

Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210

A. Justification:

Background

1. The Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), Pub. L. 111-260 was enacted on October 8, 2010. The CVAA requires the Commission to take various measures to ensure that people with disabilities have access to emerging communications technologies in the 21st Century.

(a) Section 105 of the CVAA:

(1) directs the Commission to establish rules within six months of enactment of the new statute that define as eligible for relay service support those programs approved by the Commission for the distribution of specialized customer premises equipment (specialized CPE) to people who are deaf-blind;¹

(2) aims to distribute equipment to make telecommunications service, Internet access service, and advanced communications, including interexchange services and advanced telecommunications and information services, accessible by low income individuals who are deaf-blind under the National Deaf-Blind Equipment Distribution Program (*NDBEDP*);² and

(3) authorizes the Commission to allocate \$10 million annually for the *NDBEDP*.

On November 3, 2010, the Commission released the *NDBEDP Public Notice*,³ seeking comment on a range of issues related to the Commission's implementation of the requirement for an *NDBEDP*. The comments filed in response to the public notice provided the Commission a basis for preparation for the *NDBEDP* notice of proposed rulemaking (*NDBEDP NPRM*). Congressional records and comments to the public notice reflect the need for an effective equipment distribution program for communications access for people who are deaf-blind. While many states already distribute some specialized communications equipment to people with disabilities through their own state equipment distribution programs (*EDPs*), many, if not most, have been unable to afford the extremely high costs associated with communications equipment needed by people who are deaf-blind.

¹ Pub. L. 111-260

² *Id.* at § 105, to be codified at 47 U.S.C. § 719.

³ Consumer and Governmental Affairs Bureau Seeks Comment on Implementation of Requirement to Define Programs For Distribution of Specialized Customer Premises Equipment Used by Individuals Who are Deaf-Blind, *Public Notice*, CG Docket No. 10-210, DA 10-2112 (November 3, 2010) (*NDBEDP Public Notice*).

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Proposed Information Collection Requirements:

On January 14, 2011, the Commission released the *NDBEDP NPRM*, In the Matter of Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210; FCC 11-3. The *NDBEDP NPRM* proposes rules to create an effective and efficient process governing the distribution of specialized CPE to enhance and promote access to telecommunications and related communications services by low-income individuals who are deaf-blind.

The *NDBEDP NPRM* seeks comment on:

- (a) Whether state *EDPs* should become the sole authorized entities to receive compensation from the TRS Fund for the distribution of equipment to that state's deaf-blind residents.
- (b) Whether other state programs (*e.g.*, vocational rehabilitation programs, assistive technology programs, or schools for the deaf, blind or deaf-blind) or private entities (*e.g.*, independent living centers, organizational affiliates, or private schools) should be allowed to apply to the Commission for certification to distribute this specialized CPE in each state that does not have an *EDP* or that has an *EDP* but is unwilling to participate in the *NDBEDP*.
- (c) Whether every potentially qualifying entity, such as an established *EDP* or an alternative program, should be required to apply for and receive Commission certification of its eligibility to operate an equipment distribution program under the *NDBEDP*, to ensure compliance with our program rules.
- (d) Whether the following factors should be considered in determining whether to grant certification of a local program – as well as in selecting among multiple applicants:
 - expertise in the field of deaf-blindness, including a strong familiarity with the communications needs of this population;
 - adequate staffing and facilities to administer the program;
 - experience with the distribution of specialized CPE, especially to people who are deaf-blind;
 - the ability to install specialized CPE covered under the program and train users on how to use that equipment;
 - the ability to effectively communicate with people who are deaf-blind (for training and other purposes), including the ability to communicate in sign language, provide materials in Braille, and use other assistive technologies and methods to achieve effective communication; and

