

CG Docket No. 10-210

Comment Date: July 27, 2015

Reply Comment Date: August 10, 2015

III. Program Structure

A. Certified Programs

9. After reviewing the record, we propose to retain the current structure of the NDBEDP, certifying one entity to be responsible for the administration of the program, distribution of equipment, and provision of related services within each of the states and territories covered by the NDBEDP. Based on the comments received and our own experiences with the pilot program, we believe that the localized approach that has been in place for almost three years has been successful in meeting the needs of eligible low-income individuals who are deaf-blind. Specifically, we believe that state entities are more likely to be familiar with their unique demographics and their available resources, and consequently are in a better position to respond to the localized needs of their residents. Additionally, although we acknowledge the concerns of those who argue for greater efficiencies and expanded capabilities in a nationalized program, as we discuss below, we believe that such results can be achieved through a centralized database for reporting and reimbursement and through greater support for training, without having to restructure the program from a state-based to a national system.¹ We seek comment on this approach.

COMMENTS: The advantages of having separate certified programs across the United States are that each states needs are dissimilar in some form or fashion. With separate state certification for those states wishing to provide NDBEDP services according to the guidelines set forth by the commission allows for tailoring that states needs according to the consumers they serve. Most states have a more intimate and personalized relationship type of connection to the consumers they serve in which trust is an integral factor in working with deaf-blind consumers. These consumers have a relationship of trust within the states where they reside. This trust allows a level of comfort working with deaf-blind consumers specifically with a vast majority of services being provided through NDBEDP taking place in the homes of the consumers we serve. State organizations that serve the deaf-blind population have an established relationship that is ingrained within the consumers the NDBEDP serves.

The disadvantages would be that centralized programs would be treated more as a business without the compassion needed to serve our Deaf-Blind consumers. The level of care and professionalism may be compromised by centralized services. Our consumers are very consciences about interacting with unknown parties. These consumers need trust and security with knowing who they are entrusting such valuable personal information as well as the individuals serving our consumers have a more personalized vested interest in the consumers we serve.

It is my opinion that centralized services may also compromise collaborative efforts within states that work in conjunction with other state entities. NDBEDP services in GA have a collaborative effort in which the iCanConnect/GA program services provide a positive rippling effect to where individuals can progress on to another phase of independence through other state supportive services such as: many of Georgia's NDBEDP consumers are Georgia Vocational Rehabilitation Agency (GVRA) clients. We (GA) work in conjunction with GVRA to provide services to our deaf-blind consumers. iCanConnect/GA's NDBEDP is able to provide specialized telecommunications equipment such as computers, laptops and

¹ See Sections III.F and V.E, *infra*. See also *infra*, ¶¶ 15-16 (discussing certification criteria related to spectrum of individuals who are deaf-blind), 52-57 (discussing other eligibility criteria), 74 (discussing equipment distribution).

JAWS software programs that GVRA may not be able to provide or the process is too long for our consumers that already have a job or are actively in job search. GA can provide the equipment that serves the telecommunications needs while on the same token much of this equipment services combined needs and in these instances training cost to NDBEDP can be offset through GVRA's Assistive Work Technology (AWT) specialist.

In regards to a centralized database system for reporting and reimbursement there has been much discussion between states. There are concerns of breach of confidentiality and violation of HIPAA laws with a centralized database system. Our current reporting requires information be shared regarding each client's name, home address, email and/or phone contact as well as the name and contact of his/her doctor, audiologist, ophthalmologist/optometrist or professional verifying the disability. Will this information be shared among states in a centralized database system? Will the centralized database be protected whereas only certain information can be viewed by other states?

Several states have developed their own database system specifically for the NDBEDP. Other states currently have a database system that is used for other related programs and services in which that states NDBEDP has been added to their current system. This has consumed a lot of man/woman hours and financial liabilities building and/or re-designing current functioning state individualized database systems. For the states that have a financial investment in their current database this would be a waste of thousands of dollars to have to abort that system and begin filing to a national centralized database. Not to mention the migration of four years of information would be a great burden to states. Therefore a centralized database should be optional or the commission should support providing funds to strengthen the databases states current have.

10. Thus far, 10 of the 53 state programs have relinquished their certifications, requiring the Commission to seek replacements in those states.² Some commenters express concern that the current structure exposes the NDBEDP to the risk of additional entities leaving the program.³ We recognize that some adjustments have had to be made during the pilot program, a result that was not unexpected given that the NDBEDP is an entirely new program. However, on balance, we believe that the success of NDBEDP, as evidenced by the delivery of equipment and services to thousands of deaf-blind individuals, shows that the system has been working well.⁴ Nonetheless, to help reduce the incidence of program departures, as discussed in detail below, this *Notice* proposes the establishment of a centralized database to facilitate the filing of reimbursement claims and semi-annual reports to the Commission, which we expect will ease some of the administrative program burdens for certified programs. In addition, to minimize the risk of a lapse in service to deaf-blind individuals that might result during any future

² See *Permanent NDBEDP PN*, 29 FCC Rcd at 9452, ¶ 4, n.11 (listing Public Notices released inviting applications for certification to participate in the NDBEDP for the states of Nevada, Mississippi, Vermont, Nebraska, Indiana, Minnesota, and Iowa). During the third year of the pilot program, three state programs have relinquished their certifications. See *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Michigan*, Public Notice, 29 FCC Rcd 11148 (CGB 2014); *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Utah*, Public Notice, 29 FCC Rcd 13678 (CGB 2014); *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Hawaii*, Public Notice, 30 FCC Rcd 1102 (CGB 2015).

³ See, e.g., Comments of DeafBlind Citizens in Action (DBCA Comments) at 1 (noting that creating a single, nationwide entity would prevent a situation where multiple state programs might leave the NDBEDP).

⁴ See Appendix C (Summary of Pilot Program Expenditures). During the second year of the NDBEDP, certified programs spent approximately 11% of their allocations on local outreach, 8% on individualized assessments, 45% on distributed equipment, 4% for demonstration equipment, 22% to install the equipment and train consumers how to use the equipment, and 11% to cover administrative costs. *Id.*

transitions from one certified state program to another, we propose that a certified program seeking to relinquish its certification provide written notice to the Commission at least 90 days in advance of its intent to do so. Further, we propose that such entities be required to transfer NDBEDP-purchased equipment, information, files, and other data to the newly-certified entity in its state within 30 days after the effective date of its certification to ensure a smooth transition and reduce any potential for a lapse in service. Finally, we propose requiring that all entities relinquishing their certifications comply with NDBEDP requirements necessary for the ongoing functioning of the program that they are exiting, including the submission of final reimbursement claims and six-month reports. We seek comment on these proposals, as well as other steps that we should take to reduce the number of entities that relinquish their certifications and measures we should adopt to minimize the impact on consumers when this occurs.

COMMENTS: *Providing for assistance and guidance for some states to include reaching out to other states may reduce some relinquishing of programs. It is believed that a lot has to do with administrative cost and the 15% cap which has caused a great amount of work being done at either an individual's expense or that agencies expense. During the first year of the pilot program I myself worked countless hours with the NDBEDP in which I was not able to recoup paid wages. It was solely my decision which derived from sheer passion for the consumers NDBEDP serves. Everyone cannot be expected to share the same sentiments.*

11. For the pilot program, the Bureau selected entities to participate in the NDBEDP that were located within and outside of the states that they served.⁵ Currently, of the 53 certified programs, 33 are administered by entities located within the states they serve and 20 are administered by entities located outside those states.⁶ For all but three of these 20 programs, the out-of-state entity selected was the sole applicant.⁷ Perkins urges the Commission to maintain this flexible approach, which allows the Bureau to award certification to entities to operate in one state or multiple states.⁸ Perkins explains that it has a collaborative relationship with local partners in the states where it is certified, and that having it provide services to multiple states is a viable solution for those states that do not have their own in-state resources to administer the NDBEDP.⁹ Collaborative relationships with in-state partners seem to be key,

⁵ See *NDBEDP Certification PN*, 27 FCC Rcd at 7400-02 (selecting Perkins to serve Massachusetts, where Perkins is located, and 11 other states). The Bureau has selected replacements for the 10 state programs that have relinquished their certifications since the pilot program began. See n.36, *supra*. Nine of those 10 replacements are entities located outside the states they serve: Perkins replaced the former state programs in Nevada, Mississippi, Vermont, Minnesota, Indiana, Michigan, and Utah; and HKNC replaced the former state programs in Iowa and Hawaii.

⁶ Perkins is the certified entity for 18 states in addition to Massachusetts, and HKNC is the certified entity for two states in addition to New York.

⁷ See *Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 7397 (CGB 2012) (announcing that the Bureau received two applications for the state of Arizona and selected Perkins); *Commission Announces Entity Selected for Certification to Participate in the National Deaf-Blind Equipment Distribution Program for Nevada*, Public Notice, 28 FCC Rcd 10223 (CGB 2013) (announcing that the Bureau received two applications for the state of Nevada and selected Perkins); *Commission Announces Entity Selected for Certification to Participate in the National Deaf-Blind Equipment Distribution Program for Utah*, Public Notice, 30 FCC Rcd 318 (CGB 2015) (announcing that the Bureau received two applications for the state of Utah and selected Perkins).

⁸ Perkins Comments at 2-3. See also Perkins Reply Comments at 2 (reiterating its support for the existing state program structure “while providing for alternatives to maintain the program in states that do not have qualified organizations willing or able to serve as a certified lead”).

⁹ Perkins Comments at 2.

not only to satisfy criteria for certification,¹⁰ but also to retain the advantages of administering the NDBEDP through state programs.¹¹ For the reasons offered by Perkins, we propose to continue allowing qualified out-of-state entities, in addition to in-state entities, to apply for certification to administer the NDBEDP, in collaboration with individuals or entities within or outside of their states or territories. We believe that this flexible approach assists those states that may not have sufficient resources on their own to provide the services required by the NDBEDP. We seek comment on this proposal and any alternatives that would ensure that the NDBEDP is able to serve the residents of each state.¹²

COMMENT: *The Commission should continue to maintain the flexible approach, which allows the Bureau to award certification to entities to operate in one state or multiple states. The commission should also support any state that wishes to maintain the program but are in need of guidance or support from another states or entity that is successfully maintaining their NDBEDP. A suggestion is that the commission support funding for one state or entity personnel to travel to another state to train or help strengthen that states program if that state wants to continue providing NDBEDP services but may be in need of assistance.*

Certification Criteria

13. Pursuant to the Commission's rules, the Bureau reviews applications and determines whether to grant NDBEDP certification based on the ability of a program to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:

- (i) Expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf-blind, to ensure that equipment distribution and the provision of related services occurs in a manner that is relevant and useful to consumers who are deaf-blind;
- (ii) The ability to communicate effectively with people who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using other assistive technologies and methods to achieve effective communication;
- (iii) Staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to eligible individuals throughout the state, including those in remote areas;
- (iv) Experience with the distribution of specialized [customer premises equipment], especially to people who are deaf-blind;
- (v) Experience in how to train users on how to use the equipment and how to set up the equipment for its effective use; and

¹⁰ See Section III.B, *infra* (discussing, for example, the need for sufficient staff and facilities to administer the program, distribute equipment, and provide related services throughout the state, including remote areas).

¹¹ See ¶ 8, *supra* (noting advantages of the current state-based program structure, such as presenting a “local face,” integrating with and leveraging in-state services, providing easy access for consumers, and possessing knowledge of “on-the-ground” circumstances unique to each state).

¹² Some commenters suggest that the Commission should support the development of in-state resources to help an in-state entity become certified to participate in the NDBEDP. See IOD Comments at 2 (urging the Commission to “build capacity of interested entities with a goal to certifying an entity within the state”); LightHouse Comments at 2 (same). It is not clear how the Commission could help to achieve this goal or whether it has the authority or the necessary funding to do so.

(vi) Familiarity with the telecommunications, Internet access, and advanced communications services that will be used with the distributed equipment.¹³

In the *Permanent NDBEDP PN*, the Bureau sought comment on whether we should change any of these criteria.¹⁴

14. We propose to retain the above criteria to evaluate an entity's qualifications for certification as a state program.¹⁵ Commenters generally support the continued use of these criteria,¹⁶ and we believe, based on our experience with the pilot program, that the expertise and experience these criteria require have been effective in informing the Bureau's selection of qualified entities to operate the state programs. We seek comment on this proposal.

15. We note, however, that several commenters express a concern that certain certified programs and their employees lack the qualifications to meet the diverse needs of the full spectrum of people who are deaf-blind.¹⁷ Rules governing the NDBEDP pilot program require that certified programs demonstrate "expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf blind" and "the ability to communicate effectively with people who are deaf-blind . . . using sign language, [and] providing materials in Braille . . ."¹⁸ AADB explains, however, that "[t]he deaf-blind community is diverse with many deaf-blind individuals with different levels of hearing and vision loss, background, cultures, languages and communication modes."¹⁹ For example, a person who is deaf-blind may have been a blind individual who became hard of hearing, or a deaf individual who became blind, or a senior citizen with age-related hearing and vision loss.²⁰ Moreover, commenters point out that deaf-blind individuals use multiple forms of communication. For example, ACB notes that while some individuals may rely primarily on visual or tactile American Sign Language (ASL), others might use a combination of ASL with or without speech, Braille, large print, or other communication modes.²¹ For these reasons, AADB asserts that "staff need to have at least a good working knowledge and proper training in all aspect[s] in the field of deaf-blindness, including language, communication mode, and their

¹³ 47 C.F.R. § 64.610(b)(3).

¹⁴ *Permanent NDBEDP PN*, 29 FCC Rcd at 9453, ¶ 5.

