

58. *Discussion.* Given the high costs of the specialized CPE covered under the NDBEDP,<sup>191</sup> we conclude that lending equipment to deaf-blind recipients is the preferable approach for distributing equipment under the pilot program. At the same time, we are concerned that disallowing ownership may result in the exclusion from this pilot program of some EDPs that are bound by state statutes to use this method of distribution. Accordingly, while we strongly recommend that certified programs lend equipment distributed under the NDBEDP to equipment recipients, we will not require that they use this exclusive method of distributing equipment. We believe that allowing certified programs to either lend or give away equipment under the pilot will enable us to assess which method works best, based on the data collected from all certified programs. It will also avoid excluding participation in the NDBEDP by state EDPs that would need state legislative action to change their distribution method.<sup>192</sup>

59. For those programs that do choose to lend equipment, we require that recipients be permitted to keep their devices for as long as needed. We further agree with commenters that under either a “loan” or “ownership” program, equipment recipients should not be permitted to sell, give away, or otherwise transfer equipment distributed under the NDBEDP, and that recipients who relocate to another state be permitted to keep their equipment.<sup>193</sup> In addition, when a recipient relocates to another state, the certified program must transfer the recipient’s account and any control of the distributed equipment to the new state’s certified program, so that the individual need not reapply.

### C. Research and Development

60. One of the purposes of the NDBEDP is to ensure that people who are deaf-blind are not left behind as new 21st century communications technologies become available.<sup>194</sup> But, as we noted in the *NDBEDP NPRM*, significant gaps already exist. Commenters to this proceeding report that existing equipment does not meet the needs of the full spectrum of people who are deaf-blind to access current communications technologies.<sup>195</sup> However, we also noted that, without a better grasp of the specific gaps in current technologies used by the deaf-blind community, and without a fuller understanding of what the costs of closing those gaps are likely to be, it may be premature to set aside NDBEDP funds for research and development (“R&D”) efforts that may be needed to close those gaps.<sup>196</sup> We further expressed the concern that the limited NDBEDP funding that we could allocate to R&D might be insufficient to have an appreciable impact on the development of new technology and that any funding set aside for R&D will reduce the amount of funding available to distribute existing equipment.<sup>197</sup> Although we proposed not to allocate funding for R&D at this time, we sought comment on the extent to which R&D is needed to fill equipment gaps to ensure that the NDBEDP is effective,<sup>198</sup> and whether we have the discretion under Section 719 to set aside NDBEDP funds for this purpose.<sup>199</sup> We also sought input on other ways that we

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<sup>191</sup> Loaned equipment would be owned by the certified program distributing that equipment. Should the individual return the equipment, the certified program may redistribute such equipment as appropriate.

<sup>192</sup> TEDPA Comments at 4.

<sup>193</sup> *Id.*

<sup>194</sup> *NDBEDP NPRM*, 26 FCC Rcd at 701, ¶ 34.

<sup>195</sup> *Id.* at 701-02, ¶ 32.

<sup>196</sup> *Id.* at 701, ¶ 34.

<sup>197</sup> *Id.*

<sup>198</sup> *Id.* at 701-02, ¶ 34.

<sup>199</sup> *Id.* at 702, ¶ 34.

can encourage and facilitate innovations on a long-term basis to address the communications access needs of individuals who are deaf-blind.<sup>200</sup>

61. Comments received in response to the *NDBEDP NPRM* generally support R&D funding, in varying degrees. For example, AADB says that support for R&D is not an efficient use of funds at this time, but suggests that 10 percent of NDBEDP funds used as a matching grant could be an incentive to identify other R&D funding.<sup>201</sup> The Lighthouse believes that the funds available for the NDBEDP will not be sufficient to support R&D, but recommends that the Commission consider ways to work with other entities (federal, non-profit, and business) to leverage technology grants.<sup>202</sup> By contrast, DBYAA asserts that an R&D component is essential because current equipment distribution funding has not stimulated significant innovation, and it is not clear that the availability of NDBEDP funding for the purchase of equipment will stimulate investment in new technologies.<sup>203</sup> DBYAA asks that the Commission consider allocating a “small portion” of NDBEDP funds to “special projects,” because it is within the Commission’s discretion to allocate funding for R&D to realize the congressional objective of the CVAA.<sup>204</sup> The National Coalition also supports some amount of NDBEDP funding for R&D, suggesting that even amounts up to \$1 million can make a difference, particularly for non-profit entities.<sup>205</sup> Likewise, the RERCs assert that the Commission’s rules should permit some R&D funding that is not company-specific.<sup>206</sup>

62. *Discussion.* Based on the record before us, we recognize the need to stimulate innovation to fill existing equipment and technology gaps to meet the communications technology access needs of this unserved and underserved population.<sup>207</sup> However, we conclude that an allocation of NDBEDP funding is not appropriate at this time because of insufficient information about those gaps and the kinds of research and funding that are needed to fill them.<sup>208</sup> With the data we collect during the pilot program, we will assess whether the funding support provided by the NDBEDP pilot program has provided the impetus needed for manufacturers to engage in the R&D that is necessary to fill the existing communications technology gaps. To the extent that these gaps remain unfilled, we may consider whether an allocation for R&D or other measures are needed to support certified programs in their efforts to distribute equipment in accordance with Section 719, as part of the permanent program.

#### D. Individualized Assessment of Communication Needs

63. In the *NDBEDP NPRM*, we recognized the need for qualified assistive technology specialists, familiar with both the manner in which deaf-blind people communicate and the range of

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<sup>200</sup> *Id.*

<sup>201</sup> AADB Comments at 7. *See also* NAD Comments at 7 (acknowledging compelling need for R&D funding, but notes this is not an appropriate use of limited funds at this time).

<sup>202</sup> Lighthouse Comments at 5.

<sup>203</sup> DBYAA Comments at 3.

<sup>204</sup> *Id.*

<sup>205</sup> National Coalition Comments at 9.

<sup>206</sup> RERCs Reply at 4-5. The RERCs provide as examples the development of a common open source “Braille transcoder/editor/driver,” and a market research study, to be conducted every two years, for the purpose of evaluating the availability of technologies, user needs, the impact of the program, and other factors.

<sup>207</sup> *See* para. 60, *supra*.

<sup>208</sup> *See* para. 61, *supra*.

specialized equipment available, to conduct assessments to ensure that equipment given out under this program effectively meets each recipient's unique communications needs.<sup>209</sup> We proposed that certified programs be given the discretion to determine the need for such assessments on a case-by-case basis, and to select the appropriate personnel within their programs to carry out this responsibility.<sup>210</sup> We also asked whether the costs for such assessments should be reimbursable.<sup>211</sup>

64. Commenters stress the importance of conducting assessments to determine which equipment will effectively meet the needs of deaf-blind individuals and urge that these costs be covered under the NDBEDP.<sup>212</sup> MoAT states that "[a]ssuring an appropriate match between the telecommunications technology and the individual needs will be essential to the cost-effective provision of equipment and to limit the abandonment of the equipment by the consumer because it does not meet his/her needs."<sup>213</sup> Several commenters note the need for qualified assistive technology specialists to conduct these assessments.<sup>214</sup> AADB suggests that the Commission develop assessment guidelines to ensure recipients receive the proper equipment.<sup>215</sup> Finally, the RERCs urge the Commission not to underestimate the costs of assessments, and to exclude travel costs from any such cap, so as to not disadvantage rural consumers who may not be able to be evaluated at a nearby location.<sup>216</sup>

65. *Discussion.* Based on the record, we conclude that certified programs may be reimbursed for the reasonable costs of making individualized assessments of a deaf-blind individual's communications needs under the NDBEDP pilot. We agree that qualified assistive technology specialists who are familiar with both the manner in which deaf-blind people communicate and the range of specialized equipment that is available under this program are necessary to ensure that the equipment provided to deaf-blind individuals effectively meets their needs.<sup>217</sup> We also agree with commenters that coverage of costs for conducting assessments is needed to ensure that the distributed equipment effectively meets the individual's needs, reduces the incidence of equipment being abandoned (because it is a poor match to the user's needs), and ensures that the program is effective and efficient.<sup>218</sup> We also conclude that certified programs may be reimbursed for the reasonable costs of travel to conduct individual assessments of applicants who are located in rural or remote areas, when necessary to support the distribution of equipment by certified programs and achieve the goal of accessible communications under Section 719.<sup>219</sup> We decline to establish funding caps for individual assessments during this pilot program because of insufficient data in the record on that issue, but will analyze the information that we

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<sup>209</sup> *NDBEDP NPRM*, 26 FCC Rcd at 702, ¶ 36.

<sup>210</sup> *Id.*

<sup>211</sup> *Id.*

<sup>212</sup> *See, e.g.*, AADB Comments at 8; MoAT Comments at 2 (noting that device demonstration and short-term equipment loan programs provided by state assistive technology programs may be an assessment resource); RERCs Reply at 6.

<sup>213</sup> MoAT Comments at 2.

<sup>214</sup> *See, e.g.*, AADB Comments at 8; National Coalition Comments at 9; TEDPA Comments at 3.

<sup>215</sup> AADB Comments at 8. *See also* NAD Comments at 7-8.

<sup>216</sup> RERCs Reply at 6.

<sup>217</sup> *See* para. 64, *supra*.