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- the ability to distribute equipment and related services to eligible individuals throughout the state (including to remote areas), either directly or in coordination with other local programs.
- (e) Whether state equipment distribution programs and authorized program recipients of funding under the *NDBEDP* should be required to submit the following data every six months:
- for each piece of equipment distributed, its name, brand and function, its cost, the type of service with which it is used, and the type of relay service it can access
- a. For each piece of equipment distributed, the identity and contact information for the consumer receiving that equipment
- For each piece of equipment distributed, the identity and contact information for the individual attesting to the disability of the individual who is deaf-blind;
 - the cost, time and any other resources allocated to assessing an individual's equipment needs;
 - the cost, time and any other resources allocated to installing equipment and training deaf-blind participants on using equipment;
 - the cost, time and any other resources allocated to repair and maintenance of equipment;
 - the cost, time and any other resources allocated to upgrading the distributed equipment during the pilot program, along with the nature such upgrades (*e.g.*, software upgrade; replacement part);
 - the cost, time and any other resources allocated to outreach activities related to the *NDBEDP*; and
 - any research and development performed.
- (f) Whether the program recipient should be required to retain records of the data submitted to the Commission.
- (g) Whether the program recipient should be required to obtain authentication of a person's disability from any practicing professional.
- (h) Whether the program recipients should be required to obtain verification of a person's income level.

The statutory authority for this proposed information collection is contained in 47 U.S.C. 154, 254(k); sections 403(b)(2)(B),(c), Pub. L. 104-104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, 254(k), and 619.

2. All collections of information are promulgated pursuant to section 105 of the CVAA which requires that the Commission establish rules within six months of enactment of the new

Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210 statute that define as eligible for relay service support those programs approved by the Commission for the distribution of specialized CPE to people who are deaf-blind.

This information collection does contain personally identifiable information (PII) on individuals.

- (a) As required by OMB Memorandum M-03-22 (September 26, 2003), the FCC completed a Privacy Impact Assessment (PIA)⁴ on June 28, 2007, that gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys the PII covered by these information collection requirements. The PIA may be viewed at http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.
 - (b) Furthermore, as required by the Privacy Act, 5 U.S.C. § 552a, the FCC published a system of records notice (SORN), FCC/CGB-1, "Informal Complaints and Inquiries," in the *Federal Register* on December 15, 2009 (74 FR 66356), which became effective on January 25, 2010.
3. At this time, the Commission is not considering the use of improved information technology.
 4. The information is not duplicated elsewhere. No similar information is available.
 5. The collections of information on any small businesses or entities will not be significant. Because all entities that are subject to information collections requirements receive financial support from the *NDBEDP*, the Commission concludes that this action will not cause a significant impact on small businesses and entities.
 6. There are no statutory consequences if such information is not submitted by program recipients. In order for a program recipient to be eligible to receive funding for administering an equipment distribution program under the *NDBEDP* program, the program recipient must either meet all applicable requirements, including reporting requirements or request and receive a waiver of requirements. As noted, the Commission will adhere strictly to its rules unless a party can demonstrate that "in the public interest the rule should be waived."
 7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.
 8. The Commission published a notice in the *Federal Register* as required by 5 CFR 1320.8(d) seeking comments from the public on the information collection requirements contained in this supporting statement. See 76 FR 4838, January 27, 2011. To date, the Commission received no comments in response to the notice.
 9. The Commission does not anticipate providing any payment or gift to respondents.
 10. Some assurances of confidentiality are being provided to the respondents. The PIA that

⁴ The Commission is in the process of updating the PIA to incorporate various revisions to it as a result of revisions to the SORN.

Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210 the FCC completed on June 28, 2007 gives a full and complete explanation of how the FCC collects, stores, maintains, safeguards, and destroys PII, as required by OMB regulations

and the Privacy Act, 5 U.S.C. § 552a. The PIA may be viewed at:
http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.

11. There are no questions of a sensitive nature with respect to the information collected.
12. Estimates of hour burden for the collection of information are as follows:

Proposed Information Collection Requirements

In the *NDBEDP NPRM*, the Commission seeks comment on:

- (a) Whether the program recipients (state *EDPs* and other potentially qualifying entities) should be required to apply in order to receive Commission certification of their eligibility to operate an equipment distribution program under the *NDBEDP* program. If so, the Commission proposes that the program recipients must include the following information in their applications:
 - expertise in the field of deaf-blindness, including a strong familiarity with the communications needs of this population;
 - adequate staffing and facilities to administer the program;
 - experience with the distribution of specialized CPE, especially to people who are deaf-blind;
 - the ability to install specialized CPE covered under the program and train users on how to use that equipment;
 - the ability to effectively communicate with people who are deaf-blind (for training and other purposes), including the ability to communicate in sign language, provide materials in Braille, and use other assistive technologies and methods to achieve effective communication; and
 - the ability to distribute equipment and related services to eligible individuals throughout the state (including to remote areas), either directly or in coordination with other local programs.