¹⁵ As noted in Appendix F (Proposed Rule Changes), we propose the following non-substantial edit to criteria (v) as follows: "Experience in training consumers on how to use the equipment and how to set up the equipment for its effective use"

¹⁶ See, e.g., CDBP Comments at 2 ("The current criteria . . . are appropriate."); DBCA Comments at 2 (supporting criteria, but suggesting deaf-blind individuals be hired if the distribution or administrative functions of the program are centralized); WATAP Comments at 2; ATI Comments at 2 ("The criteria . . . should not be changed."); AADB Comments at 13-14 (supporting the criteria, generally, but stating that the criteria for expertise in the field of deaf-blindness may be "too loosely defined"); LightHouse Comments at 4 (noting that "there is no need to change [the criteria] at this time"); GACHI Comments at 3 (advocating that the current criteria "remain in place").

¹⁷ See, e.g., AADB Comments at 13 (reporting that often "the person providing the service only [has] partial knowledge in the field of deafness or blindness, but [is] not familiar with the full deaf-blind (DB) spectrum"); Perkins Comments at 6 (recommending that certified programs have "a proven track record of working effectively with all aspects of the consumer population, as well as with a variety of service providers"); Comments of Joseph B. Naulty (Naulty Comments) at 2 (stating that trainers need to satisfy a consumer's unique communication needs).

¹⁸ 47 C.F.R. §§ 64.610(b)(3)(i), (ii).

¹⁹ AADB Comments at 13-14.

²⁰ *Id.*

²¹ *Id.* See also ACB Comments at 2-3 (listing the various ways that deaf-blind consumers communicate and the different technologies they use and noting that the program might not be able to meet "the cultural, linguistic and learning media styles of their consumers").

background culturally.”²² Similarly, ACB recommends requiring that entities seeking certification present “credentials of training staff including knowledge of technology, American Sign Language, literacy in Braille, knowledge of learning styles, [and] ability to ascertain consumers combine[d] vision and hearing loss as it relates to various situations.”²³

16. We recognize that the scope of knowledge, skills, and abilities of program staff should reflect the breadth and diversity within the deaf-blind community. As noted above, our program selection criteria already include a requirement for state programs to “have expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf-blind,”²⁴ and to “have the ability to communicate effectively with people who are deaf-blind for training and other purposes.”²⁵ Nevertheless, in response to the input received, we seek comment on how we can supplement this criteria to better ensure that certified programs serve the full spectrum of individuals who are deaf-blind in the permanent program. Should we establish minimum standards for the personnel providing services in these programs? For example, should individuals providing service have certain levels of linguistic competency?²⁶ We ask commenters to describe any difficulties they have experienced securing equipment or services from their state’s certified program resulting from a lack of expertise in deaf-blindness or communications skills, and to be specific in recommending changes that may be necessary in the Commission’s certification criteria to reduce these difficulties.

17. Commenters also propose that applicants for NDBEDP certification demonstrate the ability to administer a statewide program, the capacity to manage the financial requirements of a state program, expertise in assistive technology, and experience with equipment distribution.²⁷ We seek comment on the addition of certification criteria that address these capabilities. In particular, we propose to add administrative and financial management experience to the requirements for certification. We seek comment on this proposal. Should applicants also be required to demonstrate that they are capable of operating a statewide program or that they follow standard financial principles? To what extent would such requirements strengthen the NDBEDP? For example, would these reduce the likelihood of selected entities relinquishing their certification before completion of their terms? Conversely, would requiring such skills exclude too many otherwise qualified applicants? Finally, we seek comment on any other criteria that should be added to ensure the selection of certified entities that will be both responsive to the deaf-blind community’s needs and capable of achieving full compliance with the Commission’s NDBEDP rules.

18. Finally, under the NDBEDP pilot program, the Commission prohibited certified programs from accepting financial arrangements from a vendor that could incentivize the purchase of particular equipment.²⁸ We continue to believe that such incentives could impede a certified program’s

²² AADB Comments at 14.

²³ ACB Comments at 2.

²⁴ 47 C.F.R. § 64.610(b)(3)(i).

²⁵ 47 C.F.R. § 64.610(b)(3)(ii).

²⁶ By analogy, we note that TRS providers must ensure that all communications assistants (CAs) are “sufficiently trained to effectively meet the specialized communications needs of individuals with hearing and speech disabilities.” 47 C.F.R. § 64.604(a)(1)(i). They must also ensure that CAs have “competent skills . . . and familiarity with hearing and speech disability cultures, languages and etiquette.” 47 C.F.R. § 64.604(a)(1)(ii).

²⁷ *See, e.g.*, IOD Comments at 2 (emphasizing that criteria should include a proven ability to administer a statewide program, expertise in assistive technology and equipment distribution); Perkins Comments at 6-7 (noting that certified programs must have the capacity to manage the financial and administrative requirements of the program).

²⁸ 47 C.F.R. § 64.610(e)(2)(iii).

ability to provide equipment that fully meets the unique needs of the deaf-blind persons it is serving.²⁹ In addition to this rule, we also requested that applicants for NDBEDP certification disclose in their initial certification application and thereafter, as necessary, any actual or potential conflicts of interest with manufacturers or providers of equipment that may be distributed under the NDBEDP.³⁰ We propose to require such disclosures in applications for initial and continued certification under the permanent NDBEDP. To the extent that financial arrangements in which the applicant is a part create the risk of impeding the applicant's objectivity in the distribution of equipment or compliance with NDBEDP requirements – such as when the applicant is partially or wholly owned by an equipment manufacturer or vendor – we propose that the Commission reject such applicant for NDBEDP certification. We seek comment on this proposal.

COMMENTS: *It is with great hopes that the current criteria established by the commission requiring prior knowledge, experience and expertise in working with Deaf-Blind individuals remain in place. It is also with hopes that the commission support funding staff development training in such areas of support service provider training and deaf-Blind sensitivity training and maintenance.*

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.ⁱ In contrast, certified programs may not impose employment-related eligibility requirements for individuals to participate in the program.ⁱⁱ 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?ⁱⁱⁱ

COMMENTS: *It is strongly suggested that entities providing telecommunications equipment work in conjunctions with other entities that may be able to provide some or co-joining equipment and services. Such as; the NDBEDP provider may be able to provide a consumer with a laptop but the state Vocational Rehabilitation program may be able to provide JAWS software program for that individual through their funding sources. Also, a collaborative effort should be made whenever possible for training in instances when an individual is given telecommunications equipment for personal use that may also benefit other goals such as being able to job search at home or school. In this instance supportive training may be able to be provided through that VR program for the consumer with matching goals and objectives outlined in VR programs and services.*

C. Duration of Certification

19. At present, all NDBEDP programs are certified for the duration of the pilot program.³¹ By comparison, under the Commission's 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.³² In the *Permanent NDBEDP PN*, the Bureau sought comment on whether this certification period would be appropriate for NDBEDP certified programs and, if not, what would be an appropriate

²⁹ See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5685, ¶ 102.

³⁰ *Id.*

³¹ See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5647, ¶ 14.

³² See 47 C.F.R. § 64.606(c)(1) (state TRS provider certification is for five years). See also 47 C.F.R. § 64.606(c)(2) (Internet-based TRS provider certification is for five years).

period, and why.³³

COMMENT: *It is with most admiration that a five year certification period is sufficient going forth into the permanent program. At the end of the five year period the entity providing NDBEDP services should be evaluated and if that individual entity or entities are maintaining a successful program that meets the FCC requirements to include reporting, services, and audit policies set forth by the commission that entity should be considered for recertification of another five years without having to re-apply for certification. Separate considerations should be made for states and entities participating in the program for the first time. The parties should undergo the same trial period that all other states and participants have endured.*

D. Certification Renewal

23. Because the permanent NDBEDP may have some rule modifications, we believe that it is appropriate to require each such entity to demonstrate its ability to meet all of our selection criteria anew, and to affirm its commitment to comply with all Commission rules governing the permanent program.³⁴ Accordingly, we propose requiring that each entity certified under the pilot program re-apply for certification or notify the Commission of its intent not to participate under the permanent program within 30 days after the effective date of the permanent rules.³⁵ We seek comment on this proposal. Alternatively, should we require each entity to certify that it continues to satisfy all current certification criteria that we retain under the permanent NDBEDP, to demonstrate its ability to meet any new criteria we may establish, and to affirm its commitment to comply with the permanent NDBEDP rules that we adopt? In addition, we propose to permit other entities to apply for certification as the sole authorized entity for a state to distribute equipment under the NDBEDP during the 30-day time period following the effective date of the permanent rules. We seek comment on this proposal.

COMMENT: *Going forward into the permanent program states and/or entities currently providing services successfully to include meeting reporting and audit criteria should be allowed to continue without re-certifying for permanent status. The four year pilot period allows for those states to prove applicable to continue into the permanent program. In addition any state not meeting criteria outlined by the Bureau that wishes to continue into the permanent program should be placed on a probationary period for six months to one year with the warning that they may lose certification if certain guidelines or criteria are not met with consistency.*

E. Notifying Consumers about State Program Changes

26. Under the pilot program rules, the Commission may suspend or revoke a certification if it determines that such certification is no longer warranted after notice and opportunity for hearing.³⁶ We seek comment on whether, in place of an opportunity for an administrative hearing, there are alternatives that would provide programs an opportunity to be heard, such as a reasonable time to present views or objections to the Commission in writing before suspension or decertification. Our interest in finding an

³³ *Permanent NDBEDP PN*, 29 FCC Rcd at 9453, ¶ 6.

³⁴ See Naulty Comments at 2 (stating that current programs should be reevaluated to determine their performance and accountability).

³⁵ The rules will be effective upon notice in the *Federal Register* announcing Office of Management and Budget (OMB) approval of the information collection requirements subject to the Paperwork Reduction Act.

³⁶ 47 C.F.R. § 64.610(j)(1).

alternative stems from our concern that a requirement for a hearing could unintentionally result in eligible residents being denied equipment pending this administrative action. Would providing a program with reasonable time to present its views and objections to the Commission in writing satisfy due process requirements and enable the Commission to take action without undue delay?

COMMENT: *In the event of a suspension or revocation an administrative hearing is warranted and should take place within 30 days of a suspension or revocation being set forth. A decision should be made within 30 days after the hearing notifying that state or entity whether or not they will be able to continue providing services.*

27. ACB suggests that the Commission publicly post information regarding the removal of an entity's certification in order to make consumers "aware of such a situation."³⁷ It further asserts that "all current consumers should be notified" when another entity is selected to replace the decertified entity.³⁸ The Commission has not initiated any decertification proceedings under the pilot program. When state programs have voluntarily relinquished their certifications, the Bureau has released public notices to invite applications to replace these entities,³⁹ has selected replacements after careful review of the applications received, and has released a second public notice announcing the newly-certified entities.⁴⁰ In addition to releasing such public notices, should the Commission, as ACB suggests, take other measures to notify consumers in the affected states when a certified entity exits the program and a replacement is selected? For example, should we require the formerly certified entity to notify consumers in their states who received equipment or who have applied to receive equipment about the newly-certified entity? We seek comment on how best to ensure that consumers are aware when these changes are made to their state NDBEDP programs.

COMMENT: *Public notice is sufficient in the event any state or entity relinquishes the program. However, any state that has been permanently revoked after an administrative hearing has taken place and it is decided that the revocation should remain in place consumers should be notified individually. This will prevent any further services to include release of personal information to the revoked provider or entry for services in the homes of consumers or offices of the revoked state or entity.*

³⁷ ACB Comments at 6.

³⁸ *Id.*

³⁹ *See, e.g., FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Michigan*, Public Notice, 29 FCC Rcd 11148 (CGB 2014); *FCC Invites Applications for Certification to Participate in the National Deaf-Blind Equipment Distribution Program in the State of Iowa*, Public Notice, 29 FCC Rcd 8103 (CGB 2014); *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).

⁴⁰ *See, e.g., Commission Announces Entity Selected for Certification to Participate in the National Deaf-Blind Equipment Distribution Program for Michigan*, Public Notice, 29 FCC Rcd 11769 (CGB 2014) (announcing the selection of Perkins as the certified program in the state of Michigan after the Michigan Bureau of Services for Blind Persons relinquished its certification); *Commission Announces Entity Selected for Certification to Participate in the National Deaf-Blind Equipment Distribution Program for Iowa*, Public Notice, 29 FCC Rcd 9436 (CGB 2014) (announcing the selection of HKNC as the certified program in the state of Iowa after IUB relinquished its certification); *Commission Announces Entities Selected for Certification to Participate in the National Deaf-Blind Equipment Distribution Program for Vermont and Nebraska*, Public Notice, 29 FCC Rcd 5883 (CGB 2014) (announcing the selection of Perkins as the certified program in the state of Vermont after the Vermont Center for the Deaf and Hard of Hearing relinquished its certification and the selection of the Nebraska Assistive Technology Partnership as the certified program in the state of Nebraska after the Nebraska Commission for the Deaf and Hard of Hearing relinquished its certification).

a. NDBEDP Centralized Database for Reporting and Reimbursement

28. In the *Permanent NDBEDP PN*, the Bureau sought comment on the advantages of adopting a centralized web-based system for generating reimbursement claims and reports that are required from state programs.⁴¹ Under the NDBEDP pilot program, state programs must submit reimbursement claims that include the costs of equipment and related expenses (including maintenance, repairs, warranties, refurbishing, upgrading, and replacing equipment distributed to consumers); assessments; equipment installation and consumer training; loaner equipment; state outreach efforts; and program administration.⁴² Under our current rules, state programs must also report to the Commission information about equipment recipients and the people attesting that those individuals are deaf-blind; the equipment distributed; the cost, time and other resources allocated to various activities (outreach, assessment, installation, training, and maintaining, repairing, and refurbishing equipment); the amount of time between assessment and equipment delivery; the types of state outreach undertaken; the nature of equipment upgrades; a summary of equipment requests denied and complaints received; and the number of qualified applicants on waiting lists to receive equipment.⁴³ As such, much of the data needed to generate reimbursement claims is also required to generate the required reports.

