each of the 53 programs that are currently certified has been calculated by allocating a minimum base amount of \$50,000 for each jurisdiction plus an amount in proportion to each jurisdiction's population.²⁰ If the Commission continues to operate the NDBEDP through certified programs, is this current funding allocation system reasonable and fair? We ask that commenters who believe that this approach to funding allocations should be changed be specific in describing what changes should be made and what purpose these changes will serve.

9. During the first year of the pilot program, NDBEDP certified programs submitted reimbursement claims to the TRS Fund Administrator for approximately 70 percent of the \$10 million available to support the NDBEDP.²¹ Although data for the second year of the pilot program, which ends June 30, 2015, are not yet fully available, requests for reimbursement to date suggest that these claims are likely to reach 100 percent of the \$10 million annual allocation.²² During each of the pilot program years, the NDBEDP Administrator has reviewed funding data as it has become available and has worked with certified programs and the Bureau to have funding reallocated between state programs when necessary to maximize the use of available funding.²³ To what extent have these reallocations helped to meet the needs of certified programs in receipt of such funds? Have they in any way hindered the distribution of equipment by programs that have not fully utilized their allocations? Should the permanent NDBEDP rules continue to authorize the reallocation of funds from one program to another, as deemed necessary and appropriate?

10. Under the NDBEDP pilot program, the Commission has reimbursed certified programs for the authorized costs of equipment and related services after these costs have been incurred, up to each program's initial or adjusted allocation.²⁴ The Commission adopted this approach to provide incentives to actively locate eligible participants and to provide greater accountability and protection against fraud, waste, and abuse.²⁵ Certified programs may elect to seek such reimbursement monthly, quarterly, or

¹⁸ See *NDBEDP Report and Order*, 26 FCC Rcd at 5675-76, ¶ 80.

¹⁹ *Id.*, 26 FCC Rcd at 5677, ¶ 85.

²⁰ *Id.*, 26 FCC Rcd at 5677, ¶ 84. CGB is authorized to adjust these allocations, as needed and appropriate. *Id.*, 26 FCC Rcd at 5677, ¶¶ 85, 90. See also *Bureau Announces 2013-2014 State Allocations for the National Deaf-Blind Equipment Distribution Program*, 28 FCC Rcd 9243 (2013).

²¹ See *NDBEDP Third Year Order*, 29 FCC Rcd at 1236, ¶ 5

²² See *id.*, 29 FCC Rcd at 1236, ¶ 6.

²³ The Bureau may reduce, raise, or reallocate funding allocations to any certified program as it may deem necessary and appropriate. See *id.*, 26 FCC Rcd at 5679, ¶ 90.

²⁴ 47 C.F.R. § 64.610(f).

²⁵ See *NDBEDP Report and Order*, 26 FCC Rcd at 5679, ¶ 88. Each reimbursement claim must be accompanied by a declaration made under penalty of perjury attesting to the truth and accuracy of the submission. 47 C.F.R. § 64.610(f)(3).

semi-annually.²⁶ We seek comment on how this reimbursement mechanism has worked in practice and whether the Commission should retain this reimbursement mechanism or adopt another mechanism to support certified programs. If the Commission should consider changes to the reimbursement mechanism, what alternative mechanism could be adopted that would provide incentives to locate eligible participants, achieve accountability, and protect against fraud, waste, and abuse and how would it function? As noted above, over the past two years, on occasion, the NDBEDP Administrator has adjusted allocations among the NDBEDP certified programs. If funds were advanced to certified programs, but then not fully used during the Fund year, how would the program return those funds to the Commission's TRS Fund Administrator for reallocation to other certified programs? Would reallocation during each Fund year be possible with a funding mechanism other than the reimbursement mechanism now used? For example, would it be feasible to reallocate funds if each certified program receives its allotted portion of the funding prior to these funds being spent for covered equipment and services?²⁷ If the present reimbursement mechanism is retained, how can the Commission make it more efficient? For example, would programs benefit from using a centralized web-based system to input cost-related information and documentation, from which standardized reimbursement claims and reports could be generated to expedite processing, payment, and reporting?²⁸ Would such a centralized web-based system facilitate more rapid payment of claims? Should the Commission require that such claims be paid within a certain time frame and, if so, what time frame would be appropriate?