<sup>218</sup> *See id.*

<sup>219</sup> *See id.*

receive in the program reports required by our rules<sup>220</sup> to determine whether any such caps should be adopted as part of the permanent NDBEDP. Again, we believe that such assessments are essential to the efficient and effective distribution of equipment for use by people who are deaf-blind and, as such, are compensable activities under the NDBEPD pilot.<sup>221</sup>

#### E. Installation and Training

66. We noted in the *NDBEDP NPRM* that the highly specialized nature of the equipment to be distributed under this program and the lack of communications technology experience by many of its future recipients will likely necessitate highly skilled and experienced professionals to provide individualized training on how to use the equipment distributed under this program.<sup>222</sup> We sought comment on whether funding should be available for the installation of equipment and such individualized training, and how this training can best be achieved, given the reported scarcity of experienced trainers, especially in remote and rural areas.<sup>223</sup> To this end, we asked about the merits of setting aside NDBEDP funds to support a national training program to expand the number of qualified trainers, the structure and contents of such a training program, and whether online learning modules and remote technical assistance, including a technical support hotline could fill this void.<sup>224</sup> In addition, we sought comment on ways that we may be able to work with equipment and software manufacturers to provide training for individuals receiving equipment under the NDBEDP.<sup>225</sup>

67. Commenters' responses to the *NDBEDP NPRM* strongly support funding for installation and individual training.<sup>226</sup> The RERCs note the importance of installation and training, lest the equipment given out be underutilized or even abandoned.<sup>227</sup> HumanWare, the company that manufactures the Deaf Blind Communicator, explains that the time it takes to train individuals who are deaf-blind on new communications equipment depends on the individual's age, knowledge of Braille, level of reading, experience with technology, and communication level.<sup>228</sup> For the younger generation, it reports, three hours is generally enough; for the senior citizen population, training "can go on for at least 4 to 5 different visits and at least a few hours at a time."<sup>229</sup> DBYAA explains that initial training "must be conducted face to face at the consumer's residence or at a training facility," because access to the Internet is a prerequisite to using online learning modules and accessing remote technical assistance.<sup>230</sup> DBYAA also asks the Commission to require manufacturers of products distributed under the NDBEDP to include

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<sup>220</sup> See Section VII (reporting requirements) and paras. 91-92 (for additional discussion on funding caps), *infra*.

<sup>221</sup> See 47 U.S.C. § 620(a).

<sup>222</sup> *NDBEDP NPRM*, 26 FCC Rcd at 703, ¶¶ 38-39.

<sup>223</sup> *Id.*

<sup>224</sup> *Id.* at 703, ¶ 39. We also asked whether we have authority under the CVAA to allocate some of the program funds for such a training program. *Id.*

<sup>225</sup> *Id.*

<sup>226</sup> See, e.g., AADB Comments at 1 and 8; Martin Comments at 1; MoAT comments at 2; NAD Comments at 8; National Coalition Comments at 4; RERCs Reply at 6.

<sup>227</sup> RERCs Reply at 6.

<sup>228</sup> HumanWare Feb. 22 *Ex Parte* at 1. See note 112, *supra*, for an explanation of the capabilities of the Deaf Blind Communicator.

<sup>229</sup> HumanWare Feb. 22 *Ex Parte* at 1.

<sup>230</sup> DBYAA Comments at 4.

accessible user manuals and other materials that aid learning and utilization of equipment.<sup>231</sup> Training is so important to the HKNC, that it urges that equipment recipients should have the right to get training in a state other than the one that they live in, if they feel that their own NDBEDP certified program is not able to meet their needs.<sup>232</sup> TEDPA states that training should be provided as often as the consumer needs it to learn how to use the equipment.<sup>233</sup>

68. Commenters who responded to the *NDBEDP NPRM* also support expanding the number and availability of qualified individuals who can provide equipment training. For example, DBYAA suggests that regional training programs, coordinated by a national entity may be appropriate; such programs could ensure consistency and establish training certification standards.<sup>234</sup> It also suggests the use of online training modules by skilled specialists to remotely train and assist other trainers, especially in rural areas.<sup>235</sup> The National Coalition notes the severe shortage of trained professionals and recommends that \$1 million of NDBEDP funding be used for a national training effort that uses distance learning to address this shortage.<sup>236</sup> TEDPA also supports expanding the number of qualified training specialists through an online “training the trainer” module, as well as regional “hands-on” training sessions that should be funded by the NDBEDP and provided by CPE manufacturers.<sup>237</sup>

69. *Discussion.* Based on the record in this proceeding, we conclude that equipment installation and individualized consumer training on how to use the distributed equipment are necessary and thus reimbursable under the NDBEDP pilot. In addition to having a wide range of capabilities and experiences with communications technologies,<sup>238</sup> many deaf-blind individuals who will become equipment recipients under the NDBEDP pilot might never before have used communications services or the devices to access those services. Without assistance in setting up this equipment and training on how to use these devices, these individuals will not be able to effectively benefit from this program and the equipment will be underutilized or abandoned.<sup>239</sup> Moreover, customized solutions to meet the unique needs of each deaf-blind individual will often be required, which may require trying out multiple pieces of equipment before settling on the right device and tailoring that device to meet the individual’s particular communication needs. Individualized consumer training through remote online or other standardized training modules alone would be challenging and impractical, if not impossible to achieve, given the wide range of capabilities of individuals who are deaf-blind, particularly for those individuals who are currently unable to access communications services.<sup>240</sup> We conclude that installation and individualized training are essential to the efficient and effective distribution of equipment for use by

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<sup>231</sup> *Id.*

<sup>232</sup> HKNC Comments at 2.

<sup>233</sup> TEDPA Comments at 3. TEDPA seems to suggest, however, that it may be necessary for the specialist to reassess whether the equipment given to the user is a suitable fit if the consumer continues to have trouble learning how to use the product.

<sup>234</sup> DBYAA Comments at 4.

<sup>235</sup> *Id.*

<sup>236</sup> National Coalition Comments at 10.

<sup>237</sup> TEDPA Comments at 4.

<sup>238</sup> See para. 67, *supra*.

<sup>239</sup> See *id.*

<sup>240</sup> See paras. 66-67, *supra*.

people who are deaf-blind and, as such, the reasonable costs associated with these services will be compensable for programs certified under Section 719.<sup>241</sup>

70. With respect to the issue of qualified personnel needed to provide individualized training for equipment distributed to individuals who are deaf-blind, the record in this proceeding evinces a severe shortage of such qualified individuals.<sup>242</sup> We understand that this scarcity is keenly felt among consumers whose mode of receptive and/or expressive communication is in Braille or American Sign Language.<sup>243</sup> However, because of the limited funding available in this program, and because the record is not clear on how programs to “train the trainer” should be set up at this time, we will not set aside NDBEDP funds or reimburse certified programs for the costs of regional or national programs for such purpose.<sup>244</sup> We do, however, encourage certified programs to maximize the use of limited resources through collaboration and partnerships between and among certified NDBEDP programs on a national or regional basis, as well as partnerships or contracts with other individuals and entities, in-state or out-of-state, in order to locate qualified individuals who can provide appropriate and effective training to people who are deaf-blind. Although we decline at this time to set aside NDBEDP funds or cover the cost of such training for trainers, we may reconsider the need for this type of funding support in the future, based on assessments of data obtained through the pilot program.

#### F. Maintenance, Repairs, and Warranties

71. In the *NDBEDP NPRM*, we noted concerns about the high cost and extended time (often six to eight weeks) needed to repair specialized CPE used by people who are deaf-blind.<sup>245</sup> Given these concerns, and the past practices of state EDPs to include the costs of maintenance and repairs under their programs, we tentatively concluded that the costs for maintenance and repairs should be covered under the NDBEDP, where these costs are not incurred as a result of negligence or misuse on the part of the consumer or certified program.<sup>246</sup> We also asked whether the NDBEDP should cover the cost of warranties and loaner equipment during periods of repair.<sup>247</sup> Finally, we asked whether certified

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<sup>241</sup> 47 U.S.C. § 620(a). We note that under Part 6 of the Commission’s rules, which implements Section 255 of the Act, manufacturers of telecommunications equipment shall take readily achievable steps to make their equipment information and user manuals available to people with disabilities, including people who are deaf-blind, in accessible formats. See 47 C.F.R. § 6.11. In a separate proceeding, the Commission has proposed that manufacturers of equipment used with advanced communications services also be required to make their user manuals and other equipment information accessible to people with disabilities, pursuant to Section 716 of the CVAA. *Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010; Amendments to the Commission’s Rules Implementing Sections 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996; Accessible Mobile Phone Options for People who are Blind, Deaf-Blind, or Have Low Vision*, CG Docket No. 10-213, WT Docket No. 96-198, CG Docket No. 10-145, Notice of Proposed Rulemaking, 26 FCC Rcd 3133 (2011).

<sup>242</sup> See para. 68, *supra*.

<sup>243</sup> HKNC Comments at 2 (technology trainers learning to work with individuals who are deaf-blind often comment that “they never realized the number of things that had to be considered,” such as when and how to use an interpreter, and how to use hand-over-hand instruction with individuals who communicate with their hands).

<sup>244</sup> This does not affect our decision to allow certified programs to seek reimbursement for the reasonable costs of providing training to individuals receiving equipment under the NDBEDP. See para. 69, *supra*.

<sup>245</sup> *NDBEDP NPRM*, 26 FCC Rcd at 703-704, ¶ 40.

<sup>246</sup> *Id.* at 704, ¶ 41.