COMMENT: Please Note: *Personal data is also submitted in these reports such as; salaries, insurance, and other information relating to the personnel administering the program.*

29. In its comments, Perkins notes that it currently has a database that is used by 32 state programs to generate reimbursement claims and the reports required by the Commission.⁴⁴ Perkins has also been able to compile reports from the aggregated data provided by those 32 state programs.⁴⁵ By contrast, we note that reports from state programs that have not used this database have been presented to the Commission with inconsistent formatting, making aggregation of their data by the NDBEDP Administrator difficult and inefficient.

30. We propose that a centralized national database be created to assist state programs in the generation of their reports to the Commission, to enable the submission of those reports electronically to the NDBEDP Administrator, and to allow for the aggregation and analysis of nationwide data on the NDBEDP.⁴⁶ Commenters generally support the creation of such a database, with many suggesting that this is likely to lead to the more efficient generation of state reports.⁴⁷ To ensure that all of the

⁴¹ *Permanent NDBEDP PN*, 29 FCC Rcd at 9452, ¶ 4. See also Sections VI.C (discussing reimbursement mechanism), VII.A (discussing reporting requirements), *infra*.

⁴² See 47 C.F.R. § 64.610(f)(2).

⁴³ See 47 C.F.R. § 64.610(g).

⁴⁴ Perkins Comments at 5. Perkins uses the database to record information related to and to generate reports and reimbursement claims for the certified programs that it administers. Perkins also offers the use of the database to other certified programs for these purposes for a fee. Under the NDBEDP pilot program, the costs associated with the database have been reimbursed to the certified programs that use the database as administrative costs.

⁴⁵ See iCanConnect “Year One Highlights” (filed Nov. 20, 2013) available at <http://apps.fcc.gov/ecfs/document/view?id=7520958851> (last viewed Apr. 28, 2015) (providing a summary of data aggregated from 35 certified programs that used the Perkins database during the first year of the NDBEDP pilot program); iCanConnect “Year 2 in Review” (filed Dec. 23, 2014) available at <http://apps.fcc.gov/ecfs/document/view?id=60001010881> (last viewed Apr. 28, 2015) (providing a summary of data aggregated from 33 certified programs that used the Perkins database during the second year of the NDBEDP pilot program with comparisons to some first-year statistics).

⁴⁶ See ¶¶ 36-37, *infra* (seeking comment on funding and discussing Commission options for creating the database).

⁴⁷ See ATK Comments at 3 (stating that standardized reporting should reduce reporting time); Oklahoma DRS Comments at 6 (stating that a single format will make the reporting process more efficient); IOD Comments at 3 (stating that a national database would be more efficient for reporting).

information collected can be aggregated and analyzed for the effective and efficient operation of the NDBEDP, we further propose that, if we adopt this approach, all certified programs be required to use the centralized database for their reporting obligations. We believe that requiring certified programs to submit data uniformly through a web-based interface provided by a centralized database will allow the Commission to identify program trends that will enable improved oversight and implementation of the NDBEDP. We seek comment on these proposals. Do NDBEDP stakeholders agree that these advantages would accrue from utilizing a centralized database? We also seek comment generally on the costs and any other benefits or disadvantages that would be associated with both the establishment and maintenance of such a database.⁴⁸ Further, we seek comment on any lessons learned from other experiences setting up databases and whether a centralized database could be used for other purposes or programs.

COMMENT: *Several states have invested a great deal of time and money into their individualized database system. These systems run into the thousands of dollars. Any states that are continuing to submit inconsistencies should be properly advised as to those inconsistencies and issued a warning that they may need to conform to a centralized database system if the inconsistencies are not corrected.*

If a centralized database is adopted how will the commission guarantee that personal information relating to staff that administer the program is not shared between states and other entities? How will we prevent violations of confidentiality and HIPAA laws?

A suggestion would be to develop a database that can be used individually but submission is centralized in this database. This would allow for states to retain their confidentiality of personnel and consumers. An example would be that which is used by payroll administrators in which a person can enter and retrieve information about him/her but cannot see any information other than that that is pertaining to that individual.

32. We also seek comment about the type of data that state programs should be required to input into a centralized database. In order for state programs to generate reimbursement claims under the pilot NDBEDP, they must submit the costs of equipment and related expenses; assessments; equipment installation and consumer training; loaner equipment; state outreach efforts; and program administration.⁴⁹ Should this same data be entered into the database? Are there other types of data that should be populated into the database for the purpose of generating reimbursement claims? Similarly, what data should be input by state programs to the database to effectively generate reports about state program activities? Under our current rules, state programs must report to the Commission information about equipment recipients and the people attesting that those individuals are deaf-blind; the equipment distributed; the cost, time and other resources allocated to various activities; the amount of time between assessment and equipment delivery; the types of state outreach undertaken; the nature of equipment upgrades; a summary of equipment requests denied and complaints received; and the number of qualified applicants on waiting lists to receive equipment.⁵⁰ To the extent that the Commission continues requiring that such data be reported in the permanent NDBEDP, should certified programs be required to input all of this data into the centralized database?

COMMENT: *Much of the reporting that is submitted on a monthly, quarterly or semi-annual basis is repeated on the required six month reports. This reporting is tedious, redundant and time consuming. This commission is strongly urged to revisit repetitive reporting and alleviate some of the data that is being required subsequently on multiple reports.*

⁴⁸ See ¶ 36, *infra* (discussing cost estimates).

⁴⁹ See 47 C.F.R. § 64.610(f)(2).

⁵⁰ See 47 C.F.R. § 64.610(g).

33. Should certain data be excluded from the centralized database, and if so, why? For example, would it be more appropriate for state programs to maintain records of names and addresses of their equipment recipients, along with the identity of the people who attest that those recipients are deaf-blind, rather than put this information into a centralized location, because of privacy concerns?⁵¹ Should individuals who receive equipment instead be given a unique identifying number, which could be entered into the database in lieu of their names and other personally identifiable information?⁵² Additionally, we note that, according to Perkins, there are a few certified programs that may be prohibited by state regulation from storing data out of state.⁵³ We seek comment on whether these prohibitions would prevent the input of the types of data described above – or any other related types of data – into a centralized database, and whether there are any other reasons that any of the currently certified programs would not be able to comply with requirements for the submission of such data into a centralized system. What are the costs and benefits of gathering the categories of information listed above?

COMMENT: *Certain data should remain within the state program such as name and address of recipients to include professionals who attest to the recipient's disability. This is a tedious part of the required reporting. Depending on the number of clients served it can take hours to input this information. Alleviating this requirement would save a lot of time.*

34. We propose to permit the NDBEDP Administrator and other appropriate FCC staff to search this database and generate reports to analyze nationwide data on the NDBEDP,⁵⁴ and seek comment on this proposal. To what extent should a certified program also be permitted access to the database to execute searches of data that it did not input into the database? For example, if we permit entry of data on deaf-blind individuals receiving equipment,⁵⁵ should a certified program be permitted to conduct a search to determine whether the applicant is receiving equipment and services from another state? Similarly, should a certified program be permitted to access the database to determine the types of equipment being distributed by other states or the length of time typically used for assessments and training by other certified programs? We note that in the TRS context, access to a soon-to-be-formed user registration database will be restricted to TRS providers only for the purposes set forth in the *VRS Reform Order*, such as determining whether information in the database on registered users is correct.⁵⁶ Similarly, we propose that access to the NDBEDP centralized database be limited to authorized entities, and be permitted only under tightly controlled conditions. We seek comment on who such entities should be and under what conditions they should be permitted such access, to ensure the privacy and confidentiality of financial and other sensitive information about consumers that may be entered into the database. We propose that the database administrator be tasked with establishing procedures, protocols, and other safeguards, such as password protection and encryption, to ensure database access is in fact restricted according to the Commission's guidelines. We seek comment on this approach, and the extent

⁵¹ The FCC complies with the requirements of the Privacy Act with respect to the protection of personally identifiable information that the FCC receives in connection with the NDBEDP. *See* <http://www.fcc.gov/encyclopedia/privacy-act-information>; Privacy Act System of Records, 77 Fed. Reg. 2721 (Jan. 19, 2012) (FCC/CGB-3 NDBEDP System of Records Notice) available at <http://www.fcc.gov/omd/privacyact/documents/records/FCC-CGB-3.pdf>.

⁵² For example, such information might be useful to prevent overlap across states in the event such individuals move out of state.

⁵³ Perkins Comments at 5.

⁵⁴ *See id.* at 4. *See also* n.91, *supra*.

⁵⁵ As noted above, this could be either personally identifiable information or a unique identifier.

⁵⁶ *Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51 and 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618, 8652, ¶ 76 (2013) (*VRS Reform Order*).

to which the NDBEDP Administrator should be given some discretion to determine when entities other than the Administrator or FCC staff can access the database.

35. Decisions regarding information to be included in a centralized database used for administration of the program and the individuals who may be granted access to the database can raise questions regarding compliance with Government-wide statutory and regulatory guidance with respect to privacy issues and the use of information technology, *e.g.*, the Privacy Act of 1974⁵⁷ and Federal Information Security Management Act of 2002.⁵⁸ Parties commenting on the centralized database should ensure that their recommendations are consistent with Government-wide privacy and information technology statutory and regulatory guidance.

COMMENTS: *The Bureau must consider compliance and violation issues with centralized reporting.*

36. Based on its experience providing database services for 32 certified programs, Perkins estimates that the cost of establishing and maintaining an NDBEDP centralized database will be between 3-4% of the \$9.5 million annual allocation available to certified programs under the pilot program, or between \$285,000 and \$380,000 annually.⁵⁹ We seek comment on whether this amount of funding will be sufficient to perform the proposed functions of the database, and whether there will be start-up costs that result in higher costs during the first year of the database's operations. Based on Perkins's estimate, we further propose, if necessary, to authorize the Bureau to set aside funding for the NDBEDP database in an amount not exceed to \$380,000 per year from the NDBEDP's annual allocation for the development of the database during the last year of the pilot program, to enable the implementation of the database functions for the permanent NDBEDP in a timely manner. If this approach is adopted, certified programs now paying to use an existing database, the costs of which are currently assessed against their 15% cap on administrative costs, would no longer need to do so.⁶⁰ At the same time, we propose that certified programs continue to be permitted to seek reimbursement for the time spent entering data into and generating reports and reimbursement claims from the database as part of their administrative costs, up to the 15% cap. We seek comment on these various proposals.

COMMENT: *Georgia has been quoted under \$20, 000 to build a database. Monthly maintenance of the database would be included in our monthly IT fee. The cost of maintaining the database would be dissolved within the salaries of the staff performing administrative duties to the program. These staff would enter information into an individualized database system.*

The sentiments of GA and other states that have opted not to use centralized services it is because the cost involved with centralized services significantly impacts a state's allotted funding allocations. The cost of acquiring centralized services greatly hinders and limits a programs ability to provide sufficient direct services. The cost in turn handicaps a state's ability to support internal processes.

Our program has maintained its effectiveness with accordance to the rules set forth by the commission and is not in agreement with centralized web-based services. Problems that may arise can only be foreseen which may ultimately result in delays of services due to centralization. Georgia wishes to

⁵⁷ 5 U.S.C. § 552a. *See also* Office of Management and Budget (OMB) memoranda providing guidance on privacy issues available at https://www.whitehouse.gov/omb/privacy_general.

⁵⁸ 44 U.S.C. §§ 3541, *et. seq.*

⁵⁹ Perkins Comments at 14.

⁶⁰ *See* FTRI Comments at 2 (stating that certified programs should not be required to pay for the centralized database); AADB Comments at 2 (stating that programs should receive an additional 5% for the database); HKNC Comments at 5; Oklahoma DRS Comments at 6 (stating that the cap would be easier to satisfy if the burden of reporting requirements were removed); MoAT Comments at 2. *See also* Section VI.D, *infra* (discussing administrative costs, which include costs associated with reporting requirements, accounting, regular audits, oversight, and general administration).

continue operating its NDBEDP independently. Any problems that may arise can be handled in-house directly without delay and in a reasonable foreseeable time frame.

IV. CONSUMER ELIGIBILITY

B. Verification of Disability

41. The NDBEDP pilot program rules 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.⁶¹ Such professionals must attest, either to the best of their knowledge or under penalty of perjury, that the applicant is an individual who is deaf-blind, as that term is defined in the Commission's rules.⁶² A disability verification must include the attester's name, title, and contact information, including address, phone number, and e-mail address.⁶³ As verification of disability, certified programs may also accept documentation already in the applicant's possession, such as individualized education programs and Social Security determination letters.⁶⁴ In the *Permanent NDBEDP PN*, the Bureau sought comment on whether to continue to accept as disability verification documentation already in the applicant's possession and the extent to which program disability verification rules have provided certified programs with the flexibility they need.⁶⁵

42. Commenters support giving certified programs the flexibility to accept verification of disability from a wide range of professionals, as well as verification through documentation already in the applicant's possession.⁶⁶ As the Commission noted previously, "NDBEDP applicants who are deaf-blind are likely to face significant logistical challenges, including the very types of communication barriers the NDBEDP is itself designed to eliminate, in their attempts to obtain verification of their disabilities."⁶⁷ As such, we tentatively conclude that the Commission should retain the current requirements for verification of disability from a professional with direct knowledge or through documentation already in the applicant's possession, and seek comment on this tentative conclusion. Nonetheless, we seek comment on whether a professional's attestation that an individual is deaf-blind should include the basis of the attesting professional's knowledge. We also propose that the disability verification must include the professional's full name, title, and contact information, including business address, phone number, and e-mail address. We seek comment on this proposal. Finally, we ask whether certified programs should be required to re-verify an individual's disability eligibility each time the recipient applies for new equipment, or whether there is a period of time after an initial verification that such verification should be deemed sufficient to prove disability in the event that the recipient seeks additional equipment. For this purpose, we propose to require certified programs to re-verify an individual's disability eligibility when the individual applies for new equipment three years or more after the program last verified the individual's disability. We seek comment on this proposal.