11. NDBEDP certified programs may be reimbursed for administrative costs up to 15 percent of their total reimbursable costs for equipment and related services, but have no caps on costs associated with outreach, assessments, equipment, installation, or training.²⁹ We seek comment on whether this 15 percent cap on administrative costs should be retained. Is 15 percent sufficient to cover administrative costs typically incurred through participation in the NDBEDP, such as reporting requirements, accounting, regular audits, oversight, and general administration?³⁰ Are there other types of administrative costs typically incurred by NDBEDP certified programs that are not listed here? Should the cap on administrative costs be based on the program's annual funding allocation rather than reimbursable costs for equipment and related services? Would a cap on administrative costs based on the program's annual funding allocation act as a disincentive to locate or provide equipment and related services to eligible participants, since a certified entity would be entitled to such reimbursement without having delivered any equipment or related services?

12. If the Commission decides to adopt a centralized web-based system for accounting and reporting, what amount of the annual \$10 million allocation should be set aside for these purposes? Similarly, what annual costs would individual programs have to incur to participate in such a centralized system? Should a certified program's costs to participate in a centralized web-based accounting and reporting system be considered program costs, rather than administrative costs? If so, should the 15 percent cap on administrative costs be retained or changed? If they are considered administrative costs, should they be subject to the 15 percent cap?

²⁶ See *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Order, 27 FCC Rcd 2812 (CGB 2012).

²⁷ See ¶ 9, *supra* (noting that the Bureau reallocated funds between state programs during the first two years of the pilot program when necessary to maximize the use of available funding).

²⁸ See 47 C.F.R. § 64.610(g) (reporting requirements for NDBEDP certified programs). See also Section IX, *infra* (discussing oversight and reporting).

²⁹ See *NDBEDP Report and Order*, 26 FCC Rcd at 5680, ¶ 92.

³⁰ *Id.*

IV. Consumer Eligibility

13. *Individuals who are Deaf-Blind.* To participate in the NDBEDP, the CVAA requires that individuals must be “deaf-blind,” as that term is defined in the Helen Keller National Center Act (HKNC Act).³¹ The Commission’s NDBEDP pilot program rules also direct NDBEDP certified programs to consider an individual’s functional abilities with respect to using telecommunications, advanced communications, and Internet access services in various environments when determining whether an individual is “deaf-blind.”³² The NDBEDP pilot program rules further require that individuals seeking equipment under the NDBEDP must provide disability verification from a professional (*e.g.*, community-based service provider, vision or hearing related professional, vocational rehabilitation counselor, educator, and medical or health professional) who has direct knowledge of and can attest to the individual’s disability.³³ Under the permanent rules, should the NDBEDP continue to accept as disability verification documentation already in the applicant’s possession, such as individualized education programs and Social Security determination letters?³⁴ We seek comment on the extent to which these rules have provided certified programs with the flexibility they need to identify the full range of individuals who are deaf-blind for whom the NDBEDP was intended to serve. To the extent that commenters request modifications to these rules, we seek input on the Commission’s authority to adopt those modifications, given the CVAA’s definition of individuals who are “deaf-blind” who are eligible under the NDBEDP.

14. *Low Income Limitation.* To participate in the NDBEDP, individuals must be low-income.³⁵ The NDBEDP pilot program rules define low-income as 400% of the Federal Poverty Guidelines (FPG) and allow automatic income eligibility for individuals enrolled in federal subsidy programs with income thresholds lower than 400% of the FPG.³⁶ Should the NDBEDP continue to use

³¹ 47 U.S.C. § 620(b). The HKNC Act defines an individual who is “deaf-blind” as any individual: (A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions; (ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and (iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation; (B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or (C) meets such other requirements as the Secretary may prescribe by regulation. 29 U.S.C. § 1905(2).

³² 47 C.F.R. § 64.610(c)(2)(ii). *See also NDBEDP Report and Order*, 26 FCC Rcd at 5652, ¶ 27.

³³ 47 C.F.R. §§ 64.610(d)(1)(i), (ii). Such professionals must attest, either to the best of their knowledge or under penalty of perjury, that the applicant is an individuals who is deaf-blind, as that term is defined in the Commission’s rules. 47 C.F.R. § 64.610(d)(1)(ii). A disability verification must include the attester’s name, title, and contact information, including address, phone number, and e-mail address. 47 C.F.R. § 64.610(d)(1)(iv).

³⁴ 47 C.F.R. § 64.610(d)(1)(iii).

³⁵ 47 U.S.C. § 620(a).