<sup>247</sup> *Id.*

programs should provide recipients with a means of returning equipment they no longer need so it can be refurbished, as needed, and redistributed.<sup>248</sup>

72. Commenters generally support coverage under the NDBEDP for maintenance and repair costs, unless the need for repair or replacement is caused by owner negligence or misuse.<sup>249</sup> For example, DBYAA notes that equipment used by deaf-blind individuals is often very expensive to repair and requires more frequent maintenance because of the “highly fragile nature” of Braille-based products.<sup>250</sup> AADB suggests that because of the disruptions that occur when specialized CPE breaks down, manufacturers should make efforts to design equipment so that minor maintenance can be done by the consumer.<sup>251</sup> TEDPA further proposes that an inventory of loaner devices be available for use while equipment is being repaired.<sup>252</sup> TEDPA states that, when it is not cost effective to repair equipment, the equipment should be removed from the program.<sup>253</sup>

73. Commenters also support having the NDBEDP cover the cost of warranties, but are divided on what the warranties’ scope should be.<sup>254</sup> AADB suggests that warranties on all devices that “cover the expected life of the equipment” should be required, and further notes the problems that consumers have had in the past when repairs stretch out over extended periods of time, such as eight weeks.<sup>255</sup> It recommends that NDBEDP programs allow consumer participants to swap their malfunctioning equipment for new equipment, rather than use loaner equipment, so that they can avoid the burdens of dealing with warranty services and continue their daily activities with minimal disruption.<sup>256</sup> DBYAA suggests that providing warranty coverage for up to five years is reasonable,<sup>257</sup> a position supported by the RERCs, who suggest that the way to get the best price and encourage quality in design is to have a five-year warranty that covers maintenance, updates, and repairs.<sup>258</sup> TEDPA agrees that, although costly, an extended manufacturer warranty may be worth it and recommends a five-year warranty be purchased for higher priced equipment, for example, devices costing over \$5,000.<sup>259</sup>

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<sup>248</sup> *Id.* at 704, ¶ 42.

<sup>249</sup> *See, e.g.*, Lighthouse Comments at 5; MoAT Comments at 3; NAD Comments at 9-10; National Coalition Comments at 10; TEDPA Comments at 4 (maintenance not covered by warranty should be covered).

<sup>250</sup> DBYAA Comments at 4.

<sup>251</sup> AADB Comments at 9.

<sup>252</sup> TEDPA Comments at 3.

<sup>253</sup> *Id.* at 4.

<sup>254</sup> MoAT Comments at 3.

<sup>255</sup> AADB Comments at 9.

<sup>256</sup> *Id.* *See also* NAD Comments at 10.

<sup>257</sup> DBYAA Comments at 4.

<sup>258</sup> RERCs Reply at 6.

<sup>259</sup> TEDPA Comments at 4. We noted in the *NDBEDP NPRM* that the Virginia Statewide Interagency Team (Virginia SIT) similarly recommended, in response to the *NDBEDP PN*, that a five-year warranty for equipment distributed under this program would be appropriate. *NDBEDP NPRM*, 26 FCC Rcd at 704, ¶ 40.

74. Commenters uniformly support providing a means for NDBEDP recipients to return equipment that is no longer used or needed to their certified program for refurbishing and redistribution, as appropriate.<sup>260</sup> The RERCs say that allowing consumers to return equipment would serve the dual function of reducing the chances that such equipment will be resold or transferred without authorization, and enabling NDBEDP certified programs to obtain feedback, based on the length of time people hold onto their equipment, as to its usefulness or appropriate placement.<sup>261</sup> They further suggest that a certified program be able to dispose of or transfer out-of-date equipment to another program, and that an interstate loan bank or exchange may be useful.<sup>262</sup> MoAT adds that, because most states already have a means of recycling and redistributing returned equipment, this may be an area ripe for collaboration across state programs.<sup>263</sup>

75. *Discussion.* We conclude that, for the NDBEDP pilot program, reasonable costs associated with equipment maintenance and repairs that are not covered under warranties are eligible for reimbursement, except when such repair costs are the result of consumer or program negligence or misuse. As noted above, commenters support including such services as necessary components of an effective NDBEDP because some specialized CPE require frequent maintenance and are expensive to repair.<sup>264</sup> Commenters also support temporary loans of equipment to ensure accessible communications during periods of equipment repair that may last for many weeks.<sup>265</sup> We encourage NDBEDP certified programs or manufacturers to provide equipment that can be loaned to the consumer during periods of equipment repair, especially when such equipment is under warranty. Reasonable costs associated with maintaining an inventory of equipment that can be loaned to the consumer during periods of equipment repair will also be covered under the NDBEDP pilot program.<sup>266</sup> Commenters also uniformly support providing a means for equipment recipients to return equipment that is no longer needed or used.<sup>267</sup> As such, we recommend that certified programs establish policies and the means for consumers to return equipment, particularly devices or other hardware that is no longer needed or used to the certified program for possible refurbishing and redistribution. We note that some of this once-used equipment may be particularly suitable for the inventory of equipment loaned when the consumer's primary equipment breaks down, and should minimize the costs for maintaining such an inventory. The reasonable costs of such return and refurbishing will be covered under the NDBEDP pilot program.

76. We further encourage manufacturers to provide and for NDBEDP certified programs to obtain warranties that cover five years of maintenance, updates, and repairs for any equipment costing

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<sup>260</sup> See, e.g., AADB Comments at 10; DBYAA Comments at 5; Lighthouse Comments at 5; MoAT Comments at 3; RERCs Reply at 7.

<sup>261</sup> RERCs Reply at 7.

<sup>262</sup> *Id.*

<sup>263</sup> MoAT Comments at 3. TEDPA confirms that the policy of allowing consumers to return equipment that they no longer need is standard within EDP state loaner programs. TEDPA Comments at 4.

<sup>264</sup> See para. 72, *supra*.

<sup>265</sup> See paras. 72-73, *supra*.

<sup>266</sup> TEDPA asks whether manufacturers could be responsible for maintaining such an inventory under the terms of their extended warranties. TEDPA Comments at 3. This would be a matter for the manufacturer to determine in conjunction with the programs to which it is supplying equipment. In any event, as noted above, the cost for such loaner programs would be eligible for compensation under the NDBEDP, so long as these costs are reasonable.

<sup>267</sup> See para. 74, *supra*.

more than \$5,000, as recommended by several commenters.<sup>268</sup> Certified programs may also obtain warranties for distributed equipment of lesser value. The reasonable cost of such warranties will be covered to support certified programs during the pilot program. We will review warranty data provided by certified programs during the pilot program as part of the rulemaking for the permanent NDBEDP.

### G. Outreach and Education

77. In the *NDBEDP NPRM*, we noted the importance of informing individuals who are deaf-blind about the NDBEDP and obtaining their input on the program, both initially and after it is underway.<sup>269</sup> We sought comment on the level and types of outreach that will be needed to enable the NDBEDP to fulfill Congress's objective of bringing communication technologies to the deaf-blind community.<sup>270</sup> We noted that, under a funding system that caps spending on a Fund-year basis, we expect that certified programs will conduct the outreach necessary to get equipment into the hands of their deaf-blind residents in a timely fashion so they can spend, rather than lose, the money allotted to them.<sup>271</sup> However, because some certified programs may not spend all of their available funding, we sought comment on whether to set aside a portion of NDBEDP funding for a contract that would be awarded to a national organization for the purposes of conducting outreach that may be needed to ensure effective distribution of equipment.<sup>272</sup> We asked for feedback on whether the Commission has the discretion under Section 719 to adopt this approach and for input on the duration, types of outreach needed, and accountability provisions of a contracted outreach effort.<sup>273</sup>

78. In response to the *NDBEDP NPRM*, commenters generally support state and local outreach efforts by certified programs.<sup>274</sup> MoAT acknowledges that outreach is essential, but notes that "effective avenues for outreach can vary widely from state to state."<sup>275</sup> DBYAA suggests that state agencies other than the designated NDBEDP certified program, such as vocational rehabilitation agencies, could participate in outreach efforts by informing consumers about the NDBEDP.<sup>276</sup> The HKNC cautions that agencies and programs without significant experience working with individuals who are deaf-blind are not likely to be effective in their outreach efforts.<sup>277</sup> It claims that over 1.2 million people have vision and hearing loss and that the greatest percentage of these individuals is age 55 and older.<sup>278</sup> As such, it says, effective outreach will require interacting with a number of service delivery systems.<sup>279</sup> In addition,

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<sup>268</sup> See para. 73, *supra*.

<sup>269</sup> *NDBEDP NPRM*, 26 FCC Rcd at 704, ¶ 43.

<sup>270</sup> *Id.* at 705, ¶ 44.

<sup>271</sup> *Id.*

<sup>272</sup> *Id.*

<sup>273</sup> *Id.*

<sup>274</sup> See, e.g., AADB Comments at 10; DBYAA Comments at 5; MoAT Comments at 5; TEDPA Comments at 4. TEDPA also recommends that the TEDPA Outreach Committee work closely with the NDBEDP to design and develop an outreach campaign/program for state EDPs to implement. TEDPA Comments at 4.

<sup>275</sup> MoAT Comments at 3.

<sup>276</sup> DBYAA Comments at 5.

<sup>277</sup> HKNC Comments at 3.