⁶¹ 47 C.F.R. §§ 64.610(d)(1)(i), (ii).

⁶² 47 C.F.R. § 64.610(d)(1)(ii).

⁶³ 47 C.F.R. § 64.610(d)(1)(iv).

⁶⁴ 47 C.F.R. § 64.610(d)(1)(iii). *See also* 47 C.F.R. § 64.610(e)(1)(ii) (requiring certified programs to obtain verification that applicants meet the definition of an individual who is deaf-blind under the NDBEDP rules).

⁶⁵ *Permanent NDBEDP PN*, 29 FCC Rcd at 9456, ¶ 13.

⁶⁶ *See, e.g.*, GACHI Comments at 6; CDBP Comments at 2; Oklahoma DRS Comments at 7; IPAT Comments at 2; FDBA Comments at 2; ACB Comments at 4; ACBT Comments at 3; ATI Comments at 6.

⁶⁷ *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5653, ¶ 31.

COMMENT: *Current verification processes are adequate and prohibit individuals from providing false documentation. We currently require individuals to provide documentation of his/her hearing loss and his/her latest eye exam with visual acuity levels when applicable. With hearing loss older documentation maybe accepted due to the fact that it is only with rare instance that an individual’s hearing maybe corrected. With vision loss there are corrective measures for some. This is why more detailed documentation is needed to substantiate the need due to the vision aspect. Also there are some instances when an individual may be approved for temporary disability due to various reasons. In these instances should individuals that meet qualifications that have temporary circumstances be approved for services?*

a. Income Eligibility

43. To participate in the NDBEDP, individuals must be “low income.”⁶⁸ The NDBEDP pilot program rules define low-income individuals as having “an income that does not exceed 400% of the Federal Poverty Guidelines (FPG).”⁶⁹ Thus for 2015, the income requirement under the pilot program is as follows:

Number of persons in family/household	States and Territories Other Than Alaska and Hawaii	Alaska	Hawaii
1	\$47,080	\$58,880	\$54,200
2	\$63,720	\$79,680	\$73,320
3	\$80,360	\$100,480	\$92,440
4	\$97,000	\$121,280	\$111,560
For each additional person	+\$16,640	+\$20,800	+\$19,120

COMMENT: *Most consumers applying to the program received state and/or government funds (SSDA). There are a handful of consumers that received salaried based wages. Within the three year pilot Georgia has only denied one applicant due to income exceeds FPG. It is perceived that the current income guidelines of 400% of FPG are sufficient. Although there may be some instances when deductions may be considered, this should only be considered on a case by case basis with all fairness to the parties involved. There are other programs in place for consumers who exceed the FPG to purchase equipment at a reduced rate or establish a payment plan.*

E. Other Eligibility Criteria

52. The pilot program rules permit certified programs to require that NDBEDP equipment recipients demonstrate that they have access to the telecommunications, advanced communications, or Internet access services (Internet or phone service) that the equipment is designed to use and make accessible.⁷⁰ The pilot program rules also prohibit certified programs from imposing employment-related eligibility requirements for individuals to participate in the program.⁷¹ In the *Permanent NDBEDP PN*,

⁶⁸ 47 U.S.C. § 620(a).

⁶⁹ 47 C.F.R. § 64.610(d)(2). The poverty guidelines are updated periodically in the *Federal Register* by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2). *See, e.g.*, 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 Apr. 28, 2015).

⁷⁰ 47 C.F.R. § 64.610(d)(4). *See also NDBEDP Pilot Program Order*, 26 FCC Rcd at 5658, ¶ 42.

⁷¹ 47 C.F.R. § 64.610(d)(3). *See also NDBEDP Pilot Program Order*, 26 FCC Rcd at 5659, ¶ 44.

the Bureau sought comment on whether these eligibility criteria should be maintained for the permanent NDBEDP and whether there are other eligibility criteria that should be considered.⁷² The Bureau also asked whether certified programs should be permitted to consider factors, such as demographics, funding, or the availability of other resources, to prioritize the distribution of equipment or provision of related services.⁷³

53. We propose to continue permitting certified programs to require equipment recipients to have access to the Internet or phone service that the equipment is designed to use and make accessible.⁷⁴ Commenters were generally supportive of this requirement, which ensures that the equipment purchased will be usable by the consumer.⁷⁵ We seek comment on this approach.

54. Commenters assert that the population sought to be served by the NDBEDP faces critical unemployment and underemployment challenges, and that employment restrictions are not appropriate for this program.⁷⁶ We therefore propose to retain the prohibition against employment-related eligibility requirements. We seek comment on this proposal.

55. Some commenters express concern that there is a lack of parity across states with respect to the distribution of equipment and provision of training.⁷⁷ In the pilot NDBEDP, the Commission granted states considerable flexibility in deciding how best to distribute equipment and provide related services to as many of their eligible residents as possible, given their jurisdiction's demographics and the inherent constraints of NDBEDP funding allocations, qualified personnel, time, and other limited resources. We propose to continue following this approach because we believe it has been effective in allowing states to address the wide range of variability that exists within and between state populations and resources, as well as the diversity within the population of individuals who are deaf-blind. We seek comment on this proposal. Should the Commission take measures to prioritize the use of funding in the event that demand for funding exceeds the \$10 million funding limitation? If so, for what purpose and when should priorities be set? For example, should priorities be designed to maximize the number of equipment recipients per year or the number of new equipment recipients per year or both? Should the Commission consider taking measures to target the lowest-income individuals? For example, should the Commission consider lowering the income eligibility threshold? Should the Commission consider establishing caps on the amount of equipment or related services an individual may receive to achieve that goal? We seek comment on these or other alternatives the Commission should consider to maximize the number of low-income consumers who can receive equipment under the permanent program.

56. At the same time, we acknowledge the need for greater transparency by state programs with respect to any unique criteria or priorities used for the distribution of their equipment and related

⁷² *Permanent NDBEDP PN*, 29 FCC Rcd at 9457, ¶ 15.

⁷³ *Id.*

⁷⁴ Access to such services may be in the form of free wireless, WiFi, or other services made available by public or private entities, such as libraries, coffee shops, local governments, or by the recipient's family, friends, neighbors, or other personal contacts. *See NDBEDP Pilot Program Order*, 26 FCC Rcd at 5658, ¶ 42.

⁷⁵ *See, e.g.*, Perkins Comments at 18; AADB Comments at 22; ATI Comments at 7 (agreeing that Internet equipment cannot be used if the recipient does not have access to the Internet);

⁷⁶ *See, e.g.*, AADB Comments at 22 (stating that programs may not impose an employment requirement); IUB Comments at 8 (arguing that the purpose of the NDBEDP is to help people communicate, and that an employment requirement is not appropriate).

⁷⁷ *See, e.g.*, Perkins Comments at 3, 18 (stating that it is critical to ensure parity among states for their consumers) *See also* AADB Comments at 26 (noting "serious concerns with the inequality of the assessment, especially with multi-entities certified programs where some entities are using different set of rules than the others").

services.⁷⁸ To address these concerns, we propose that each certified program be required to make public on its website, if one is maintained by the certified program, or as part of its other local outreach efforts,⁷⁹ a brief narrative description of any criteria or priorities that it uses to distribute equipment, as well as strategies established to ensure the fair distribution of equipment to eligible applicants within its jurisdiction. We seek comment on whether this proposal would assist consumers to better understand what benefits they may be able to secure from their state programs. We also seek comment on whether the administrative burdens of such an approach would be outweighed by its benefits.

57. We caution, however, that strategies to serve eligible applicants in a state must be consistent with the NDBEDP rules. For example, a certified program whose state education department provides deaf-blind students with all of the communications equipment and related services they need may determine that it should focus its NDBEDP resources to meet the needs of low-income deaf-blind adults. We believe this would be consistent with the principle, adopted in the *NDBEDP Pilot Program Order*, that the NDBEDP is supplementing rather than supplanting other resources.⁸⁰ However, a program restriction disallowing the distribution of equipment to any persons under the age of 18 could exclude otherwise eligible deaf-blind individuals in need of this equipment.⁸¹ We tentatively conclude that state programs generally should not be permitted to adopt such sweeping limitations, and seek comment on this tentative conclusion. In addition, we propose to require certified programs to serve eligible applicants of any age whose communications equipment needs are not being met through other available resources and we seek comment on this proposal. Finally, we seek comment on whether we should address in our rules for the permanent NDBEDP any other specific state program restrictions that currently exclude individuals who may otherwise qualify for NDBEDP equipment and related services.

COMMENTS: *It is strongly suggested that entities providing telecommunications equipment work in conjunctions with other entities that may be able to provide some or co-joining equipment and services. Such as; the NDBEDP provider may be able to provide a consumer with a laptop but the state Vocational Rehabilitation program may be able to provide JAWS software program for that individual through their funding sources. Also, a collaborative effort should be made whenever possible for training in instances when an individual is given telecommunications equipment for personal use that may also benefit other goals such as being able to job search at home or school. In this instance supportive training may be able to be provided through that VR program for the consumer with matching goals and objectives outlined in VR programs and services.*

V. EQUIPMENT AND RELATED SERVICES

A. Outreach

1. National Outreach

58. During each year of the pilot program, the Commission has set aside \$500,000 of the \$10 million available annually for national outreach efforts to promote the NDBEDP.⁸² As the Commission

⁷⁸ See, e.g., WATAP Comments at 3 (proposing that programs set forth criteria for how they will meet the needs of their states).

⁷⁹ See Section V.A.2 (discussing local outreach), *infra*.

⁸⁰ The NDBEDP provides funding for the distribution of communications equipment that supplements rather than supplants any existing mandates, funding, or programs that may be available to provide communications equipment to low-income individuals who are deaf-blind. See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5690, ¶ 115.

⁸¹ Perkins Comments at 16 (indicating that one state's program has this restriction).

⁸² See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5676, ¶ 80.

explained in the *NDBEDP Pilot Program Order*, significant initial funding for outreach was necessary to launch the pilot program, because eligible individuals needed to become informed about the availability of the program before distribution of equipment could take place.⁸³ Accordingly, in addition to permitting the state programs to use some of their funding for outreach to their communities,⁸⁴ the Commission authorized national outreach efforts to supplement those local efforts.⁸⁵ The Bureau selected Perkins, which has partnered with HKNC, FableVision, Inc., and others, to conduct this national outreach.⁸⁶ Among other things, this outreach effort has resulted in an NDBEDP (“iCanConnect”) website,⁸⁷ social media presence,⁸⁸ and public service announcements (PSAs),⁸⁹ as well as advertisements on billboards and in magazines.⁹⁰ In the *Permanent NDBEDP PN*, the Bureau sought comment on the efforts undertaken by the national outreach program, whether the Commission should continue to fund such efforts to promote the NDBEDP and, if so, what the appropriate amount and duration of such funding should be.⁹¹

COMMENTS: *Although our state has received a handful of inquiries during the three year pilot from the national outreach level the majority of applicants that have applied were informed on a state level through Deaf-Blind and other affiliated entities, programs, and services. In consideration of the National outreach efforts it is believed that states would better benefit if outreach funding set aside on a national level were reconsidered for distribution to states that can provide outreach and marketing on a statewide level. These outreach and marketing efforts can be tailored to each states individual needs. As it stands the current national outreach does not reach consumers and target specific areas within a state’s population of consumers that can meet the requirements for the program. It is strongly suggested that individual state programs providing NDBEDP services be allowed to receive additional outreach funding according to their state’s needs. Each state involved with human services to consumers can know how best to reach the consumers they serve. With appropriate funding outreach and marketing strategies can be more effectively provided with the goal of reaching the target audience.*

59. In response to the *Permanent NDBEDP PN*, Perkins reports additional outreach activities that it has conducted with NDBEDP funding, including provision of a contact form on the iCanConnect website that enables referrals of consumer inquiries to appropriate state programs and “a variety of turnkey materials (e.g. press releases, scripts, etc.)” for state programs to use for marketing in their local

⁸³ See *id.*, 26 FCC Rcd at 5675, ¶ 79

⁸⁴ See Section V.A.2, *infra*.

⁸⁵ See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5676, ¶ 80.

⁸⁶ 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).

⁸⁷ The iCanConnect website at www.iCanConnect.org promotes the NDBEDP and 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.

⁸⁸ See <https://www.facebook.com/iCanConnect.org> (Facebook); <https://twitter.com/iCanConnect1> (Twitter).

⁸⁹ See <http://www.youtube.com/watch?v=wyQ6d9SgQ6s> (60-second PSA); <http://www.youtube.com/watch?v=DRlm8M7ieck> (30-second PSA); <http://www.youtube.com/watch?v=eRAJKCINY9o> (10-second PSA).

⁹⁰ 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>.