³⁶ 47 C.F.R. § 64.610(d)(2). These federal subsidy programs include the Federal Public Housing Assistance or Section 8; Supplemental Nutrition Assistance Program, formerly known as Food Stamps; Low Income Home Energy Assistance Program; Medicaid; National School Lunch Program’s free lunch program; Supplemental Security Income; or Temporary Assistance for Needy Families. *Id.* *See also* 2014 Poverty Guidelines, U.S. Department of Health & Human Services, Office of the Assistant Secretary for Planning and Evaluation, available at <http://aspe.hhs.gov/poverty/14poverty.cfm> (last viewed July 8, 2014).

the 400% of FPG rule for income eligibility? If not, what measure of income would be appropriate for the permanent program? How should “income” be calculated (*e.g.*, salary before any deductions, plus any public assistance benefits, social security payments, pensions, unemployment compensation, veteran’s benefits, inheritances, alimony, child support payments, worker’s compensation benefits, gifts, lottery winnings, or other forms of income)?³⁷ Should income be determined only with respect to the individual (regardless of his or her status as a child, adult, student, dependent, or financially independent person) or with respect to the household (*e.g.*, an individual or group of individuals who are living together at the same address as one economic unit)?³⁸ We ask that commenters explain how their proposals would be consistent with the “low-income” eligibility criteria mandated for this program, as well as other federal programs.

15. *Other Eligibility Criteria.* During the NDBEDP pilot program, the Commission’s rules have permitted certified programs to require that NDBEDP equipment recipients demonstrate that they have access to the telecommunications, advanced communications, or Internet access services that the equipment is designed to use and make accessible.³⁹ In contrast, certified programs may not impose employment-related eligibility requirements for individuals to participate in the program.⁴⁰ We seek comment on whether these eligibility criteria should be maintained for the permanent NDBEDP and whether there are other eligibility requirements that should be considered. Should certified programs be permitted to consider the demographics of their jurisdictions, the amount of NDBEDP funds allocated for their jurisdiction, the availability of equipment and services through other programs, or other factors to prioritize the distribution of equipment or provision of related services to qualified applicants?⁴¹

V. Equipment

16. The NDBEDP provides support for the distribution of specialized customer premises equipment⁴² needed to make telecommunications services,⁴³ Internet access service,⁴⁴ and advanced

³⁷ See *NDBEDP FAQ 23*. See also 47 C.F.R. § 54.400(f) (defining “income” for purposes of universal service support for low-income consumers).

³⁸ See *NDBEDP FAQ 16 and 24*. See also 47 C.F.R. § 54.400(h) (defining “household” for purposes of universal service support for low-income consumers).

³⁹ See *NDBEDP Report and Order*, 26 FCC Rcd at 5658, ¶ 42.

⁴⁰ See *id.*, 26 FCC Rcd at 5659, ¶ 44.

⁴¹ The NDBEDP provides a funding resource for the distribution of communications equipment that supplements rather than supplants any existing legal mandates or programs that may be available to provide communications or other equipment to low-income individuals who are deaf-blind. See *id.*, 26 FCC Rcd at 5690, ¶ 115.

⁴² “Specialized customer premises equipment” is equipment employed on the premises of a person which is commonly used by individuals with disabilities to achieve access. See 47 U.S.C. §§ 153(16) (defining “customer premises equipment”); 47 C.F.R. § 6.3(i) (defining “specialized customer premises equipment”). See also *Implementation of Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities*, WT Docket No. 96-198, Report and Order and Further Notice of Inquiry, 16 FCC Rcd 6417, 6435, ¶¶ 34-36 (1999) (providing further guidance on this definition).

⁴³ “Telecommunications service” is defined in the Communications Act as the offering of telecommunications for a fee directly to the public, or to such classes of users as to effectively available directly to the public, regardless of the facilities used. 47 U.S.C. §152(46). “Telecommunications” is further defined as the transmission, between or among points specified by the user, of information of the user’s choosing, without change in the form or content of the information as sent and received. 47 U.S.C. §152(50).