The Commission proposes that one selected entity become the sole authorized entity for the state to receive compensation from the TRS Fund for the distribution of equipment to that state's deaf-blind residents. The Commission proposes that each state *EDP* and other potential entities will be given the opportunity to apply for Commission

Implementation of the Twenty-first Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals, CG Docket No. 10-210 certification to receive compensation from the TRS Fund. The Commission estimates that 2 entities will apply for Commission certification for each state (53 programs),⁵ resulting in a total of 106 potential applicants (state *EDPs*, public programs and private entities that will apply for Commission certification.

Total Number of Respondents: 106⁶

This process will be done on a one-time basis during the pilot program proposed in the *NDBEDP NPRM*.

The Commission estimates that 106 respondents/applicants will require approximately 30 hours to complete and submit the application for Commission certification.

106 respondents/applicants x 30 hours = **3,180** hours

Total One-Time Burden Hours: 3,180 hours

106 respondents/applicants will complete and submit the application once

Total Number of Responses: 106 Responses

Total “In-House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to complete and submit the application for Commission certification.

The Commission estimates respondents’ costs to be about \$87.37 per hour to complete. 3,180 hours for completing the application process x \$87.37 per hour = \$277,836.60

Total Annual “In-House” Costs = \$277,836.60

(b) Whether the program recipients of funding under the *NDBEDP* should submit the proposed data every six months until the completion of the pilot program. If so, the program recipients would be required to submit:

⁵ The amount of 53 *EDP* programs is comparable to the total of 50 states, District of Columbia, Puerto Rico and Virgin Islands that currently administer intrastate telecommunications relay service program.

⁶ 53 states (respondents) x 2 entities/state applying for Commission certification = 106 respondents.

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- b. _____ for each piece of equipment distributed, its name, brand and function, its cost, the type of _____ service with which it is used, and the type of relay service it can access;
- for each piece of equipment distributed, the identity and contact information for the _____ individual attesting to the disability of the individual who is deaf-blind;
- c. _____ the cost, time and any other resources allocated to assessing an individual's equipment _____ needs;
- d. _____ the cost, time and any other resources allocated to installing equipment and training deaf- _____ blind participants on using equipment;
- e. _____ the cost, time and any other resources allocated to repair and maintenance of equipment;
- f. _____ the need for upgrading the distributed equipment during the pilot program, along with the _____ nature of that need;
- g. _____ the cost, time and any other resources allocated to upgrading the distributed equipment _____ during the pilot program, along with the nature of such upgrades (*e.g.*, software upgrade; _____ replacement part);
- h. _____ any research and development performed.

Because the Commission will select 53 out of 106 potential applicants to become program recipients of funding under the *NDBEDP*, the Commission estimates that 53 program recipients will be affected by this information collection. The Commission estimates these 53 program recipients will be required to submit data every six months.

Total Number of Respondents: 53

This process will be done twice a year.

2 responses/submissions per year

53 respondents/program recipients x 2 responses/submissions per year = 106 responses

Number of Annual Responses: 106 Responses

The Commission estimates that each response will require approximately 50 hours for the submission of the proposed data.

106 responses/submissions x 50 hours = 5,300 hours/annual

Total Number of Annual Burden Hours: 5,300 hours

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Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead); therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to comply with the requirement.

5,300 hours/to submit data x \$87.37/hour = \$463,061

Total Annual “In-House” Costs = \$463,061

(c) Whether the program recipient of funding under the *NDBEDP* should be required to retain records of the data submitted to the Commission.

The Commission estimates that 53 program recipients of funding under the *NDBEDP* will be required to retain records of the submitted data.

Total Number of Respondents: 53

The Commission estimates that each respondent will retain records annually.

Responses: 53 Responses

While this process will be done on an ongoing basis, the Commission estimates that the average hourly burden for retaining records is 2 hours per month.