⁹¹ *Permanent NDBEDP PN*, 29 FCC Rcd at 9460, ¶ 20.

areas.⁹² Perkins adds that this funding also has been used for the establishment of an 800 number and call center for program inquiries and referrals; marketing materials; monthly conference calls among certified programs, the FCC, and the TRS Fund Administrator; and support to states to gather and promote success stories.⁹³ Perkins maintains that all such efforts have been critically important to informing eligible consumers about the NDBEDP pilot program.⁹⁴ Various commenters agree that consumers and state programs have benefited from national outreach during the pilot program,⁹⁵ and support continuation of national outreach efforts.⁹⁶ Others, however, raise concerns about the effectiveness of national outreach,⁹⁷ while still others assert that state and local outreach efforts would be more effective.⁹⁸ Only two commenters affirmatively oppose any continued funding for national outreach efforts.⁹⁹

COMMENTS: *Although the success stories are wonderful, it poses a great deal of time and effort on the individual state in which the story is being reported on. Finding the consumers willing to do a story, getting the approved documents signed, setting up the date and time, finding a photographer and in some instances an interpreter is needed. This takes up the time of that state's staff in which that state does not recover funding for assisting with this process. It must be noted that it is imperative that an interpreter be provided for settings in which the communication needs to be facilitated.*

National outreach is recommended to continue but each state or entity should have special allocated funding based on their ability to promote the program effectively. This would allow for more personalized outreach and marketing strategies tailored to the needs of that entity.

B. Installation and Training

81. We propose to continue to permit reimbursement for the reasonable costs of equipment installation, consumer training, and travel by trainers and support services, such as qualified interpreters. Commenters overwhelmingly support the continuation of reimbursement for these costs, as needed to

⁹² Perkins Comments at 22-23; Perkins Reply Comments at 9-10. *See also* ¶ 58, *supra*.

⁹³ Perkins Comments at 22; Perkins Reply Comments at 9-10.

⁹⁴ *Id.* at 9.

⁹⁵ *See* Perkins Comments at 22; FTRI Comments at 3; HKNC Comments at 9-10 (stating that the iCanConnect website is “an effective tool”). *See also* ATK Comments at 3 (stating that certified programs “have benefitted from information shared on monthly calls, discussions on assessment and trainer issues, and linking states to one another”); CDBP Comments at 4 (noting the importance of the iCanConnect website as a marketing tool).

⁹⁶ Perkins Comments at 22-23 (supporting funding for national outreach); ACB Comments at 3; ACBT Comments at 2; DCBA Comments at 4; FTRI Comments at 3; HKNC Comments at 10; CDBP Comments at 4 (supporting maintenance of iCanConnect.org); LightHouse Comments at 17 (noting the necessity of “national coverage” of the program); GACHI Comments at 9 (recommending that national outreach continue).

⁹⁷ AADB Comments at 30; ATI Comments at 9; ATK Comments at 3 (stating that national outreach “does not always have the intended impact particularly in a rural, mid-western state”); IPAT Comments at 3 (stating that national outreach efforts are “typically not effective” in “our very rural, Midwestern state”); WATAP Comments at 5.

⁹⁸ ATI Comments at 9 (arguing that “it is difficult for a national outreach campaign to appeal to the unique culture of each state and territory” and suggesting that additional money be provided for local marketing); MoAT Comments at 3 (stating that, in its experience, “outreach activities coordinated by individual states have been more effective and efficient than the national activities”). As discussed in Section V.A.2, *infra*, under the pilot program, certified programs are reimbursed for the reasonable cost of state and local outreach efforts, a practice we propose to continue under the permanent program.

⁹⁹ AADB Comments at 30 (opposing funding for national outreach, and recommending that national outreach funding be used for other program purposes); IPAT Comments at 3.

ensure that distributed equipment will be used effectively.¹⁰⁰ Many commenters also emphasize that installation and training is often most effective when done in the location where the technology will be used.¹⁰¹ Based on these assertions, the reimbursement of reasonable costs for equipment installation and individualized training, including reasonable travel costs for trainers and support services, appear to be essential to the efficient and effective distribution of equipment to people who are deaf-blind.¹⁰² We seek comment on our proposal to continue providing compensation for these costs. We also seek comment on how we can ensure that installation and training conducted under the permanent program is cost effective or how we can improve the cost effectiveness of such installation and training.

COMMENTS: *The travel reimbursement has been effective for trainers and those who work directly with the consumers we serve. There are some instances where reimbursements to the consumers for supported car or transportation services are warranted. These instances should be considered for consumers where there are centralized group trainings when one or more of the consumers do not have transportation and may need to pay someone or a car service to bring them to the prospective site.*

C. Training Trainers

85. In the *NDBEDP Pilot Program Order*, the Commission declined to set aside NDBEDP pilot program funds to cover the cost of teaching NDBEDP personnel how to train NDBEDP equipment recipients on the use of their equipment – *i.e.*, a “train-the-trainer” program.¹⁰³ Although the Commission understood that there was a shortage of qualified individuals who could carry out this training function, particularly with respect to training NDBEDP equipment recipients who communicate receptively and/or expressively in Braille or ASL, the Commission rejected setting aside NDBEDP funds for this purpose because of the limited funding available.¹⁰⁴ Instead, 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 so that they could locate qualified individuals who could appropriately and effectively train people who are deaf-blind to use distributed equipment.¹⁰⁵ However, the Commission noted that it might reconsider its decision not to fund train-the-trainer programs in the future, based on information obtained through the pilot program.¹⁰⁶ In the *Permanent NDBEDP PN*, the Bureau sought comment on this matter and, specifically, (1) whether a shortage of trainers still exists; (2) whether certified programs are using train-the-trainer programs; (3) whether

¹⁰⁰ See, e.g., Perkins Comments at 20; AADB Comments at 27; ACB Comments at 5; ATI Comments at 8 (stating that it is “vital for the Program to continue to install the new technologies, and ensure the consumers receive adequate training in order to successfully use their new technologies”); CDBP Comments at 3; DBCA Comments at 4; HKNC Comments at 9; GACHI Comments at 8 (stating that travel reimbursement “has been effective for trainers and those who work directly with the customers we serve”); IPAT Comments at 3; IUB Comments at 11.

¹⁰¹ See, e.g., ATI Comments at 8 (stating that training may not be as successful if the consumer must travel to receiving training and they are unable to transport their equipment); AADB Comments at 28 (stating that consumers will need assistance from a qualified trainer who comes to their home to install and configure equipment and ensure the consumer is capable of using it; that sometimes consumers do not receive the correct equipment and that as a result of “poor follow-up” equipment sometimes remains unused); CDBP Comments at 3 (emphasizing the importance of in-home training based on some consumers’ limited ability to transfer knowledge gained at a training facility to their home environment and the frequent need for home visits to “troubleshoot[] problems unique to the consumers’ environments”).

¹⁰² See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5670-71, ¶ 69.

¹⁰³ See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5671, ¶ 70.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

resources for trainers are already available; (4) whether a national entity should coordinate such training, and (5) whether online modules would be effective.¹⁰⁷ Finally, the Bureau sought comment on mechanisms for funding such programs, including the Commission's authority to allocate NDBEDP funds, whether and what amount of such funds should be set aside for the training of trainers, and the length of time such funding should be permitted.¹⁰⁸

COMMENTS: *Funding may be provided in conjunction with other state affiliate programs such as local Vocational Rehabilitation Agencies in which a consumer has work related goals. In these instances that VR agency may consume part of all of the cost for training the trainers. This concept should be further investigated. For current working trainers considerations for supporting funding for enhanced training the trainers should be made. Such as staff developments, trainings and workshops are provided so should trainer development courses be made available. As technology is ever changing so are the needs of our trainers to stay abreast of these changes. Our trainers need to be versatile as well as vendor supported training with what is reasonable should be considered. Maybe a trainer maintenance program should be considered.*

Participating states and entities should be allowed periodic staff development and deaf-Blind sensitivity training allotments. Annual conferences such as TEDPA should be supported in conjunction with NDBEDP where there are round table discussions, collaborative efforts, brainstorming and innovative practices shared between states and participating entities.

VI. FUNDING

A. Allocation of Funding

96. In the *NDBEDP Pilot Program 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.¹⁰⁹ The remaining \$9.5 million of the \$10 million was divided among each of the NDBEDP certified programs by allocating a minimum base amount of \$50,000 for each jurisdiction plus an amount in proportion to each state's population.¹¹⁰ In the *Permanent NDBEDP PN*, the Bureau invited comment on whether the current funding allocation system is reasonable and fair, and, if not, what changes should be made and what purpose these changes would serve.

COMMENTS: *Going forward into the permanent program, states that have received reallocations should have the annual funding amount revisited based on the dollar amounts utilized for providing substantiated and documented services during the pilot program. In these instances an increase or decrease in annual funding maybe warranted based on services provided during the pilot program.*

97. We generally propose to maintain the current mechanism for allocating NDBEDP funds – setting aside funds first for certain national efforts,¹¹¹ allocating a minimum of \$50,000 for each certified program, and allocating the remaining funds to the certified programs in proportion to each state's

¹⁰⁷ *Permanent NDBEDP PN*, 29 FCC Rcd at 9459, ¶ 19.

¹⁰⁸ *Id.*

¹⁰⁹ *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5676-76, ¶ 80.

¹¹⁰ *Id.* at 5677, ¶¶ 84-85.

¹¹¹ See Section III.F, *supra* (proposing to set aside up to \$380,000 for a centralized database), Section V.A.1 *supra* (proposing to set aside \$250,000 for national outreach), Section V.E, *supra* (proposing to set aside \$250,000 for training trainers).

population.¹¹² Most commenters support this allocation system.¹¹³ Some commenters question the current population-based allocation of funds on the grounds that some states might have higher proportions of deaf-blind consumers than others.¹¹⁴ To the best of our knowledge, however, there is currently no reliable data on the number of people who are deaf-blind in each state. Further, our experience with the program has shown that most states have had sufficient funds allocated to them annually to meet their residents' needs and, where they have not, they have had an opportunity to obtain additional funding through reallocation. More specifically, as discussed below, under the pilot program, the Bureau has had the authority to reduce, raise, or reallocate funding allocations to any certified program as it may deem necessary and appropriate.¹¹⁵ We invite comment on our proposal to maintain the current allocation mechanism.

COMMENTS: *The current mechanism for allocating NDBEDP funds is underestimated for Georgia. This mechanism maybe underestimated for some states and overestimated for others. As stated there is no true data due to the large number of deaf-blind consumers that do not identify themselves on a national database or level. Also, there are many hard of hearing/low vision consumers that do not identify themselves as deaf-blind. I strongly urge the commission to reconsider the current allocations based on the dollar amount used for each state during the pilot program taking in account that some states may not be adequately serving consumers or consumers have not been served due to a state relinquishing the program.*

B. Reallocation of Funding

99. During the first year of the pilot program, almost 70% of the \$10 million available to support the NDBEDP was used by certified programs and for national outreach.¹¹⁶ Data obtained since the release of the *Permanent NDBEDP PN* reveal that approximately 90% of the \$10 million annual allocation was used during the second year of the pilot program.¹¹⁷ During each of the first two years of the pilot program, the NDBEDP Administrator reviewed funding data as it became available and worked with certified programs and the Bureau to reallocate funding between state programs when necessary to maximize the use of available funding.¹¹⁸ In the *Permanent NDBEDP PN*, the Bureau sought comment on the extent to which these reallocations met the needs of certified programs, or whether this practice in any way hindered the distribution of equipment by programs that had their allocations adjusted downward.¹¹⁹ The Bureau asked whether the permanent NDBEDP rules should continue to authorize the reallocation of funds from one state program to another, as deemed necessary and appropriate by the

¹¹² See Appendix D (Summary of Proposed Funding Allocations).

¹¹³ See, e.g., FTRI Comments at 2; IUB Comments at 4; WATP Comments at 2; CDP Comments at 2. *But see* ATK Comments at 2 (stating that the allocation formula should also be based on past needs). Some commenters also suggest that the Commission should raise the \$10 million annual funding cap for the NDBEDP. See, e.g., Perkins Comments at 10; ACB Comments at 3; ACBT Comments at 3. We remind these commenters that the CVAA limits funding to this amount and the Commission does not have the authority to raise this cap. CVAA, § 105(c), codified at 47 U.S.C. § 620(c).

¹¹⁴ See IOD Comments at 3; Naulty Comments at 3.

¹¹⁵ See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5679, ¶ 90.

¹¹⁶ See *NDBEDP Third Year Order*, 29 FCC Rcd at 1236, ¶ 5

¹¹⁷ See Appendix C (Summary of Pilot Program Expenditures).

¹¹⁸ *Permanent NDBEDP PN*, 29 FCC Rcd at 9454, ¶ 9.