⁴⁴ The Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN-SPAM Act) defines “Internet access service” as “a service that enables users to access content, information, electronic mail, or other

communications,⁴⁵ including interexchange services⁴⁶ and advanced telecommunications and information services⁴⁷ accessible to people who are deaf-blind.⁴⁸ Under the NDBEDP pilot program, the Commission reimburses certified programs for the reasonable cost of equipment, which may be hardware, software, or applications, separate or in combination, mainstream or specialized, as long as it meets the needs of the deaf-blind individual to achieve access to NDBEDP covered services.⁴⁹ Certified programs are permitted to distribute multiple pieces of equipment to eligible consumers, as needed.⁵⁰ Equipment-related expenses, including maintenance, repairs, warranties, returns, maintaining an inventory of loaner equipment, as well as refurbishing, upgrading, and replacing equipment distributed to consumers are also reimbursable.⁵¹ Under the NDBEDP pilot program, certified programs may lend or transfer ownership of the distributed equipment to qualified recipients.⁵² When a recipient relocates to another state, certified programs must permit the transfer of the recipient's account and any control of the distributed equipment to the new state's certified program.⁵³ We seek comment on these provisions of the NDBEDP pilot program, and whether the distribution of equipment under the permanent NDBEDP should be treated differently. If so, how and why would such changes be consistent with the CVAA, benefit eligible low-income individuals who are deaf-blind, and result in more efficient or effective use of NDBEDP funds? For example, now that most programs are using up their annual fund allotment, should programs be directed to limit the number of devices that each eligible individual may receive in a specified period of time, such as one or two Fund years? Would this practice further or impede the goals of the NDBEDP?

VI. Individualized Assessment of Communications Needs

17. Under the NDBEDP pilot program, the Commission's rules permit reimbursement for the reasonable costs of making individualized assessments of a deaf-blind individual's communications needs

services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers.” 47 U.S.C. § 231(e)(4).

⁴⁵ “Advanced communications” is defined to include “interconnected VoIP service,” “non-interconnected VoIP service,” “electronic messaging service,” and “interoperable video conferencing service.” 47 U.S.C. § 153(1). See also 47 C.F.R. § 9.3 (defining “interconnected VoIP service”); 47 U.S.C. § 153(36) (defining “non-interconnected VoIP service”); 47 U.S.C. § 153(19) (defining “electronic messaging service”); and 47 U.S.C. § 153(27) (defining “interoperable video conferencing service”).

⁴⁶ “Interexchange services” are generally services between local exchanges in different geographic areas (local access and transport areas, otherwise known as LATAs). Traditionally, these have been commonly called long-distance services. See *Union Telephone Co. v. Qwest Corp.*, 2004 WL 4960741 (D.Wyo. Sep 03, 2004) (NO. 02-CV-209-D)(2004) at 2 (“long distance” (also known as “toll” or “interexchange”) service refers to service offered to subscribers that permits them to place (or originate) calls that terminate outside of their local calling area).

⁴⁷ “Information service” is defined as the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service. 47 U.S.C. § 153(24).

⁴⁸ 47 U.S.C. § 620(a).

⁴⁹ 47 C.F.R. § 64.610(c)(1) (defining “equipment” for purposes of the NDBEDP), (f)(1) (authorizing payment to certified programs for the cost of NDBEDP equipment distributed and related services provided).

⁵⁰ See *NDBEDP Report and Order*, 26 FCC Rcd at 5665, ¶ 55.

⁵¹ 47 C.F.R. §§ 64.610(f)(2)(i), (iv). See also *NDBEDP Report and Order*, 26 FCC Rcd at 5673-74, ¶¶ 75-76; *NDBEDP Expenses* at 1-2.

⁵² See *NDBEDP Report and Order*, 26 FCC Rcd at 5666, ¶ 58.

⁵³ 47 C.F.R. § 64.610(e)(iii).

by qualified assistive technology specialists.⁵⁴ The Commission also permits reimbursement for reasonable travel costs of assessors and for support services, such as qualified interpreters, to conduct individualized assessments, but does not permit reimbursement of travel costs for consumers to travel to receive assessments.⁵⁵ We seek comment on the appropriateness of the Commission's rules governing reimbursement for individualized assessments, and whether reimbursement of the reasonable costs of the consumer's travel for such assessments would make the NDBEDP more efficient and effective, as well as the extent to which such travel would benefit consumers. For example, would it benefit potential equipment recipients to be able to try out various types of communication devices that are located on the premises of the certified programs?

VII. Installation and Training

18. The NDBEDP pilot program permits reimbursement for the reasonable costs of installing NDBEDP distributed equipment and individualized consumer training on how to use the distributed equipment.⁵⁶ The Commission also permits reimbursement for reasonable travel costs of trainers and for support services, such as qualified interpreters, to conduct individualized training, but does not permit reimbursement of travel costs for consumers to travel to receive individualized training.⁵⁷ We seek comment on whether reimbursement of these costs should continue to be permitted, and whether permitting reimbursement for the reasonable costs of the consumer's travel for installation and training would make the NDBEDP more efficient and effective. Are there circumstances in which consumers would benefit if they are reimbursed for travel to distribution centers to obtain training?