<sup>278</sup> *Id.*

<sup>279</sup> *Id.*

HKNC reports that presenting information on the appropriate language level and in accessible formats is a significant challenge, one which the HKNC is currently meeting as part of a statewide needs assessment by gathering information through print, large print, and Braille surveys; conducting interviews in person, by telephone and via relay services; and gathering focus groups.<sup>280</sup> The Lighthouse states that outreach efforts must be conducted in “culturally relevant ways that will reach all potential equipment recipients,” such as through community meetings, and that interpreter costs and transportation issues will need to be considered to have meaningful outreach.<sup>281</sup> AADB and DBYAA also support collaboration or contracting with non-profit, national deaf-blind consumer organizations to facilitate a national outreach effort with NDBEDP certified programs.<sup>282</sup> Finally, the National Coalition supports allocating at least \$500,000 per TRS Fund year for national outreach efforts that include agencies, providers, and families, as well as individuals who are deaf-blind.<sup>283</sup>

79. *Discussion.* We agree with commenters that a wide variety of outreach efforts is needed to reach the diverse population of individuals who are deaf-blind to make the NDBEDP effective.<sup>284</sup> The CVAA authorizes funding support for programs approved by the Commission for the distribution of specialized CPE to low-income individuals who are deaf-blind.<sup>285</sup> Because outreach must be done to inform individuals who are deaf-blind about the availability of equipment before the equipment can be distributed, we conclude that use of this funding to support certified programs through national outreach efforts and to support the outreach efforts of certified programs is necessary and appropriate to achieve the purpose of Section 719.<sup>286</sup> We adopt a rule requiring certified programs participating in the pilot program to conduct outreach to inform residents of their states who are deaf-blind about the NDBEDP. Such outreach may include, but is not limited to, the development and maintenance of a program website that contains information about the NDBEDP certified program, contact information and information about available equipment, as well as ways to apply for that equipment and related services provided by the program. To this end, we also adopt a rule requiring that the information and materials that a certified program disseminates to potential equipment recipients be produced in accessible formats. The NDBEDP pilot will cover the reasonable costs of state and local outreach efforts in support of these certified programs. We also direct the NDBEDP Administrator to establish a website, accessible to deaf-blind consumers, that contains information about the NDBEDP, including a list of certified programs by state, with contact information and links to their respective websites, where available.<sup>287</sup>

80. We agree with commenters about the need to conduct outreach through a wide range of systems and using methods that address the language, communication, cultural, and experiential diversity of deaf-blind individuals.<sup>288</sup> We also recognize that national organizations serving consumers who are deaf-blind are in a unique position to reach and inform consumers, service providers, and others about the

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<sup>280</sup> *Id.*

<sup>281</sup> Lighthouse Comments at 5.

<sup>282</sup> AADB Comments at 8 and 10; DBYAA Comments at 5.

<sup>283</sup> National Coalition Comments at 11.

<sup>284</sup> *See* para. 78, *supra*.

<sup>285</sup> *See* 47 U.S.C. § 620(a).

<sup>286</sup> *Id.*

<sup>287</sup> *See* Section VIII, *infra*.

<sup>288</sup> *See* para. 78, *supra*.

NDBEDP nationwide.<sup>289</sup> We further believe that significant initial funding of outreach will be necessary to launch this pilot program and implement the NDBEDP in a way that extends access to the greatest number of deaf-blind individuals. Therefore, to supplement the outreach efforts of locally NDBEDP certified programs, and to support these programs in their efforts to distribute equipment as directed under the CVAA, the Commission will set aside \$500,000 for outreach during each TRS Fund year of the pilot program, an amount recommended by the National Coalition,<sup>290</sup> and which we believe to be reasonable and sufficient for national outreach efforts. This outreach may be conducted by entities that have significant experience with and expertise in working with the deaf-blind community, and we delegate authority to CGB to select appropriate entities to conduct outreach. The NDBEDP Administrator may reallocate any unused outreach funding set aside during each TRS Fund year of the pilot program to NDBEDP certified programs for equipment distribution and the provision of related services during the 4th quarter of each TRS Fund year. We will assess the effectiveness of certified program and national outreach efforts throughout the pilot program.

## VI. FUNDING

### A. Allocation of Funding

81. In addition to seeking comment on proposals to allow portions of the NDBEDP funding to be used for specific purposes, discussed above, we sought comment in the *NDBEDP NPRM* on an appropriate means of dividing up the remainder of the NDBEDP \$10 million annual allocation.<sup>291</sup> We tentatively proposed a funding allocation proportional to the population of each state.<sup>292</sup> We also solicited input on whether there is a way to determine accurately the population of eligible deaf-blind residents in each of the states, and whether we should use those statistics as the basis to allocate NDBEDP funds among the states.<sup>293</sup>

82. In response to these inquiries, most commenters support an annual allocation of funding proportional to the population of each state.<sup>294</sup> While the Lighthouse takes a different view, asserting that certain states have significantly higher populations of deaf-blind people and recommending that state funding allocations be based on the number of people who are deaf-blind, it admits that “it can be difficult to determine exact numbers” of such populations.<sup>295</sup> DBYAA agrees to the difficulty of determining accurate numbers for state deaf-blind populations, but proposes that a “one-time allotment of funding be made for the purpose of conducting [population] research” or “to consult with experts on this particular matter.”<sup>296</sup>

83. *Discussion.* We agree with the majority of commenters that annual funding for the NDBEDP pilot program is most appropriately allocated on the basis of the population of each state to

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<sup>289</sup> *See id.*

<sup>290</sup> *See id.*

<sup>291</sup> *NDBEDP NPRM*, 26 FCC Rcd at 705, ¶ 45.

<sup>292</sup> *Id.*

<sup>293</sup> *Id.*

<sup>294</sup> *See, e.g.*, DBYAA Comments at 5; MoAT Comments at 3 (“best possible approach”); National Coalition Comments at 11; TEDPA Comments at 4-5; ACB Reply at 10.

<sup>295</sup> Lighthouse Comments at 5.

<sup>296</sup> DBYAA Comments at 5.

ensure that equipment is distributed nationwide as fairly as possible to individuals who are deaf-blind, regardless of where they may reside. While it may be true that certain states have larger populations of people who are deaf-blind than others, there is insufficient data in the record on which to base funding allocations in this manner at this time. To the extent that interested stakeholders are able to provide such data over the course of the pilot program, we will consider such data for the purpose of establishing future allocations of funding for the permanent NDBEDP program.

84. According to the most recent data provided by the U.S. Census Bureau, the estimated population of the United States as of July 1, 2010 was 309,050,816.<sup>297</sup> California was the most populous state, with 37,266,600 people (12.058 percent of the total U.S. population) and Wyoming the least, with 547,637 people (0.177 percent of the total U.S. population). The considerable discrepancy in population across the states, as evidenced by these two extremes, suggests that dividing the available NDBEDP funding equally among the states would not be appropriate. At the same time, were we to determine each state's annual funding solely on the basis of its population, the annual amounts allocated to states with the least populations might be so small as to not provide meaningful support; indeed, if too small, such allocations might even discourage programs in these states from applying to participate in the NDBEDP pilot program. This is especially true given the very high cost of communications equipment needed by people who are deaf-blind.<sup>298</sup> A state that is awarded only \$20,000-\$30,000 annually, for example, might not have sufficient incentive to apply for certification if it believes that such funding might only assist one or two people in its state. It is our goal to ensure that, to the extent possible, every certified program in the NDBEDP pilot program receives a level of support that will both provide it with the incentive to participate in the NDBEDP and permit the distribution of equipment to as many eligible residents as possible. To achieve this, during the pilot program, we will allocate a minimum base amount of \$50,000 to each state per TRS Fund year, with the balance of available funds allocated in proportion to the population of each of these jurisdictions. This allocation system will allow every certified entity to serve at least several residents within its state while ensuring that states with larger populations have adequate resources to serve a potentially higher number of deaf-blind individuals.<sup>299</sup>

85. We will make the full amount of authorized funding, \$10 million, available to the NDBEDP during each TRS Fund year (July 1 through June 30) of this pilot program. As described above in Section V.G, we will set aside \$500,000 for each Fund year of the NDBEDP pilot program for the purpose of conducting a nationwide outreach effort. As a result, a total of \$9.5 million will be available for initial allocations among certified programs during each of the Fund years of this NDBEDP pilot program. A list of the estimated amounts of those initial allocations for the first Fund year of the NDBEDP pilot program, assuming each state has a certified program, is presented in Appendix D. We delegate authority to CGB to adjust initial allocations, as needed and appropriate, for subsequent Fund years.<sup>300</sup>

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<sup>297</sup> Preliminary Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2010 (NST-PEST2010-01), <http://www.census.gov/popest/eval-estimates/eval-est2010.html> (visited March 3, 2011).

<sup>298</sup> See para. 33, *supra* (describing the high costs of this equipment).

<sup>299</sup> We may reduce, raise, or reallocate funding allocations to any certified program as may be appropriate. See Section VI.B, *infra*. We also note that NDBEDP funding is available on an annual and ongoing basis, rather than in a single lump sum, which suggests that Congress intended to fulfill the communication needs of deaf-blind individuals over time, and to ensure that such needs are addressed as technology changes and evolves in the future.

<sup>300</sup> See also para. 90, *infra*.

## B. Funding Mechanism, Rollover, and Reallocation

86. In the *NDBEDP NPRM*, we described two possible methods of distributing funding under the NDBEDP: (1) distributing one-time, lump sum allocations to certified programs at the start of each funding year, and then letting these programs use such funds as they see fit throughout the funding year; or (2) reimbursing programs periodically for equipment that they distribute, up to each state's allotment.<sup>301</sup> We tentatively concluded that a funding mechanism that relies on reimbursement for distributed equipment would provide greater accountability, as well as the incentives needed for local distribution programs to actively locate and provide equipment to their deaf-blind communities.<sup>302</sup> With respect to the latter approach, we sought comment on the appropriate intervals for such payments,<sup>303</sup> along with the feasibility – as well as our authority – to return remaining funds unspent by a state in one funding year to the TRS Fund, and then redistribute those monies to all states during a subsequent year.<sup>304</sup> We noted that Section 719 limits the total amount of support that the Commission may provide to this program for any fiscal year to \$10 million and sought comment on whether we have the discretion to carry over unused allotments to subsequent years.<sup>305</sup>

87. Few parties responded to our request for comment on the appropriate means of allocating NDBEDP funding. DBYAA recommends reimbursing certified program participants every six months, noting this approach to be “more viable,” because it would “ensure better accountability and efficient distribution.”<sup>306</sup> Although TEDPA does not express a preference for either funding method, it asserts that “not all state EDPs have sufficient funds readily available in order to incur the cost upfront,” suggesting that advance distributions may be more appropriate.<sup>307</sup> Commenters were uniform in their support for rolling over unused funds from one year to the next.<sup>308</sup> For example, AADB recommends reallocating unused funds based on distribution statistics, projects, and deaf-blind population demographics.<sup>309</sup> According to AADB, the ability to roll over funds would ensure that “the failure of any program to fulfill its commitment to distribute devices would not penalize people who are deaf-blind because unused funds would continue to be available in future years for their communication needs.”<sup>310</sup> The Lighthouse also supports redistribution “as long as there is clear oversight to prevent state distribution programs from expending monies just to retain what they perceive is their ‘share’ in future years.”<sup>311</sup> TEDPA notes that allowing rollover of unspent funds would permit states with a higher than expected distribution rate to continue providing equipment without putting qualified applicants on a waiting list.<sup>312</sup> The National

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<sup>301</sup> *NDBEDP NPRM*, 26 FCC Rcd at 705, ¶ 46.