¹¹⁹ *Id.*

NDBEDP Administrator.¹²⁰

COMMENT: *The Bureau should continue to authorize the reallocation of funds into the permanent program.*

100. During the first year of the pilot program, few entities reached or exceeded their annual allocation of funds.¹²¹ Only three entities requested and received additional funds.¹²² In the first half of the second year of the pilot program, the NDBEDP Administrator approved several requests for reallocations of funds from one certified entity to another (“voluntary” reallocations).¹²³ During the third quarter of the second year, after notice, the NDBEDP Administrator reduced the allocations of certified programs that had not used at least half of their annual allocation and reallocated those funds to satisfy requests from certified programs that reached or exceeded their annual allocations (“involuntary” reallocations).¹²⁴ Specifically, the formula currently used by the NDBEDP Administrator reduces by 50% the allocations of programs that have spent less than 25% during the first half of the year, and reduces by 25% the allocations of programs that have spent more than 25% but less than 50% during the first half of the year. Certified programs have an opportunity to request that the NDBEDP Administrator consider increasing or reducing the proposed change in allocation. We seek comment on this method and formula, or any alternative methods or formulas for making involuntary reallocations in the permanent NDBEDP. Commenters that suggest alternatives should explain how these would lead to effective results for the intended community and how such standards would add to the efficiency of the program. Most commenters agree that we should continue to authorize the reallocation of funds between programs, as deemed necessary and appropriate by the NDBEDP Administrator to maximize the use of available funding.¹²⁵ Based on these comments and the Commission’s experience during the pilot program, we tentatively conclude that these reallocations have helped requesting programs meet their needs and have not prevented programs with decreased funding from satisfying the needs of their constituents.¹²⁶ IPAT states, for example, that the reduction in its allocation did not hinder its distribution of equipment and it supports such reallocations in the future, as long as they are “based on current funding data, and used for the purpose of maximizing the use of available funding.”¹²⁷

COMMENT: *The current formula seems to be appropriate for reallocation of funds.*

101. Some commenters request that reallocations be made earlier during the program’s Fund year to minimize gaps in service.¹²⁸ We recognize this concern, but we note that it is not until

¹²⁰ *Id.*

¹²¹ RolkaLoube Comments at 7, 17-18 (Exhibit No. 1).

¹²² *See Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 7397 (CGB 2012) (listing allocations as of the beginning of the first); RolkaLoube Comments at 17-18 (Exhibit No. 1) (listing allocations as of the end of the first-year). The Bureau approved a request to reallocate funds from Texas (\$65,000) to Massachusetts (\$15,000) and Maine (\$50,000). The Bureau also reallocated unused funds from Nevada (\$64,000) to Georgia (\$64,000). At the time, the entity certified for Nevada had relinquished its certification and the Bureau had not yet selected its successor.

¹²³ RolkaLoube Comments at 7-8.

¹²⁴ *Id.* at 7-8, 10.

¹²⁵ *See, e.g.*, AADB Comments at 16; DCBA Comments at 2; FTRI Comments at 2; HKNC Comments at 5; IOD Comments at 3; WATAP Comments at 2; CDBP Comments at 2; RolkaLoube Comments at 7-8, 10.

¹²⁶ *See, e.g.*, MoAT Comments at 2 (stating that reallocation is necessary to meet program demands); ATI Comments at 4 (noting that it is better to give the money to programs that can use it); IPAT Comments at 1.

¹²⁷ IPAT Comments at 1.

¹²⁸ ATK Comments at 2 (stating that the certified program in Kansas ceased providing services because it spent its money early); MoAT Comments at 2 (stating that reallocation earlier in the year would be useful); IOD Comments

approximately one month after the second quarter of the Fund year ends that the Bureau has the requisite data from all certified programs to determine whether and to what extent involuntary funding reallocations may be appropriate.¹²⁹ Accordingly, we propose to allow voluntary reallocations between certified programs at any time during the Fund year with the approval of the NDBEDP Administrator, in consultation with the TRS Fund Administrator, as needed. We also propose to continue making involuntary reallocations as necessary when individual program performance indicates that NDBEDP funds could be more fully utilized by other certified programs. Further, we propose to continue our current practice of notifying and coordinating with the potentially impacted certified programs prior to making involuntary reallocations of funding. We seek comment on these reallocation proposals.

COMMENT: *During the first and second year of funding reallocations Georgia had to put services on hold; however this third year reallocations were approved in a timely manner that did not interrupt services. We appreciate the FCC being proactive in an effort not to delay services.*

C. Reimbursement Mechanism

102. When it established the NDBEDP pilot program, the Commission considered two funding mechanisms: (1) distributing funds to certified programs at the start of each Fund year and letting the programs use the funds as they saw fit; or (2) reimbursing programs up to each state's allocation for the equipment they distribute.¹³⁰ The Commission concluded that the reimbursement approach was more appropriate both because it would provide incentives for certified programs to actively locate eligible participants and would achieve greater accountability and protection against fraud, waste, and abuse.¹³¹ Under the NDBEDP pilot program, the Commission reimburses programs for the costs incurred for authorized equipment and related services, up to each certified program's initial or adjusted allocation.¹³² Certified programs may elect to seek reimbursement monthly, quarterly, or semi-annually.¹³³ In the *Permanent NDBEDP PN*, the Bureau sought comment on how well this reimbursement system has worked, whether the current approach should be maintained and if so, how it could be made more efficient.¹³⁴ The Bureau also invited comment on whether the Commission should consider other funding mechanisms that could provide program incentives to locate eligible participants, achieve accountability, and protect against fraud, waste, and abuse.¹³⁵ Finally, the Bureau asked whether a centralized web-based reimbursement system would facilitate the more rapid payment of claims, and whether a certain timeframe would be appropriate for the payment of claims.¹³⁶

at 3 (urging that reallocation occur at the beginning of the third quarter instead of the fourth quarter); Perkins Comments at 10.

¹²⁹ This is because, as noted below, state programs have the option of filing their reimbursement claims on a semi-annual basis. See ¶ 102, *infra*. Without full information on the amounts requested by every program, it is impossible to determine the amount of remaining funds available for such reallocations.

¹³⁰ See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5678, ¶ 86.

¹³¹ See *id.* 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).

¹³² 47 C.F.R. § 64.610(f).

¹³³ 47 C.F.R. § 64.610(f)(2); *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) (waiving the requirement to submit reimbursement claims every six months and permitting certified programs to elect, by notifying the TRS Fund Administrator, to submit claims quarterly or monthly).

¹³⁴ *Permanent NDBEDP PN*, 29 FCC Rcd at 9455, ¶ 10.

¹³⁵ *Id.*

¹³⁶ *Id.*

COMMENT: *A set time frame would be appropriate for the payment of claims. As it stands now some reimbursements are not paid until two to three months out. This can create an undue hardship on programs that have elected to submit monthly reimbursement claims such as Georgia.*

103. Various commenters assert that reimbursing programs for their expenses, rather than providing payment in advance, is more likely to keep certified programs accountable and to deter fraud, waste, and abuse.¹³⁷ IUB recommends against advancing funds because, in addition to the challenges of returning unspent funds, it believes such a system would result in more complicated recordkeeping and increased opportunities for fraud, waste, and abuse.¹³⁸ Both IUB and ATI also note that a system that advances funds would make reallocating funds during the year difficult.¹³⁹ For all of these reasons, we propose to continue using the present reimbursement mechanism to fund equipment distribution and related services under the permanent NDBEDP. We further propose that the current requirement for certified programs to support their reimbursement claims with documentation, a reasonably detailed explanation of incurred costs, and a declaration be carried into the permanent program.¹⁴⁰ We seek comment on these proposals, and other guidelines that may be needed with respect to the submission and processing of reimbursement claims to ensure that certified programs operate in a cost-efficient manner and maintain the financial integrity of the program. As discussed above, we propose to permit each certified program to populate a centralized database with claim-related data, from which it may generate its reimbursement claims.¹⁴¹ Most commenters agree that, if a program submits its requests for reimbursement in such a uniform manner, timely reimbursement is more likely.¹⁴²

COMMENT: *Submitting reimbursements for services rendered and cost incurred is good practice. It holds programs accountable for every dollar spent. Regarding reallocations this would more than likely*

¹³⁷ See, e.g., AADB Comments at 10; ATI Comments at 4-5 (stating that advancing funds risks lack of accountability and encourages fraud and abuse); DBCA Comments at 2 (noting that “[t]he current reimbursement mechanism should be retained for the permanent program”); IUB Comments at 5 (stating that so long as reimbursements are paid in a timely manner, IUB supports the reimbursement mechanism); LightHouse Comments at 7-8. *But see* GACHI Comments at 5 (requesting advances for start-up purposes).

¹³⁸ IUB Comments at 5.

¹³⁹ IUB Comments at 5; ATI Comments at 4. See also Section VI.B, *supra* (discussing reallocation of funding).

¹⁴⁰ See 47 C.F.R. §§ 64.610(f)(2) (certified programs must submit documentation that supports its claim for reimbursement), (f)(3) (requiring reimbursement claims to include a declaration); *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5679, ¶ 88.

¹⁴¹ See Section III.F, *supra* (discussing a centralized database for reporting and reimbursement claims).

¹⁴² See n.97, *supra*. We note that, although the record reflects that there was some frustration with delays in the processing of reimbursement claims at the start of the pilot program, commenters generally agree that the timeliness of payments has since improved. See, e.g., ATK Comments at 2 (stating that, initially, the reimbursement process “was not timely and negatively impacted” state programs, but improved in the second year of the pilot program); HKNC Comments at 6 (“The turn around on submission to payment has gone from two months or longer to 4-6 weeks.”); IPAT Comments at 2 (noting that the reimbursement mechanism was problematic at the beginning, but now it works fine); IUB Comments at 4 (reporting that “delays in processing reimbursement claims caused great hardship in cash flows for Iowa . . . [but] the second program year has seen many improvements and the reimbursement process has been much more efficient and timely.”). *But see* FTRI Comments at 2 (reporting that “the current turn-around time for reimbursement is not timely”). Given this general opinion, and the need for flexibility in processing each unique claim for equipment and related services, we do not, at this time, propose a specific period by which reimbursement claims must be paid. However, we note that where a claim is submitted with sufficient documentation, and does not require further clarification, we expect the Bureau and the TRS Fund Administrator to be able to process that claim within 30 days. We expect that claims requiring additional documentation or clarification generally will be processed within 60 days. See HKNC Comments at 5 (recommending reimbursement within 30 to 60 days).

pose a difficulty in retrieving funds from programs for the purpose of redistribution to other states. Again we are unsure about the centralized database and what information may be disclosed to other states such as salaries, etc.

The current reimbursement forms developed by ROLKA are pretty simple and easy to follow. It is hard to understand what the issue is with states not being in compliance with the forms and submission requirements.

104. We received little comment on whether to continue to allow programs to submit claims monthly, quarterly, or semi-annually, as currently permitted under the NDBEDP pilot program. At present, 10 certified programs submit claims monthly, 36 programs submit claims quarterly, and seven programs submit claims semi-annually.¹⁴³ To continue meeting the individualized needs of these programs, we propose to continue allowing certified entities to elect, upon certification and at the beginning of each Fund year, whether to submit claims on a monthly, quarterly, or semi-annual basis and to require submission within 30 days after each elected period. The TRS Fund Administrator recommends that certified programs be required to submit monthly claims and to request a waiver to submit claims less frequently.¹⁴⁴ While a monthly schedule may “benefit active certified entities and result in better cash flow to the certified entities,”¹⁴⁵ only 10 programs have elected to submit claims monthly, with the other 43 programs opting for quarterly or semi-annual schedules. We seek comment on the reasons that these 43 programs have not elected to submit claims on a monthly basis and whether all programs should be required to begin filing monthly, for example, for the sake of program consistency. Alternatively, is each certified program best suited to determine the frequency with which it needs to be reimbursed? We seek comment on the advantages and disadvantages of maintaining the current practice or whether we should revise our rules to require all programs to adhere to a single schedule for filing reimbursement claims. In particular we ask parties to comment on the extent to which a requirement to follow a single filing schedule would be more efficient or impose difficulties on programs with limited resources.

COMMENT: *Monthly submission allows for better management of the program and day to day operations. This also allows for equipment inventory to be updated on a regular basis. Outside of the fact that quarterly and semi-annual submission would cause undue hardships on some states, I only see complications with being in compliance with reporting requirements and keeping track of paperwork needed as supporting documentation for reimbursements. Georgia urges the commission to continue to allow monthly submissions.*

D. Administrative Costs

105. Under the Commission’s rules for the NDBEDP pilot program, certified programs may be compensated for administrative costs up to 15% of their total reimbursable costs (*i.e.*, not their total allocation) for equipment and related services.¹⁴⁶ We have defined administrative costs to include reporting requirements, accounting, regular audits, oversight, and general administration.¹⁴⁷ In the *Permanent NDBEDP PN*, the Bureau sought comment on whether the 15% cap on administrative costs should be retained and how it should be computed.¹⁴⁸ The Bureau asked whether a cap on administrative

¹⁴³ See RolkaLoubé Comments at 20-21 (Exhibit No. 3).

¹⁴⁴ *Id.* at 12.

¹⁴⁵ *Id.*

¹⁴⁶ 47 C.F.R. §64.610(f)(vi). The 15% cap does not apply to, and there is no cap for, costs associated with outreach, assessments, equipment, installation, or training. See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5680, ¶ 92.

¹⁴⁷ See *id.*

¹⁴⁸ *Permanent NDBEDP PN*, 29 FCC Rcd at 9455, ¶ 11.

costs based on the program's full annual funding allocation, rather than reimbursed costs for equipment and related services, would act as a disincentive to locate or provide equipment and related services to eligible participants, since a certified program would be entitled to such reimbursement even if it did not deliver any equipment or related services.¹⁴⁹ Finally, the Bureau asked whether a certified program's cost to participate in a centralized web-based system for accounting and reporting, if adopted, should be considered program or administrative costs.¹⁵⁰

COMMENT: *Whether or not this should be a program related cost or administrative cost depends on the 15% cap. If the cap is removed the reimbursement cost should be applied to administrative services. Although this may pose a complication to some the cost can also be broken up into time spent entering data for a particular service. That cost will then be billed to that specific service.*

106. To track and ensure that appropriate administrative costs are reimbursed, the TRS Fund Administrator has procedures to “bank” reimbursement claims for administrative costs that exceed 15% of reimbursable costs and to pay those claims later if the amount of reimbursable costs increases with later submissions.¹⁵¹ Generally, commenters oppose tying the cap on allowable administrative expenses to a certified program's reimbursed costs for equipment and related services.¹⁵² These parties urge a change in the Commission's rules to base the cap on annual allocations, claiming that such approach would not act as a disincentive to distributing equipment.¹⁵³ For example, Perkins suggests that the cap on administrative costs be based on annual allocations and distributed quarterly, and recommends that the FCC withhold payments in the third or fourth quarters to an underperforming program or de-certify a program that fails to spend its allocation.¹⁵⁴ Similarly, ACB urges the Commission to allow all administrative costs to be reimbursed, unless a program fails to provide equipment or services.¹⁵⁵ Given the general accomplishments of the 53 certified programs in distributing communications equipment to their deaf-blind residents, we are no longer concerned that basing the cap of administrative costs on the full funding allocation for each certified program will eliminate the necessary incentives to carry out the NDBEDP's objectives.¹⁵⁶ Accordingly, we propose to reimburse administrative costs as they are incurred and claimed, based on the annual allocation rather than the amount of reimbursable costs, thereby eliminating the need for the TRS Fund Administrator to “bank” unearned administrative costs. We seek comment on that proposal.