19. In the *NDBEDP Report and Order*, the Commission declined to set aside NDBEDP funds in the pilot program to cover the cost of training for qualified individuals who can train NDBEDP equipment recipients – *i.e.*, a “train the trainer” service.⁵⁸ At that time, it understood that there was a shortage of qualified personnel, particularly with respect to training consumers who communicate receptively and/or expressively in Braille or American Sign Language.⁵⁹ As a result, the Commission encouraged certified programs to maximize the use of limited resources through collaboration, partnerships, or contracts between and among certified programs and other individuals and entities.⁶⁰ We seek comment on the extent to which there remains a shortage of qualified personnel to provide training to NDBEDP equipment recipients. Are certified programs already using train-the-trainer programs? What resources currently exist for trainers to learn about new technology or consult with subject matter experts on an ongoing basis? Should a national entity coordinate such training? Would online training modules by skilled specialists be effective to provide training remotely? We seek comment on whether NDBEDP funds should be allocated for train-the-trainer programs, the Commission's authority to allocate such funds, the amount of funding that should be set aside for such training, and for what period of time such funding should be permitted.

⁵⁴ 47 C.F.R. § 64.610(f)(2)(ii).

⁵⁵ See *NDBEDP Report and Order*, 26 FCC Rcd at 5668, ¶ 65. See also *NDBEDP Expenses* at 1.

⁵⁶ 47 C.F.R. § 64.610(f)(2)(iii). See also *NDBEDP Report and Order*, 26 FCC Rcd at 5670-71, ¶ 69.

⁵⁷ See *NDBEDP Expenses* at 2.

⁵⁸ See *NDBEDP Report and Order*, 26 FCC Rcd at 5671, ¶ 70.

⁵⁹ *Id.*

⁶⁰ *Id.*

VIII. Outreach and Education

20. The Commission has set aside \$500,000 of the \$10 million available annually for national outreach efforts to promote the NDBEDP during each year of the pilot program.⁶¹ For this effort, the Perkins School for the Blind partnered with the Helen Keller National Center for Deaf-Blind Youths and Adults, FableVision, Inc., and worked with other national and local consumer groups, parent groups, agencies, and associations.⁶² Among other things, this outreach effort has resulted in an NDBEDP website, social media presence, and public service announcements (PSAs), as well as advertisements on billboards and in magazines.⁶³ We seek comment on the efforts undertaken by the national outreach program,⁶⁴ and whether the Commission should continue to fund national outreach efforts to promote the NDBEDP. If so, is \$500,000 or a different amount appropriate for such outreach, and for how long should funding be continued?

21. In addition to the set aside of \$500,000 per year for national outreach during the pilot program, certified programs have been reimbursed for the reasonable costs of outreach conducted within their own jurisdictions.⁶⁵ We seek comment on such state and local outreach efforts, their success, and whether such efforts should continue to be reimbursable under the permanent NDBEDP.

IX. Oversight and Reporting

22. Commission rules require all certified programs to report certain information to the Commission in an electronic format every six months.⁶⁶ The report must include, among other things, information about NDBEDP equipment recipients; distributed equipment; the cost, time and other resources allocated to outreach activities, assessment, equipment installation and training, and for equipment maintenance, repair, refurbishment, and upgrades; equipment requests that have been rejected; complaints; and waiting lists.⁶⁷ In the *NDBEDP Report and Order*, the Commission concluded that such reporting is necessary for the effective administration of the NDBEDP pilot program, to assess the effectiveness of the program, to ensure the integrity of the TRS Fund, to ensure compliance with the

⁶¹ See *id.*, 26 FCC Rcd at 5675-76, ¶ 80.

⁶² See *Perkins School for the Blind to Conduct National Outreach for the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 6143 (CGB 2012).

⁶³ The iCanConnect website at www.iCanConnect.org provides contact and other information for each of the 53 certified programs (called “State Partners”), news about the program nationwide (including coverage by news media and personal stories about how the program has benefitted equipment recipients), an overview of the types of communications equipment the program can provide, and additional resources. See also <https://www.facebook.com/iCanConnect.org> (Facebook), <https://twitter.com/iCanConnect1> (Twitter), and <http://www.youtube.com/watch?v=wyQ6d9SgQ6s> (60-second PSA), <http://www.youtube.com/watch?v=DRlm8M7ieck> (30-second PSA), and <http://www.youtube.com/watch?v=eRAJKCINY9o> (10-second PSA).