<sup>302</sup> *Id.*

<sup>303</sup> *Id.*

<sup>304</sup> *Id.* at 705-06, ¶ 46.

<sup>305</sup> *Id.* at 706, ¶ 46. *See also* 47 U.S.C. § 620(c).

<sup>306</sup> DBYAA Comments at 6.

<sup>307</sup> TEDPA Comments at 4.

<sup>308</sup> *See, e.g.*, AADB Comments at 10; Lighthouse Comments at 5; MoAT Comments at 11; National Coalition Comments at 11; TEDPA Comments at 5.

<sup>309</sup> AADB Comments at 10.

<sup>310</sup> *Id.*

<sup>311</sup> Lighthouse Comments at 5.

<sup>312</sup> TEDPA Comments at 5.

Coalition further suggests allowing the reallocation of funds from one state that may not be using those funds, to another that needs additional funding.<sup>313</sup>

88. *Discussion.* We conclude that a mechanism that allocates funding for reimbursement of authorized costs of equipment and associated services, up to each state's initial or adjusted allotment, is appropriate for the NDBEDP pilot program, and, for the following reasons, we adopt this approach. First, we believe that this type of funding mechanism will provide the necessary incentives for certified programs to actively locate eligible deaf-blind individuals within their states and distribute equipment to these persons in a timely manner. We understand that state EDPs have varied considerably with respect to the extent to which they have reached out and served the deaf-blind community. We are concerned that providing upfront allocations to these jurisdictions would not provide sufficient incentive to actively seek out and provide the necessary services to achieve the goals of this NDBEDP. In addition, we believe that use of a reimbursement funding mechanism will provide greater accountability and protection against waste, fraud, and abuse. Under the approach that we adopt in this Order, we will permit certified programs to request reimbursement every six months, commencing with the starting date of the pilot program, as determined by CGB acting under delegated authority from the Commission. Certified programs may seek reimbursement of costs up to the funding allocation for the state, for the equipment they distribute, along with the reasonable costs of outreach, individual assessments, the installation of and consumer training on the distributed equipment, and costs associated with maintenance, repairs and warranties of the equipment distributed. As discussed below, we will also permit an allowance for costs associated with administering these programs. In order to be compensated for equipment distributed and services rendered, certified programs must submit documentation and a reasonably detailed explanation of those costs incurred within 30 days after the end of each six-month period of the funding year. Costs submitted must be for those costs actually incurred during the prior six-month period. The TRS Fund Administrator and the NDBEDP Administrator shall review submitted costs and may request supporting documentation to verify the expenses claimed, and may also disallow unreasonable costs.

89. While we recognize the benefits of allowing the rollover of unused funds from one Fund year to another, we do not yet have sufficient data on the extent to which such rollovers are likely to be necessary or warranted, and therefore do not adopt the proposal to rollover unused funds at this time. We also believe that not having the option of carrying over unused funds to the next year will create greater incentives for NDBEDP certified programs to distribute communications equipment to their residents rapidly and efficiently. We will review NDBEDP funding data as it becomes available, and will consider whether to keep or revise this funding approach for the permanent NDBEDP.

90. We nevertheless delegate authority to CGB to reduce, raise, or reallocate funding allocations to any certified program as it may deem necessary and appropriate. For example, based on actual need, CGB may reduce the allocation of a certified program that underutilizes its funding allocation and may increase the allocation of another certified program that fully utilizes its allocation. Consistent with the statute, we will ensure that such reallocations, if any, will not result in expenditures over \$10 million for any funding year. Reasonable notice will be provided to any affected certified program prior to any such adjustments.

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<sup>313</sup> National Coalition Comments at 11. By way of example, the National Coalition directs the Commission to a "quota system" implemented by the American Printing House for the Blind, through which funds are made available for equipment used by students who are visually impaired. *Id.*, citing <http://www.aph.org/fedquotpgm/fedquota.htm>. According to the National Coalition, this program allows funds not utilized in certain areas to be carried over from one state to another. *Id.*

### C. Funding Caps and Administrative Costs

91. The *NDBEDP NPRM* also sought comment on the extent to which caps should be placed on the costs associated with individual assessments, installation, training, outreach, and reporting obligations associated with equipment distributed under this program, and whether such caps should vary based on factors such as state deaf-blind population numbers.<sup>314</sup> In response, DBYAA suggests that 20 percent to 30 percent of NDBEDP funds be allocated for training to ensure effective distribution and utilization of the equipment.<sup>315</sup> DBYAA further recommends that any caps on expenses vary depending on the state's deaf-blind population.<sup>316</sup> ACB recommends no funding caps for the pilot period, and that the Commission may determine appropriate caps as a result of lessons learned during this pilot program.<sup>317</sup> TEDPA proposes a "reasonable capped administrative fee of 15-20% of the total cost associated with distribution of CPE and related services during the pilot program to be reviewed in three (3) month intervals."<sup>318</sup>

92. *Discussion.* For the NDBEDP pilot program, we adopt a rule allowing certified programs to receive reimbursement from the TRS Fund for administrative costs that do not exceed 15 percent of the total reimbursable costs for the distribution of equipment and related services permitted under this program. This cap is supported in the record.<sup>319</sup> We expect such administrative costs incurred through participation in the NDBEDP pilot program to typically cover expenses incurred through reporting requirements, accounting, regular audits, oversight, and general administration. Because there is insufficient information in the record to support specific caps or amounts that should be used for outreach, assessments, equipment, installation, or training out of each state's funding allocation, we will not adopt any such caps for the pilot program at this time. We do, however, require that all costs incurred through participation in the NDBEDP pilot program be reasonable and note that we will be carefully monitoring and evaluating the data submitted by certified programs for reimbursement of costs, as well as all other data and information submitted in the semi-annual reports filed by certified programs,<sup>320</sup> to determine whether caps on outreach, assessments, equipment, installation, or training costs are necessary and appropriate in subsequent Fund years of the NDBEDP pilot program or for the permanent program.

## VII. OVERSIGHT AND REPORTING

93. As noted in the *NDBEDP NPRM*, thorough reporting and oversight requirements of the NDBEDP are necessary to assess the effectiveness of our pilot program, to ensure that the TRS Fund is being used for the purpose intended by Congress, and to provide the Commission with the ability to detect and prevent potential fraud, waste and abuse of the TRS Fund.<sup>321</sup> Data on the distributed equipment and related services will provide the Commission with information about the technology needs and preferences of the deaf-blind community, along with how certified programs are able to meet those

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<sup>314</sup> *NDBEDP NPRM*, 26 FCC Rcd at 705, ¶ 45.

<sup>315</sup> DBYAA Comments at 5.

<sup>316</sup> *Id.*

<sup>317</sup> ACB Reply at 8.

<sup>318</sup> TEDPA Comments at 4.

<sup>319</sup> *Id.*

<sup>320</sup> See Section VII, *infra*, for the reporting obligations of all certified programs.

<sup>321</sup> *NDBEDP NPRM*, 26 FCC Rcd at 706, ¶ 49.

needs.<sup>322</sup> To this end, we proposed to require that certified programs submit certain data every six months until the completion of the pilot program.<sup>323</sup> We sought comment on that proposal and asked for recommendations about other data we should require, such as reporting on best practices, the effectiveness of equipment, administrative expenses, and complaints or disputes.<sup>324</sup> We also sought comment on appropriate record retention requirements and safeguards to protect the confidentiality of contact information of individuals who receive equipment under the NDBEDP.<sup>325</sup> In addition, we proposed that certified programs be subject to regular audits by an independent entity and asked how often those audits should be conducted.<sup>326</sup> Additionally, we tentatively concluded that certified programs not be permitted to accept any type of financial arrangement from equipment vendors that could incentivize the purchase of particular equipment, because such arrangements could run counter to the program's purpose to provide equipment that meets each individual's unique needs.<sup>327</sup> Finally, we proposed that certified program administrators who submit any data to the Commission certify such data to be true and accurate under penalty of perjury.<sup>328</sup>

94. Commenters agree on the importance of ensuring proper oversight of the NDBEDP.<sup>329</sup> TEDPA affirms that reporting and documentation are necessary, and urges the Commission to develop a simple reporting mechanism such as a web-based database for inputting data that could help reduce the amount of paperwork that is filed and stored.<sup>330</sup> TEDPA suggests further that this database could be used by certified programs to prevent consumers from "double-dipping" and notes that some states already employ such databases.<sup>331</sup> DBYAA recommends that certified programs be required to maintain a database that records the number and types of devices used by individuals with varying degrees of deaf-blindness.<sup>332</sup> DBYAA also recommends the reporting of administrative expenses, to help ensure accountability and prevent abuse of the TRS Fund,<sup>333</sup> as well as the submission of data on equipment reliability and usability.<sup>334</sup> Finally, DBYAA recommends that certified programs be required "to develop a process for gathering and reporting to the Commission complaints and other consumer disputes."<sup>335</sup> AADB urges the Commission to promote transparency by requiring data about the types of equipment

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<sup>322</sup> *Id.*

<sup>323</sup> *Id.*

<sup>324</sup> *Id.* at 707, ¶ 50.