COMMENT: *In regards to administrative functions the current reallocation of funds that allows for 15% of services rendered i.e. training, outreach, and assessments does not support administrative needs*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*, ¶ 12.

¹⁵¹ *See* RolkaLoubé Comments at 14.

¹⁵² *See, e.g.*, IPAT Comments at 2 (stating that the cap “should not be tied to consumer related services”); LightHouse Comments at 9 (stating that the 15% cap should be based on the total allocated amount rather than the reimbursed amount); WATAP Comments at 3 (urging that the cap be based on the program's funding allocation).

¹⁵³ *See, e.g.*, ATI Comments at 5 (also noting that basing the cap on annual allocations would help programs avoid incurring administrative costs that will not be reimbursed); Perkins Comments at 14.

¹⁵⁴ Perkins Comments at 14

¹⁵⁵ ACB Comments at 4.

¹⁵⁶ During the second year of the pilot program, certified programs collectively used approximately 90% of their available funding. *See* Appendix C (Summary of Pilot Program Expenditures). Further, only five certified programs requested reimbursement for less than 50% of their annual allocations. *See* RolkaLoubé Comments at 19 (Exhibit No. 2).

required to maintain a successful program. It is with hopes that the commission would strongly consider the removal of the current required 15% of services reimbursable to administrative services.

As a state administrator of the NDBEDP, GA strongly supports the removal of the 15% of services reimbursable to administrative cost and related operational cost that states currently encounter. To states such as GA that has opted to receive reimbursements on a monthly basis it was very challenging to get this program up and running without startup cost and without administrative service reimbursement for the first few months of operation. As with any business startup funding is a necessary factor in getting a program up and running successfully. I have not seen where an entity or business can just take off and provide services without administrative functions that require putting policies and procedures in place that it takes to operate a business or program effectively. With this instance states were almost expected to start providing services without the initial administrative footwork needed to administer the program.

It should also be considered that a cap on administrative services should honor reasonable reimbursable services based on the administrative services needed for an entity to provide effective services and in-house operational functions.

107. We further acknowledge that some programs have reported operating at a loss as a result of the 15% cap on administrative expenses, and recognize that this could potentially act as a disincentive to participate in the NDBEDP.¹⁵⁷ During the second year of the pilot program, certified programs that exceeded the 15% cap had about 3% more administrative costs than were allowed by the cap.¹⁵⁸ To respond to these concerns, rather than raise the cap by the 3% needed to cover those overages, we believe that our proposal to create a centralized database for certified programs to generate reports and reimbursement claims,¹⁵⁹ may alleviate the administrative burdens for certified programs operating in the permanent NDBEDP. If adopted, certified programs that have been incurring costs associated with the use of a database, such as the Perkins database, would no longer need to do so, nor have those costs assessed against their 15% cap on administrative costs.¹⁶⁰ Other programs that have expended funds to develop databases on their own to generate reports and reimbursement claims may also similarly experience a reduction in the costs associated with these tasks. We seek comment on this proposal and, in particular, ask whether it will help to meet the financial needs of certified programs, particularly programs that have found the 15% cap on administrative costs to be a barrier to their effective participation in the NDBEDP. We also seek comment on whether our proposal regarding administrative costs, including the types of costs included in this category of expenses,¹⁶¹ is consistent with other similar programs. Similarly, we seek comment on whether there are any best practices that should be employed in this area.

¹⁵⁷ See, e.g., CTTAP Comments at 1 (arguing that the cap forces it to operate at a loss and for administrative costs to be 100% reimbursable); HKNC Comments at 5 (advocating that the cost for the centralized database should be a program cost not charged against the 15% cap); MoAT Comments at 2 (same); LightHouse Comments at 9 (noting that California had administrative costs over 20%); Perkins Comments at 5, 13 (arguing that operating under this cap is a challenge); IOD Comments at 3 (stating that the 15% cap is insufficient); GACHI Comments at 2 (supporting removal of the 15% cap); Oklahoma DRS (advocating that the cost of annual audits not be charged against the 15% cap); RolkaLoube Comments at 10 (reporting that only 19 state programs did not claim administrative expenses in excess of their annual allocation, and each of those had unspent allocations at the end of the year).

¹⁵⁸ See Appendix C (Summary of Pilot Program Expenditures).

¹⁵⁹ See Section III.F, *supra* (discussing a centralized database for reporting and reimbursement claims).

¹⁶⁰ *Id.*

¹⁶¹ See ¶ 105, *supra* (defining administrative costs to include reporting requirements, accounting, regular audits, oversight, and general administration).

It would be more effective if states were allowed to receive administrative reimbursements without the required 15% of services rendered. We feel that more states would opt back into the individualized operating of NDBEDP services if they could recover the cost of administering the program. Another consideration is that the requirements of application processing, maintaining applicant databases, inventory databases, cold calling, reporting, and daily functions are necessary to successfully maintain the program. The before mentioned administrative functions only scratches the surface of the responsibilities required to operate a program that involves working with Deaf-blind individuals, taking into consideration that some of the consumers we serve have multiple disabilities. The amount of work and responsibility required by states and interested parties has not been fully considered. The administrative aspect has a great deal to do with the successfulness of the program. Some states that have opted out has been due to the tremendous amount of administrative functions placed on staff members without applicable compensation for the amount of meticulous time consuming work and effort put forth. We strongly urge the commission to reconsider the 15% of services requirement and base individualized states operating the program on that states individualized administrative needs as long as the administrative reimbursement request are reasonable and properly documented with supportive documentation. Administrative services are done on a daily basis whether or not a required reimbursable direct service is provided on a given day or not.

I would like to add that the comments above in regards to administrative services do not support what may be deemed as unreasonable reimbursement request. An example of what may be unreasonable would be those individualized states and centralized entities opting to submit six months reimbursements without providing any direct services during the six month time frame is not reasonable. It is unreasonable to request reimbursement for administrative services with this type of allotted time frame for administrative services only. Again consideration should be made in revisiting this current process.

Lastly, it would be a waste of taxpayer dollars to do away with databases that states have encountered cost into the thousands of dollars. A state should have the option to use their individualized database system that is within their organization. GA is currently having a database system built. This would also cause duplicate reporting in many areas whereas client information would be required to be input into our states database system and the second requirement would be to input that same information into the NDBEDP centralized database.

VII. Oversight and Reporting

A. Reporting

110. We invite comment on our proposal to retain the reporting requirement. We note that not all commenters agree on the extent to which the substance of the reporting requirements should be retained,¹⁶² and thus seek comment on whether we should modify the information these reports should include. In particular, are there differences in the pilot and permanent programs that should cause us to change the nature of the data required by these reporting obligations? We also seek comment on ways that the provision of data required for reimbursement claims and reporting requirements can be streamlined through the design of a centralized database or by other means. For example, one commenter suggests that state programs be permitted to submit reports at the same frequency as reimbursement

¹⁶² See IUB Comments at 12-13 (recommending reducing the amount of information required to be reported, such as details about the function of equipment distributed, type of communication s service with which it is used, and type of relay service it can access). *But see* Perkins Comments at 23 (recommending that the reporting requirement remain substantially the same).

claims to streamline these requirements further.¹⁶³ We seek comment on this proposal, as well as the advantages or disadvantages of allowing certified programs to submit reimbursement claims and reports on a monthly, quarterly, or biannual basis. Should the reporting period be the same for all certified programs to ensure consistency of data? If so, what should that period be? Alternatively, now that we are transitioning the NDBEDP to a permanent program, would it serve the program just as well if submission of the reports were required annually instead of every six months?

COMMENTS: *The six months reporting is found to be a very repetitive and tedious process which is also time consuming. Maybe it would be better to identify what specific data is needed and alleviate unnecessary repetitive reporting processes.*

112. Consistent with the Commission’s Universal Service low-income program rules,¹⁶⁴ and to clarify what “affairs” means in this context,¹⁶⁵ we propose to amend the certification as follows:

I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity, and that the entity has policies and procedures in place to ensure that recipients satisfy the NDBEDP eligibility requirements, that the entity is in compliance with the Commission’s NDBEDP rules, that I have examined the foregoing reports and that all requested information has been provided, and all statements of fact are true and an accurate statement of the business activities conducted pursuant to the NDBEDP by the above-named certified program.

We invite feedback on this and any other matters pertaining to the reporting obligations not discussed above, including the costs and benefits of retaining these requirements.

COMMENT: *The proposed changes are feasible and acceptable.*

B. Audits

58. During the pilot program, certified programs have been required to engage an independent auditor to perform annual audits designed to detect and prevent fraud, waste, and abuse.¹⁶⁶ Certified programs must also make their NDBEDP-related records available for review or audit by appropriate officials of the Commission.¹⁶⁷ In the *Permanent NDBEDP PN*, the Bureau sought 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.¹⁶⁸

59. Several commenters argue that certified programs should continue to perform annual audits for the purposes set forth above.¹⁶⁹ The TRS Fund Administrator, who is responsible for administering funding support for the TRS program, notes “the importance of conducting regular audits to ensure the

¹⁶³ CTTAP Comments at 2. *But see* AADB Comments at 31 (stating that reports should not be required more frequently than every six months); ACB Comments at 6 (urging reporting on a quarterly basis).

¹⁶⁴ *See* 47 C.F.R. § 54.416 (certification requirements for eligible telecommunications carriers).

¹⁶⁵ Similarly, we propose to amend the certification required with reimbursement claims to clarify that the “affairs” of the certified program means the “business activities conducted pursuant to the NDBEDP” by the certified program. *See* Appendix F (Proposed Rule Changes), section 64.610(f)(3).

¹⁶⁶ 47 C.F.R. § 64.610(e)(1)(vii); *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5684, ¶ 101; *NDBEDP FAQ* 25.

¹⁶⁷ 47 C.F.R. § 64.610(e)(1)(vii); *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5684, ¶ 101.

¹⁶⁸ *Permanent NDBEDP PN*, 29 FCC Rcd at 9461, ¶ 23.

¹⁶⁹ *See, e.g.*, AADB Comments at 32; ACB Comments at 6; ATI Comments at 10; FTRI Comments at 3; CDBP Comments 4; Perkins Comments at 15.

integrity of the TRS Fund.”¹⁷⁰ We agree and propose to continue to require certified programs to engage an independent auditor to perform annual audits. As recommended by the TRS Fund Administrator, we also propose that each certified program submit a copy of its annual audit to the TRS Fund Administrator and the NDBEDP Administrator.¹⁷¹ We seek comment on these proposals.

60. Further, we propose to clarify that NDBEDP certified programs are not required to conduct their annual audits using a more rigorous audit standard, such as a forensic standard, specifically designed to prevent and detect fraud, waste, and abuse.¹⁷² We seek comment on our proposal to affirm the following guidance provided by the Bureau in November 2012 to certified programs regarding their annual audit requirement:¹⁷³

For purposes of complying with the NDBEDP audit rule, an independent auditor must conduct a program audit that includes a traditional financial statement audit, as well as an audit of compliance with the NDBEDP rules that have a direct and material impact on NDBEDP expenditures and a review of internal controls established to ensure compliance with the NDBEDP rules.

Compliance areas to be audited include, but are not limited to, allowable costs, participant eligibility, and reporting. The audit report must describe any exceptions found, such as unallowable costs, lack of participant eligibility documentation, and missing reports. The report also must include the certified program’s view as to whether each compliance exception is material and whether any internal control deficiencies are material.

If the auditor finds evidence of fraud, waste, or abuse, the auditor must take appropriate steps to discuss it with the certified program management and the FCC and report the auditor’s observations as required under professional auditing standards.

This program audit standard is comparable to that required for Office of Management and Budget (OMB) Circular A-133 audits.¹⁷⁴ We believe that such audits of NDBEDP certified programs, conducted annually by an independent auditor, will detect and prevent fraud, waste, and abuse, which will satisfy the NDBEDP audit rule.

61. Commenters note that the Commission should provide guidance with respect to whether certified programs must comply with OMB Circular A-133 audit requirements.¹⁷⁵ Because the program audit criteria described above are similar to that of an OMB Circular A-133 audit, we propose to require

¹⁷⁰ RolkaLoubé Comments at 16.

¹⁷¹ See RolkaLoubé Comments at 15 (recommending that copies of audits be distributed to the Commission and the NDBEDP Administrator).

¹⁷² See *NDBEDP FAQ* 25.