⁶⁴ See iCanConnect “Year One Highlights,” September 26, 2013 (filed Nov. 20, 2013) (providing a synopsis of the first year of the NDBEDP pilot program, including national marketing and outreach efforts), available at <http://apps.fcc.gov/ecfs/document/view?id=7520958851>.

⁶⁵ 47 C.F.R. § 64.610(f)(2)(v). See also *NDBEDP Report and Order*, 26 FCC Rcd at 5675, ¶ 79; *NDBEDP Expenses* at 2.

⁶⁶ 47 C.F.R. § 64.610(g)(1). See also *NDBEDP Report and Order*, 26 FCC Rcd at 5683-84, ¶ 99. Each report must be accompanied by a declaration made under penalty of perjury attesting to the truth and accuracy of the submission. 47 C.F.R. § 64.610(g)(2).

⁶⁷ See 47 C.F.R. § 64.610(g)(1).

NDBEDP pilot program rules, and to inform the Commission's rulemaking for the permanent NDBEDP.⁶⁸ We seek comment on the extent to which such reporting obligations remain necessary, as well as ways to simplify this reporting requirement for the permanent NDBEDP. Commenters suggesting that these obligations be modified should offer specific changes, and explain what, if any, the impact of modifying these obligations would be on certified programs, consumers, and the Commission's ability to oversee the NDBEDP. For example, would submission of the required information through a centralized web-based system be more efficient? Would such a system enable more standardized reporting and more effective data analysis? Should the reporting requirements be streamlined so they can be used to satisfy the information and documentation that certified programs must submit to support claims for reimbursement to facilitate the submission of both reports and claims? What kinds of qualitative information do NDBEDP certified programs and equipment recipients have that would benefit the Commission's oversight of the permanent NDBEDP?⁶⁹ What other changes should be made to the reporting requirements that would help inform the Commission about the program's efficacy, yet minimize burdens on certified programs?

23. In addition to reporting requirements, certified programs must engage an independent auditor to perform annual audits designed to detect and prevent fraud, waste, and abuse.⁷⁰ We seek comment on whether this audit requirement has been effective and whether the Commission should impose additional safeguards to protect the integrity of the TRS Fund and the NDBEDP.

X. Other Considerations

24. We invite comment on any other issues, concerns, or questions that the Commission should consider during the process of developing rules for the permanent NDBEDP.

XI. Procedural Matters

25. All comments should refer to **CG Docket No. 10-210**. Please title comments responsive to this Public Notice as "NDBEDP PN Comments." Further, we strongly encourage parties to develop responses to this Public Notice that adhere to the organization and structure of the questions in this Public Notice.

26. *Comment Filing Procedures.* Pursuant to sections 1.415 and 1.419 of the Commission's rules,⁷¹ interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS).⁷²

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.

⁶⁸ See *NDBEDP Report and Order*, 26 FCC Rcd at 5683, ¶ 98.

⁶⁹ By "qualitative," we are referring to narrative or other non-statistical, non-quantitative information about the program that might help us oversee the NDBEDP.

⁷⁰ 47 C.F.R. § 64.610(e)(1)(vii). See also *NDBEDP Report and Order*, 26 FCC Rcd at 5684, ¶ 100. See also *NDBEDP FAQ* 25.

⁷¹ 47 C.F.R. §§ 1.415, 1.419.

⁷² See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

27. *Ex Parte Presentations.* The proceeding this Public Notice initiates shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁷³ Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must: (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made; and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b) of the Commission's rules.⁷⁴ In proceedings governed by section 1.49(f) of the rules⁷⁵ or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

28. *People with Disabilities.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202-418-0530 (voice) or 202-418-0432 (TTY).

⁷³ 47 C.F.R. §§ 1.200 *et seq.*

⁷⁴ 47 C.F.R. § 1.1206(b).

⁷⁵ 47 C.R.R. § 1.49(f).

29. *More Information.* For further information about this Public Notice, please contact Jackie Ellington at 202-418-1153 or Jackie.Ellington@fcc.gov, or Rosaline Crawford at 202-418-2075 or Rosaline.Crawford@fcc.gov, of the Consumer and Governmental Affairs Bureau, Disability Rights Office, Federal Communications Commission.

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