<sup>325</sup> *Id.*

<sup>326</sup> *Id.* at 707, ¶ 51.

<sup>327</sup> *Id.*

<sup>328</sup> *Id.* at 707, ¶ 52.

<sup>329</sup> See, e.g., AADB Comments at 10 (support for oversight and reporting); DBYAA Comments at 6 (support for six-month reporting requirement); MoAT Comments at 3 (six-month reporting requirement is reasonable); National Coalition Comments at 11 and ACB Reply at 11 (both expressing support for recommended oversight and reporting process to monitor equipment distribution).

<sup>330</sup> TEDPA Comments at 5-6.

<sup>331</sup> *Id.*

<sup>332</sup> DBYAA Comments at 2.

<sup>333</sup> *Id.* at 6. The National Coalition also notes that the Commission should measure the administrative cost efficiency of each of the models piloted. National Coalition Comments at 2.

<sup>334</sup> DBYAA Comments at 6.

<sup>335</sup> *Id.*

requested and provided to consumers to be made available for public review in a format that is accessible to individuals who are deaf-blind.<sup>336</sup>

95. Several commenters expressed interest in the ways that the Commission should assess the effectiveness and efficiency of certified programs during the NDBEDP pilot program. For example, the National Coalition is concerned that, as proposed in the *NDBEDP NPRM*, the pilot program would not include measures for evaluating its success.<sup>337</sup> It suggests, among other things, that the pilot use objective measures to assess the effectiveness of the distribution program to the maximum extent possible, test and compare the relative effectiveness of a variety of program models, and actively seek direct consumer input on the pilot's success.<sup>338</sup> The Lighthouse adds that "a new metric may be needed" in assessing cost efficiencies for a population that has been long underserved and that, "[m]easurements initially should evaluate the relative effectiveness of programs in a state or region with [a] goal [of] establishing a national standard over a reasonable period of time."<sup>339</sup> It also suggests that any assessment of the pilot program's effectiveness must be informed, first and foremost, by input from deaf-blind consumers, advocacy groups, and leaders, and that such input must be obtained in a culturally relevant and fully accessible manner.<sup>340</sup> The Lighthouse explains further that Commission-established public comment periods "are typically too short to solicit meaningful involvement from the Deaf-Blind community."<sup>341</sup> Likewise, AADB recommends that oversight and reporting responsibilities be shared with a national, non-profit, deaf-blind consumer organization, which "has the network with other consumer groups and the connections with members to make this [program] succeed."<sup>342</sup> Parker adds that "rich evaluation data (from focus groups of consumers, brief surveys, and from measuring consumer valued outcomes) is critical for building an effective and responsive system."<sup>343</sup>

96. With respect to the appropriate intervals for reporting, records retention and audits, several commenters supported the submission of reports to the Commission every six months.<sup>344</sup> In addition, DBYAA recommends requiring retention of electronic records for five years to enable efficient audits and resolution of consumer complaints.<sup>345</sup> TEDPA reports that some state EDPs have a three-year records retention policy, and recommends that all information be submitted electronically with hard copies being retained for two years, with the exception of financial records, which it says should comply

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<sup>336</sup> AADB Comments at 3.

<sup>337</sup> National Coalition Comments at 2.

<sup>338</sup> *Id.* See also ACB Reply at 2, recommending that the Commission conduct two pilot programs, one reliant on state programs and the other reliant on a regional model, so that the Commission may compare the success of each model against each other.

<sup>339</sup> Lighthouse Comments at 3.

<sup>340</sup> *Id.* at 2.

<sup>341</sup> *Id.*

<sup>342</sup> AADB Comments at 10-11.

<sup>343</sup> Parker Comments at 1 (parenthetical in original).

<sup>344</sup> See, e.g., DBYAA Comments at 6; MoAT Comments at 3; ACB Reply at 10 (supporting generally the Commission's processes to monitor equipment distribution).

<sup>345</sup> DBYAA Comments at 6.

with state requirements.<sup>346</sup> TEDPA further suggests that “[a]nnual audits should be sufficient as they are already required for state EDPs.”<sup>347</sup>

97. No comments were received on the issues of safeguards to protect the confidentiality of contact information of individuals who receive equipment under the NDBEDP, prohibitions on financial arrangements with equipment vendors, or requiring certified program administrators who submit any data to do so under penalty of perjury.

98. *Discussion.* We adopt a six-month reporting requirement as part of our NDBEDP pilot rules. This reporting requirement is necessary to provide us with timely data for the effective administration of the NDBEDP pilot; to assess the effectiveness of the pilot program in meeting the communications equipment and technology needs of deaf-blind individuals; to ensure that the TRS Fund is being used for the purpose intended by Congress; to detect and prevent potential fraud, waste and abuse of the TRS Fund; to ensure compliance with our rules; and to inform our rulemaking for the permanent NDBEDP. We agree with commenters that submission of reports to the Commission every six months is appropriate and consistent with program requirements.<sup>348</sup> This reporting schedule also coincides with and complements the schedule for program reimbursements.<sup>349</sup> During the pilot program, the Commission will continue to explore ways to simplify reporting for the permanent NDBEDP, including the submission of information through a web-based database. In response to comments received, we further conclude that, in addition to the data proposed for submission in the NDBEDP NPRM, certified programs will be required to report on the number and types of equipment requests that were denied by their programs, the average waiting times to acquire equipment after it is requested, the complaints received about their programs, and the number of unserved but qualified applicants on each program’s waiting lists. We believe that this additional information will help inform us about the ability of each program to fully meet the needs of the individuals it serves.

99. We require certified programs to file a report with the Commission every six months commencing with the start of the pilot program in an electronic format containing the following information:<sup>350</sup>

(A) for each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, and phone number, for the individual receiving that equipment;

(B) for each piece of equipment distributed, the identity of and contact information, including street and e-mail addresses, and phone number, for the individual attesting to the disability of the individual who is deaf-blind;

(C) for each piece of equipment distributed, its name, serial number, brand, function, and cost, the type of communications service with which it is used, and the type of relay service it can access;

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<sup>346</sup> TEDPA Comments at 6.

<sup>347</sup> *Id.* at 5.

<sup>348</sup> *See* para. 96, *supra*.

<sup>349</sup> *See* Section VI.B, *supra*.

<sup>350</sup> The NDBEDP Administrator will provide electronic filing instructions to the certified programs. The Commission may consider, as part of the rulemaking proceeding for the permanent NDBEDP, whether these reports should be made publicly available.

- (D) for each piece of equipment distributed, the amount of time, following any assessment conducted, that the requesting individual waited to receive that equipment;
- (E) the cost, time and any other resources allocated to assessing an individual's equipment needs;
- (F) the cost, time and any other resources allocated to installing equipment and training deaf-blind individuals on using equipment;
- (G) the cost, time and any other resources allocated to maintain, repair, cover under warranty, and refurbish equipment;
- (H) the cost, time and any other resources allocated to outreach activities related to the NDBEDP, and the types of outreach efforts undertaken;
- (I) the cost, time and any other resources allocated to upgrading the distributed equipment, along with the nature of such upgrades;
- (J) to the extent that the program has denied equipment requests made by its deaf-blind residents, a summary of the number and types of equipment requests denied and reasons for such denials;
- (K) to the extent that the program has received complaints related to the program, a summary of the number and types of such complaints,<sup>351</sup> and their resolution; and
- (L) the number of qualified applicants on waiting lists to receive equipment.

100. We are mindful that qualitative as well as quantitative data may be needed to appropriately assess the efficiency and effectiveness of the certified programs and the pilot program, and to better inform the structure and operation and the development of rules for a permanent NDBEDP. We take particular note of the need expressed by several commenters for input from deaf-blind consumers, advocacy groups, and leaders. We encourage certified programs to seek and obtain such qualitative data and preferences and to share that information with the Commission. We expect that certified programs will have the opportunity, particularly through personal contact with individuals who are deaf-blind, to obtain such qualitative feedback. As discussed further below,<sup>352</sup> the Commission is also exploring ways in which it can engage these and other stakeholders effectively as part of an advisory body or by other means. Further, the NDBEDP Administrator may confer with certified programs, as needed, about the operation and assessment of the pilot program, and the structuring and operation of, as well as development of rules for, a permanent program.

101. With respect to oversight and record retention, we conclude that, in order to receive compensation from the TRS Fund, each certified program must engage an independent auditor to perform an annual audit designed to detect and prevent fraud, waste and abuse.<sup>353</sup> In addition, all such programs must submit, as necessary, to any audits directed by the Commission, CGB, the NDBEDP Administrator, or the TRS Fund Administrator for such purpose. We also require all certified programs to retain all records associated with the distribution of equipment and provision of related services under the

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<sup>351</sup> Information about the types of complaints received will help to inform our efforts to assess certified program compliance and effectiveness. The summary of types of complaints received can be provided using brief descriptions, e.g., "equipment not available" or "equipment not working."

<sup>352</sup> See Section IX, *infra*.

<sup>353</sup> The costs of these regular audits are reimbursable. See para. 92, *supra*.

NDBEDP for two years following the termination of the pilot program. We believe that adopting these policies will promote greater transparency and accountability.

102. To further prevent abuse, we also adopt a rule that prohibits certified programs from accepting any type of financial arrangement from an equipment vendor that could incentivize the purchase of particular equipment. We believe that such incentives could impede a certified program's ability to provide equipment that fully meets the unique needs of the deaf-blind persons it is serving. We will request during the initial certification application process and thereafter, as necessary, disclosure of actual or potential conflicts of interest with manufacturers or providers of equipment, software, or applications that may be distributed under the NDBEDP.