¹⁷³ *Id.*

¹⁷⁴ All non-federal entities that expend \$750,000 or more of Federal awards in a year are required to obtain an annual audit in accordance with the Single Audit Act Amendments of 1996, OMB Circular A-133, and the OMB Circular Compliance Supplement and Government Auditing Standards. See Office of Management and Budget, Office of Federal Financial Management Single Audit, at http://www.whitehouse.gov/omb/financial_fin_single_audit (last viewed Apr. 28, 2015); Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule, 78 Fed. Reg. 78589, 78621 (Dec. 13, 2013) (increasing the amount from \$500,000 to \$750,000 for audits of fiscal years beginning on or after December 26, 2014).

¹⁷⁵ Perkins Comments at 26. If certified programs must comply, Perkins recommends that any audit activity beyond an OMB Circular A-133 audit that the Commission mandates should be conducted at its expense. *Id.*

that audits under the permanent NDBEDP be performed in accordance with OMB Circular A-133. We invite comment on this proposal. Commenters that disagree with this proposal are asked to explain why.

62. In addition, we propose to continue to require each program to submit to an audit at any time deemed necessary by the Commission or its delegated authorities. This proposal is consistent with the Commission's TRS rules, which require "TRS providers [to] submit to audits annually or at times deemed appropriate by the Commission, the fund administrator, or by an entity approved by the Commission for such purpose."¹⁷⁶ This approach could also be implemented by performing audits either as needed or on a regular basis at intervals longer than one year. A full audit of an NDBEDP certified entity, as directed by the Commission or a delegated authority may be appropriate, for example, to obtain financial information needed for the FCC's consolidated annual financial audit, which also includes the financial results for the TRS Fund. As another example, a full audit may also be appropriate when the TRS Fund Administrator and the NDBEDP Administrator agree that reimbursement claims submitted by a certified program contain a pattern of errors or indicia reflecting a lack of accountability, fraud, waste, or abuse. We further propose that any program that fails to fully cooperate in such audits, for example, by failing to provide documentation necessary for verification upon reasonable request, be subject to an automatic suspension of NDBEDP payments until sufficient documentation is provided. We believe that this automatic suspension policy, which is currently applied to the TRS program, would promote transparency and accountability in the compensation process.¹⁷⁷ We seek comment on the costs and benefits of adopting this approach.

63. To further prevent and detect fraud, waste, and abuse, and ensure compliance with the NDBEDP rules, we propose to retain the provision in the pilot program rules requiring certified programs to submit documentation demonstrating ongoing compliance with the Commission's rules.¹⁷⁸ Because the Commission may choose to initiate an investigation at its discretion and on its own motion,¹⁷⁹ we propose to eliminate the example that appears in the pilot program rules from the permanent NDBEDP rules that suggests that "evidence that a state program may not be in compliance with those rules" is a prerequisite to such an investigation. We seek comment on these proposals.

64. Finally, to further prevent and detect fraud, waste, and abuse, we propose to retain the whistleblower protections in our rules.¹⁸⁰ Those protections require certified programs to permit individuals to disclose to appropriate officials, without reprisal, known or suspected violations of the Commission's rules or any other activity the individual believes to be unlawful, wasteful, fraudulent, or abusive, or that could result in the improper distribution of equipment, provision of services, or billing to the TRS Fund.¹⁸¹ Certified programs must include these whistleblower protections with the information they provide about the program in any employee handbooks or manuals, on their websites, and in other appropriate publications.¹⁸² We seek comment on this proposal.

¹⁷⁶ 47 C.F.R. § 64.604(c)(5)(iii)(D)(6); RolkaLoubé Comments at 16. *See also* 47 C.F.R. § 64.610(e)(vii) (certified entities must, in addition to conducting annual audits, "submit, as necessary, to audits arranged by the Commission, the Consumer and Governmental Affairs Bureau, the NDBEDP Administrator, or the TRS Fund Administrator [to detect and prevent fraud, waste, and abuse]").

¹⁷⁷ *See* RolkaLoubé Comments at 16. *See also* 47 C.F.R. § 64.604(c)(5)(iii)(D)(6) (establishing audit requirements for TRS providers). Delegated authorities may include the TRS Fund Administrator, the Commission's Office of Inspector General or the Enforcement Bureau.

¹⁷⁸ *See* 47 C.F.R. § 64.610(j)(3).

¹⁷⁹ *Id.*

¹⁸⁰ *See* 47 C.F.R. § 64.610(i). The Bureau did not seek comment on these issues in the *Permanent NDBEDP PN*.

¹⁸¹ *See* 47 C.F.R. § 64.610(i)(1).

¹⁸² *See* 47 C.F.R. § 64.610(i)(2).

COMMENTS: *All of the proposed rules governing audit standards and practices are acceptable. GA has been in compliance with the OMB Circular A-133 audit and will continue to do so. The whistleblowers provisions are adequate and acceptable for GA as well.*

C. Record Retention

65. As part of the pilot program, the Commission adopted a rule requiring all certified programs to retain all records associated with the distribution of equipment and provision of related services under the pilot program for two years following the termination of the pilot program, without specifying the format in which they must be retained, but with the goal of promoting greater transparency and accountability.¹⁸³ FTRI recommends that “hard copies” of “information” be retained for “no more than two years” while “[p]ertinent financial records” be retained for “as long as necessary per individual state requirements.”¹⁸⁴

66. Consistent with the Commission’s TRS rules, we propose to require certified programs to retain all records associated with the distribution of equipment and provision of related services under the permanent program for a minimum of five years.¹⁸⁵ We seek comment on this proposal and whether such records should be retained for a longer or shorter period of time. Certified programs need such records to support their reimbursement claims, to generate reports required to be filed with the Commission, and to comply with audit requirements. During the pilot program, we also have found that such records are needed for responding to inquiries and complaints. As such, we also propose that certified programs document compliance with all Commission requirements governing the NDBEDP and provide this documentation to the Commission upon request.¹⁸⁶ Record retention is also necessary in the event that questions arise about a program’s compliance with NDBEDP rules or the propriety of requests for payment. We seek comment on this proposal.

67. We believe that records also are needed to transfer information to another certified program when an eligible consumer moves to another state or to transfer information to a newly-certified program when a certified entity either relinquishes its certification or decides not to seek re-certification.¹⁸⁷ Should our rules require NDBEDP applications to include a release that would permit disclosure of information about the applicant by the certified program, as needed, to minimize any interruption in service if such individual moves to another state or a new entity takes over certification for that individual’s state?¹⁸⁸ Alternatively, if we adopt a centralized database for processing reimbursement claims or reporting purposes,¹⁸⁹ we seek comment on whether it will continue to be necessary for certified programs to retain a copy of these records. If so, which records should be retained by certified programs and for what period of time? Should we specify that records must be retained in paper or electronic

¹⁸³ *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5684-85, ¶ 101; 47 C.F.R. § 64.610(e)(1)(viii).

¹⁸⁴ FTRI Comments at 3.

¹⁸⁵ *See, e.g.*, 47 C.F.R. §§ 64.604(c)(5)(iii)(D)(7), (c)(9)(x), (c)(11)(iv), 64.631(a)(2).

¹⁸⁶ Such a requirement is consistent with our Universal Service low-income program rules. *See* 47 C.F.R. § 54.417. It is also consistent with our current pilot program rules. *See* 47 C.F.R. § 64.610(j)(3).

¹⁸⁷ *See* ¶ 10, *supra*; 47 C.F.R. §§ 64.610(e)(1)(iii)-(iv).

¹⁸⁸ *See, e.g.*, ¶¶ 73-74, *supra* (proposing to retain the requirement that, 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); ¶¶ 10, 21, *supra* (proposing that entities that relinquish their certification or do not seek re-certification be required to transfer NDBEDP-purchased equipment, information, files, and other data to the newly-certified entity in its state within 30 days after the effective date of its certification to ensure a smooth transition and reduce any potential for a lapse in service); Sections VII.A (reporting) and VII.B (audits), *supra*.

¹⁸⁹ *See* Section III.F, *supra*.

format, or should we allow each certified program to decide the format in which to retain its records? We seek comment on these and any other matters related to the retention of records under the permanent program.

COMMENTS: *With regards to records retention and submissions, if certain supporting documentation is shredded after a two or five year period and an in-depth audit is requested on maybe the first or second year of the programs operations how would that supporting documentation be provided. If a five year record retention is adopted would an audit requirement be allowed to only request periods within those five years? The only way records can be maintained to satisfy in-depth audit request of previous years other than the annual audit on file in which specific records that may be requested is that each state maintain a database system that supporting data can be scanned into. This would alleviate paper files and clutter and also allows for files to be pulled from that system when a consumer transfers to another state.*

IX. Other Considerations

128. Under the NDBEDP pilot program, the NDBEDP Administrator is responsible for “responding to . . . consumer complaints filed directly with the Commission.”¹⁹⁰ In the *NDBEDP Pilot Program Order*, the Commission stated that informal complaints alleging a violation of the Commission’s NDBEDP rules may be transmitted to the Commission via any reasonable means, such as by letter, fax, telephone, TTY, or e-mail.¹⁹¹ Complaints might be filed for various reasons. For example, AADB reports that consumers sometimes complain that trainers and interpreters lack adequate communication skills and that many trainers lack the skills needed for consumers to reap the full benefits of the program.¹⁹² In addition, an applicant may want to appeal a certified program’s determination that he or she is not eligible for the program or a program’s denial of equipment, training, or other related services. We propose to adopt rules for the permanent NDBEDP to facilitate the receipt and processing of such consumer complaints and appeals.¹⁹³

129. For this purpose, we propose to adopt informal and formal complaint procedures, modeled after the Commission’s processes for the handling of complaints against telecommunications and TRS providers, as follows. First, we propose that an informal complaint filed with the Commission must include the name and contact information of the complainant; the name of the NDBEDP certified program; a statement describing how the NDBEDP certified program violated the Commission’s rules; what the complainant wants the NDBEDP certified program to do to resolve the complaint; and the complainant’s preferred format or method of response, such as by letter, fax, telephone, TTY, or e-mail. The Commission will forward complete complaints to the NDBEDP certified program for a response. When it appears that an informal complaint has been resolved, the Commission may consider the matter closed. In all other cases, the Commission will inform the complainant and the NDBEDP certified program about its review and disposition of the complaint. If a complainant is not satisfied with the NDBEDP certified program’s response and the Commission’s disposition of the informal complaint, the complainant may file a formal complaint with the Commission in accordance with the Commission’s rules for filing formal complaints.¹⁹⁴ The Commission may also conduct inquiries and hold proceedings that it deems necessary to enforce the NDBEDP requirements. We seek comment on these proposed

¹⁹⁰ 47 C.F.R. § 64.610(h)(l)(viii).

¹⁹¹ See *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5686, n.358.

¹⁹² See, e.g., AADB Comments at 28.

¹⁹³ See, e.g., 47 C.F.R. §§ 6.15-6.23 (rules previously adopted to enforce section 255 of the Communications Act), 64.604(c)(6)(v) (procedures for informal and formal complaints against TRS providers).

¹⁹⁴ See 47 C.F.R. §§ 1.720-1.736.

informal and formal complaint procedures.¹⁹⁵

COMMENTS: *Georgia has an informal and formal complaint resolution policy in which informal complaints may be resolved via internet or phone. Formal complaints must be submitted in writing and are discussed with the administrative team. Any consumer wishing to file a formal complaint that has difficulty writing the actual complaint are urged to seek assistance whether it be a friend or family member or another department within the agency or through another entity that provides these types or related services. Any other complaint resolution suggestions are welcome.*

OTHER COMMENTS:

We strongly urge the Bureau and commission to look at states and participating entities overall operating expenses, the funding amounts used towards supportive services and make necessary adjustments based on the amount of allocated and reallocated funds used during the pilot program going forward into the permanent programs funding allocations.

C. Advisory Group

132. In response to the *Permanent NDBEDP PN*, the North Carolina Department of Health and Human Services Division of Services for the Deaf and Hard of Hearing (NCSDSDHH) suggests that the Commission establish a “workgroup of established administrators of state NDBEDP programs . . . to advise the FCC” on changes to its rules and “applicable timelines” for the program.¹⁹⁶ NCSDSDHH suggests that the workgroup be used to pull together individuals with a wealth of experience to “pool ideas, thoughts and suggestions” for the continued operation of the NDBEDP.¹⁹⁷

133. The Commission recently announced the formation of a Disability Advisory Committee, which will provide advice and recommendations to the Commission on a wide array of disability matters, including the NDBEDP.¹⁹⁸ In addition, the Commission’s rulemaking proceedings are open to the public for comment, and feedback from administrators of certified programs is always welcome. For example, during the NDBEDP pilot program, the sharing of expertise and ideas for the NDBEDP has been accomplished through informal monthly conference calls among certified programs that we propose to continue under the permanent program.¹⁹⁹ For these reasons, we do not see the need to establish a separate workgroup of state NDBEDP programs to advise the Commission at this time. We seek comment on this approach.

COMMENTS: *Georgia is open to having or not having an advisory “workgroup.” Although we do see the monthly calls as suffice for advisement.*

¹⁹⁵ Appendix F (Proposed Rule Changes) contains the specific rules proposed for such complaint processes.

¹⁹⁶ Comments of North Carolina Department of Health and Human Services Division of Services for the Deaf and Hard of Hearing (NCSDSDHH Comments) at 1.

¹⁹⁷ *Id.*

¹⁹⁸ *FCC Announces the Establishment of the Disability Advisory Committee and Solicits Nominations for Membership*, Public Notice, DA 14-1737, 29 FCC Rcd 14484 (2014). *See also FCC Announces First Meeting Date of the Disability Advisory Committee and Appointment of Membership*, Public Notice, DA 15-194 (rel. Feb. 10, 2015).

¹⁹⁹ *See* Section V.A.1, *supra*.

Thank you for the opportunity to submit comments regarding the National Deaf Blind Equipment Distribution Program

Respectfully:

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