103. Finally, we require that each NDBEDP certified program filing these reports attest to the truth and accuracy of the information provided in these reports under penalty of perjury. This practice is a critical component of maintaining the integrity of the program, is needed to ensure the veracity of the signed statement, and to ensure that certified program administrators are held accountable for their submissions. Specifically, we will require the chief executive officer (CEO), chief financial officer (CFO), or other senior executive of the certified program, such as a manager or director, with first-hand knowledge of the accuracy and completeness of the information provided, to certify as follows:

I swear under penalty of perjury, that I am (name and title), an officer of the above-named reporting entity and 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 affairs of the above-named certified program.

### VIII. LOGISTICS AND DIVISION OF RESPONSIBILITIES

104. In the *NDBEDP NPRM*, we proposed to delegate authority to CGB to designate an NDBEDP Administrator who would work in collaboration with the TRS Fund Administrator on implementation of this pilot program.<sup>354</sup> We further proposed that the TRS Fund Administrator (as directed by the NDBEDP Administrator) have responsibility for reviewing cost submissions, releasing funds, and collecting data as needed for delivery to the NDBEDP Administrator.<sup>355</sup> We received only one response to these proposals. AADB suggests that, "due to the specialized and technical nature of stakeholders, a national deaf-blind consumer organization . . . would be able to complement the duties of the NDBEDP Program Administrator."<sup>356</sup>

105. *Discussion.* We delegate authority to CGB to take the administrative actions necessary to implement and administer the NDBEDP.<sup>357</sup> CGB will designate an NDBEDP Administrator, who will have the authority to take the actions described herein. An NDBEDP Administrator is needed to review applications and certify programs for participation in the NDBEDP pilot; allocate funding; identify data needed to process reimbursement requests; establish and maintain an NDBEDP website and oversee other outreach efforts undertaken by the Commission; confer with stakeholders and obtain, review, and analyze data to assess the effectiveness of the pilot program; work with Commission staff on the adoption of rules for a permanent program; and serve as the Commission's point of contact for the NDBEDP. We expect that the NDBEDP Administrator will consult with a wide range of NDBEDP stakeholders, including

<sup>354</sup> *NDBEDP NPRM*, 26 FCC Rcd at 708, ¶ 53.

<sup>355</sup> *Id.*

<sup>356</sup> AADB Comments at 11.

<sup>357</sup> *See* 47 C.F.R. §§ 0.141(f), 0.361.

national deaf-blind consumer and service organizations that have expertise in the cultural, linguistic, and daily needs of members of the deaf-blind community, as needed, for the effective and efficient operation of the pilot program. The NDBEDP Administrator will be responsible for the following:

- (A) reviewing program applications received from state EDPs and alternate entities and certifying those that qualify to become certified to participate in the NDBEDP;
- (B) allocating NDBEDP funding as appropriate and in consultation with the TRS Fund Administrator;
- (C) reviewing certified program submissions for reimbursement of costs under the NDBEDP, in consultation with the TRS Fund Administrator;
- (D) working with Commission staff to establish and maintain an NDBEDP website accessible to individuals with disabilities, that includes contact information for certified programs by state and links to their respective websites, if any, and overseeing other outreach efforts that may be undertaken by the Commission;
- (E) obtaining, reviewing, and evaluating reported data for the purpose of assessing the pilot program and determining best practices;
- (F) conferring with stakeholders, jointly or separately, during the course of the pilot program to obtain input and feedback on, among other things, the effectiveness of the pilot program, new technologies, equipment and services that are needed, and suggestions for the permanent program;
- (G) working with Commission staff to adopt permanent rules for the NDBEDP; and
- (H) serving as the Commission's point of contact for the NDBEDP, including responding to inquiries from certified programs and consumer complaints filed directly with the Commission.<sup>358</sup>

106. We also conclude that the TRS Fund Administrator, as directed by the NDBEDP Administrator, shall have responsibility for the following:

- (A) reviewing cost submissions and releasing funds for equipment that has been distributed and authorized related services, including outreach efforts;
- (B) releasing funds for other authorized purposes, as requested by the Commission or CGB; and
- (C) collecting data as needed for delivery to the Commission and the NDBEDP Administrator.

## IX. OTHER CONSIDERATIONS

### A. Advisory Body

107. In the *NDBEDP NPRM*, we noted that commenters responding to the *NDBEDP PN* recommended the creation of an advisory body to help provide oversight, feedback, and evaluation of the

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<sup>358</sup> Informal complaints alleging a violation of the Commission's rules implementing Section 719 of the Act may be transmitted to the Commission via any reasonable means, e.g., letter, facsimile transmission, telephone (202-418-2517 (voice); 202-418-2922 (TTY)), Internet-email (dro@fcc.gov), audio-cassette recording, and Braille.

NDBEDP, share consumer experiences, and gather input on new technologies.<sup>359</sup> They stressed the importance of maintaining ongoing contact with the deaf-blind community in light of previous failures of existing programs to regularly consult with this community.<sup>360</sup> Because of the specialized nature of the services to be provided by the NDBEDP, we sought comment on the need for such an advisory body, either as an independent entity, or as a subpart of the Commission's Consumer Advisory Committee<sup>361</sup> or the Interstate TRS Fund Advisory Council.<sup>362</sup>

108. In response to the *NDBEDP NPRM*, commenters continue to uniformly support the establishment of an NDBEDP advisory body. AADB recommends that such an advisory body include NDBEDP equipment recipients, consumer groups, equipment manufacturers, and certified programs.<sup>363</sup> The Lighthouse notes the importance of having the pilot program informed by deaf-blind consumers, advocacy groups and leaders,<sup>364</sup> and suggests that an advisory body "include members of the Deaf-Blind Community, as well those with expertise in technology development and service delivery in this community."<sup>365</sup> DBYAA concurs that an advisory body could provide the Commission with feedback on the effectiveness of the NDBEDP and the reliability of equipment distributed under the program, emphasizing that there is a need for the NDBEDP to maintain "regular contact with experts on deaf-blindness and the assistive and mainstream technology industries."<sup>366</sup> The National Coalition strongly agrees on the importance of assuring that individuals who are deaf-blind "play a leading role" on any such advisory committee.<sup>367</sup> The HKNC and the National Coalition recommend an advisory body to help evaluate consumers' experiences, which is critical to assessing the effectiveness of the pilot program.<sup>368</sup>

109. *Discussion.* Commenters have consistently stressed the importance of input by individuals who are deaf-blind throughout the life of this pilot program, from the certification of the equipment distribution programs,<sup>369</sup> to oversight and assessment of the pilot program.<sup>370</sup> We agree that the participation of the consumers for whom this program exists is critical in all aspects of the NDBEDP to ensure that the program effectively meets the needs of this constituency. Similarly, because of the unique nature of this population, input from experts on deaf-blindness and the technologies that provide communications access for this population, is also essential to inform and supplement the hands-on experience of certified programs. The Commission is exploring the best means by which to engage and confer with these and other stakeholders. While we will not create a separate advisory body at this time, the NDBEDP Administrator will nevertheless meet with stakeholders, including consumers who are deaf-

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<sup>359</sup> *NDBEDP NPRM*, 26 FCC Rcd at 708-09, ¶¶ 54-55.

<sup>360</sup> *Id.* at 708, ¶ 54.

<sup>361</sup> See <http://www.fcc.gov/cgb/cac/>.

<sup>362</sup> See <http://www.neca.org>; *NDBEDP NPRM*, 26 FCC Rcd at 709, ¶ 55.

<sup>363</sup> AADB Comments at 11.

<sup>364</sup> Lighthouse Comments at 2.

<sup>365</sup> *Id.* at 5.

<sup>366</sup> DBYAA Comments at 6.

<sup>367</sup> National Coalition Reply at 1.

<sup>368</sup> HKNC Comments at 2; National Coalition Comments at 11.

<sup>369</sup> See Section III.C, *supra*.

<sup>370</sup> See Sections VII and VIII, *supra*. David Wiley also notes the importance of having consumers who use the equipment be "an integral part of planning and implementation of the final regulations." Wiley Comments at 1.

blind, consumer groups, experts on deaf-blindness, technical experts, manufacturers, vendors, and certified programs, jointly or separately, during the course of the pilot program to obtain such input and feedback. We note that several such meetings have already taken place to inform the Commission on laying the groundwork for the NDBEDP.<sup>371</sup>

## B. Central Repository

110. In the *NDBEDP NPRM*, we noted that there is no centralized source of information about specialized CPE that provides individuals who are deaf-blind with access to communications or about the programs that provide equipment and services for this population.<sup>372</sup> We also noted that this gap may be filled by coordinating such efforts with the Commission's clearinghouse of accessible products and accessibility solutions, required elsewhere in the CVAA.<sup>373</sup> We sought comment on the use of the future clearinghouse for this purpose, including ways in which the administrators of the NDBEDP and the clearinghouse could work together to inform individuals who are deaf-blind about the NDBEDP, the certified programs, and equipment available to them.<sup>374</sup>

111. Commenters support the establishment of a central website for the NDBEDP. TEDPA recommends that the NDBEDP maintain a separate website to allow the public to locate the information easily.<sup>375</sup> DBYAA urges the Commission to ensure that the central website is accessible to individuals who are deaf-blind.<sup>376</sup> The National Coalition and ACB also agree that a clearinghouse of accessible products and accessibility solutions is vital.<sup>377</sup>

112. *Discussion.* As noted above, we require the NDBEDP Administrator to work with Commission staff to establish and maintain an NDBEDP website that will be accessible by individuals with disabilities,<sup>378</sup> including individuals who are deaf-blind, which will include contact information for certified programs by state, as well as links to their websites, where available. The rules that we adopt in this Order also require certified programs to report to the Commission about the equipment they distribute,<sup>379</sup> which the NDBEDP Administrator may use to provide examples of specialized CPE and accessibility solutions on the NDBEDP website. We believe that the best means of ensuring that the public has up-to-date information about the equipment made available by NDBEDP certified programs is

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<sup>371</sup> For example, Commission staff met with representatives of Helen Keller Services for the Blind and the Helen Keller National Center (Thomas Edwards, Joseph McNulty, and Suzanne Ressa) on December 20, 2010; with representatives of the National Coalition on Deafblindness (Betsy McGinnity, Steve Rothstein, and Mark Richert) on January 26, 2011; and with representatives of HumanWare (Dominic Gagliano and Greg Stilson) on February 15, 2011, and (Gilles Pepin, Ivan Legace, Stephane Langevin, Dominic Gagliano, and Lucia Gomez) on March 16, 2011. See *HKNC Ex Parte*; *National Coalition on Deafblindness Ex Parte*; *HumanWare Feb. 15 Ex Parte*; *HumanWare March 17 Ex Parte*. In addition, Commission staff held a mini-summit with 12 members of the DBYAA, along with representatives of the AADB and HKNC, on June 15, 2010.

<sup>372</sup> *NDBEDP NPRM*, 26 FCC Rcd at 709, ¶ 56.

<sup>373</sup> *Id.* The clearinghouse is required by Pub. L. 111-260, Section 104(a), to be codified at 47 U.S.C. § 618(d).

<sup>374</sup> *NDBEDP NPRM*, 26 FCC Rcd at 709, ¶ 56.

<sup>375</sup> TEDPA Comments at 5.

<sup>376</sup> DBYAA Comments at 6.

<sup>377</sup> National Coalition Comments at 11; ACB Reply at 10.

<sup>378</sup> See Section VIII, *supra*.

<sup>379</sup> See Section VII, *supra*.

to include such information in the clearinghouse on accessible products and services that the Commission will be establishing over the next year under the CVAA.<sup>380</sup> The CVAA clearinghouse will provide information on the availability of accessible products and services and accessibility solutions required under Sections 255 (telecommunications services and equipment),<sup>381</sup> 716 (advanced communications services and equipment),<sup>382</sup> and 718 (Internet browsers on mobile devices)<sup>383</sup> of the Act, and will include an annually updated list of products and services with their access features. We hope to gather extensive information about the equipment provided under the NDBEDP for inclusion within this clearinghouse from the reports submitted during this pilot program.<sup>384</sup> Because it will take a while to certify programs under the NDBEDP and then gather information about equipment being distributed by those programs, this time frame for the CVAA clearinghouse should prove effective in providing consumers with the information that they need as this program gets underway.

### C. NDBEDP as a Supplemental Funding Source

113. When it is established, the NDBEDP will be one of several federal laws or programs that either mandate or authorize the provision of specialized CPE to individuals who are deaf-blind.<sup>385</sup> These laws or programs include the Individuals with Disabilities Education Act (“IDEA”),<sup>386</sup> which requires education agencies to provide the equipment and services that children with disabilities need to receive a free and appropriate public education; vocational rehabilitation programs, which provide specialized equipment to people with disabilities seeking employment; and Section 501 of the Rehabilitation Act,<sup>387</sup> which requires reasonable accommodations to be provided to federal employees with disabilities.<sup>388</sup> In the *NDBEDP NPRM*, we sought comment on whether the NDBEDP should work with these other entities and programs to serve as a supplement to, rather than as a replacement for, their equipment distribution efforts, to maximize the availability of NDBEDP funds for individuals who are unable to qualify for equipment from the other sources.<sup>389</sup> In addition, we sought comment on the need for safeguards to ensure that individuals seeking equipment under the NDBEDP do not “double dip” or receive the same devices from more than one source, such as by requiring individuals to so certify as part of the application process.<sup>390</sup> We noted, too, that individuals who are deaf-blind may require multiple devices to achieve the communications accessibility intended by Congress under the CVAA.<sup>391</sup> Finally, given the NDBEDP purpose to distribute end-user equipment to as many individuals as possible who are underserved, we

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<sup>380</sup> 47 U.S.C. § 618(d).

<sup>381</sup> 47 U.S.C. § 255.

<sup>382</sup> 47 U.S.C. § 617.

<sup>383</sup> 47 U.S.C. § 619.

<sup>384</sup> See Section VII, *supra*.

<sup>385</sup> *NDBEDP NPRM*, 26 FCC Rcd at 709, ¶ 58.

<sup>386</sup> 20 U.S.C. § 1400 *et seq.*

<sup>387</sup> 29 U.S.C. § 791 *et seq.*

<sup>388</sup> The Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.*, also requires the provision of reasonable accommodations, which may include assistive technology devices, by employers, state and local governments, and public accommodations.

<sup>389</sup> *NDBEDP NPRM*, 26 FCC Rcd at 710, ¶ 58.

<sup>390</sup> *Id.*

<sup>391</sup> *Id.*

asked for comment about disqualifying individuals who are eligible under or have already received equipment from another source from participation in this pilot program.

114. In response to the *NDBEDP NPRM*, the National Coalition concurs that NDBEDP funds should be supplemental to other funding sources, such as under the IDEA or Rehabilitation Act, and that safeguards should be put in place to ensure that NDBEDP funds are not used to fulfill these other programs' obligations.<sup>392</sup> It recommends that certified programs educate parents of children who are deaf-blind about the responsibilities of state and local education agencies under the IDEA to provide needed equipment to meet the provisions of the child's individual education program.<sup>393</sup> At the same time, it urges the Commission not to adopt a rule that disqualifies from participation individuals who are eligible for or who have received equipment from other sources.<sup>394</sup> TEDPA proposes that the NDBEDP website include a password-protected resource area for certified programs to input applications and other information, and to generate reports for the purpose of keeping track of equipment given out to deaf-blind individuals.<sup>395</sup> It advises that some state EDPs have mechanisms in place to ensure that consumers do not "double dip" within the state. By using both the NDBEDP and state EDP databases, it states, consumer "double dipping" can be prevented.<sup>396</sup>

115. *Discussion.* We conclude that the NDBEDP provides a new funding resource for the distribution of equipment that supplements rather than supplants any existing legal mandates or programs for equipment available to consumers today, including but not limited to the IDEA and the Rehabilitation Act. This conclusion is consistent with stated congressional intent "to ensure that individuals with disabilities are able to utilize fully the essential advanced technologies that have developed since the passage of the ADA and subsequent statutes addressing communications accessibility."<sup>397</sup> As demonstrated by the record,<sup>398</sup> individuals who are deaf-blind may be eligible for support for equipment under more than one program and may need such support to access communication in various settings and for different purposes. The National Coalition provides examples where equipment from several sources may be necessary. First, the IDEA will provide a student who is deaf-blind with accessible communications equipment in her classroom and dorm room, but not the equipment she needs at home during the summer to keep in touch with her friends.<sup>399</sup> Second, an employer will provide the equipment needed for a young man to do his job, but not the equipment he needs at home for social networking.<sup>400</sup> A parent from Massachusetts agrees:

[I]ndividuals need to have the same or nearly identical equipment at home as they may get on the job. There must be access to social networking at home and off the job. This would support an

<sup>392</sup> National Coalition Comments at 11.

<sup>393</sup> *Id.* at 3.

<sup>394</sup> *Id.* at 12.

<sup>395</sup> TEDPA Comments at 5. *See also* Section VII, *supra*.

<sup>396</sup> TEDPA Comments at 5.

<sup>397</sup> Senate Report at 3.

<sup>398</sup> *See* paras. 113-114, *supra*.

<sup>399</sup> National Coalition Comments at 12.

<sup>400</sup> *Id.*

individual's right to learn on their own and establish the same relationships signed and hearing people have access to.<sup>401</sup>

116. For these reasons, individuals who are deaf-blind should not be disqualified from participating in the NDBEDP pilot program because they may also be eligible for or receive equipment under other programs for other purposes (*e.g.*, education or employment related equipment). Instead, individual assessments must be conducted to determine each deaf-blind person's needs for different settings. We encourage NDBEDP certified programs to collaborate with other programs to achieve the goal of addressing the communication technology needs of this underserved population while avoiding duplicative services.

#### **D. Program Compliance**

##### **1. Program certification under penalty of perjury.**

117. In the *NDBEDP NPRM*, we proposed that certified program administrators who submit any data to the Commission certify such data to be true and accurate under penalty of perjury.<sup>402</sup> As noted above, we received no comments on this proposal.<sup>403</sup>

118. *Discussion.* In addition to the certification we require for submissions of required program information reports,<sup>404</sup> we require that each NDBEDP certified program requesting reimbursement for equipment and related services under this program attest to the truth and accuracy of the claims for reimbursement submitted, under penalty of perjury. This practice is a critical component of maintaining the integrity of the program, is needed to ensure the veracity of the signed statement, and to ensure that certified program administrators are held accountable for their submissions. Specifically, we will require the CEO, CFO or other senior executive of the certified program, such as a director or manager, with first-hand knowledge of the accuracy and completeness of such claims, to certify as follows:

I swear under penalty of perjury that I am (name and title), an officer of the above-named reporting entity and that I have examined all cost data associated with equipment and related services for the claims submitted herein, and that all such data are true and an accurate statement of the affairs of the above-named certified program.

##### **2. Whistleblower protection.**

119. The NDBEDP involves the use and management of funds which may, like any funding program, be susceptible to waste, fraud, and abuse.<sup>405</sup> As part of the Commission's obligation to ensure that these funds are used for the purposes intended by Congress, we sought comment on whether we should adopt a specific whistleblower protection rule for the employees of certified programs under the

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<sup>401</sup> *Id.*

<sup>402</sup> *NDBEDP NPRM*, 26 FCC Rcd at 707, ¶ 52.

<sup>403</sup> *See* para. 97, *supra*.

<sup>404</sup> *See* Section VII, *supra*.

<sup>405</sup> *NDBEDP NPRM*, 26 FCC Rcd at 709, ¶ 57.