2 hours per month x 12 months = 24 hours/annual

53 responses x 24 hours/annual = 1,272 hours

Total Number of Annual Burden Hours: 1,272hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to retain records of the submitted data.

1,272 hours/retain records x \$87.37 /hour = \$111,134.64

Total Annual “In-House” Costs = \$111,134.64

(d) Whether the program recipient of funding under the *NDBEDP* should be required to obtain authentication of a person’s disability from any practicing professional.

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The Commission estimates that 53 program recipients of funding under the *NDBEDP* will be required to obtain authentication of a person's disability from any practicing professional.

Total Number of Respondents: 53

The Commission estimates that each respondent will be required to obtain authentication of a person's disability.

Responses: 53 Responses

While this process will be done on an ongoing basis, the Commission estimates that the average hourly burden for obtaining authentication is 10 hours per month.

10 hours per month x 12 months = 120 hours/annual

53 responses x 120 hours/annual = 6,360 hours

Total Number of Annual Burden Hours: 6,360 hours

Annual "In House" Costs:

The Commission assumes that respondents use "in-house" personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents' costs to be about \$87.37 per hour to obtain authentication of a person's disability.

6,360 hours/obtain authentication x \$87.37/hour = \$555,673.20

Total Annual "In-House" Costs = \$555,673.20

- (e) Whether the program recipients of funding under the *NDBEDP* should be required to obtain verification of a person's income level.

The Commission estimates that 53 program recipients of funding under the *NDBEDP* will be required to obtain verification of a person's income level.

Total Number of Respondents: 53

The Commission estimates that each respondent will be required to obtain verification of a person's income level.

Responses: 53 Responses

While this process will be done on an ongoing basis, the Commission estimates that the average hourly burden for obtaining verification is 5 hours per month.

5 hours per month x 12 months = 60 hours/annual

53 responses x 60 hours/annual = 3,180 hours

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Total Number of Annual Burden Hours: 3,180 hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour to obtain verification of a person’s income level.

$3,180 / \text{obtain verification} \times \$87.37/\text{hour} = \$277,836.60$

Total Annual “In-House” Costs = \$277,836.60

(f) Whether the program recipients of funding under the *NDBEDP* should be required to report on the administrative expenses incurred in participating in this program every six months.

The Commission estimates that 53 program recipients will be required to report on the administrative expenses incurred in participating in this program.

Total Number of Respondents: 53

The Commission estimates that each respondent will be required to report on the administrative expenses.

This process will be done twice a year.

2 responses/submissions per year

$53 \text{ respondents/program recipients} \times 2 \text{ responses/submissions per year} = 106 \text{ responses}$

Number of Annual Responses: 106 Responses

The Commission estimates that each response will require approximately 15 hours for recordkeeping and submission of the report on the administrative expenses.

$106 \text{ responses/submissions} \times 15 \text{ hour} = 1,590 \text{ hours/annual}$

Total Number of Annual Burden Hours: 1,590 hours

Annual “In House” Costs:

The Commission assumes that respondents use “in-house” personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents’ costs to be about \$87.37 per hour for recordkeeping and submission of the report on the administrative expenses.

$1,590 \text{ hours/submission} \times \$87.37 / \text{hour} = \$138,918.30$

Total Annual “In-House” Costs = \$138,918.30

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(g) Whether the program recipient of funding under the *NDBEDP* should be required to report complaints received on the equipment and appeals on eligibility, as well as other consumer related disputes every six months.

The Commission estimates that 53 program recipients will be required to report complaints received on the equipment and appeals on eligibility, as well as other consumer related disputes every six months.

Total Number of Respondents: 53

The Commission estimates that each respondent will be required to report complaints received on the equipment and appeals on eligibility.

This process will be done twice a year.

2 responses/submissions per year

53 respondents/program recipients x 2 responses/submissions per year = 106 responses

Number of Annual Responses: 106 Responses

The Commission estimates that each response will require approximately 15 hours for recordkeeping and submission of the report on complaints regarding the equipment and appeals on eligibility.

106 responses/submissions x 15 hours = 1,590 hours/annual

Total Number of Annual Burden Hours: 1,590 hours

Annual "In House" Costs:

The Commission assumes that respondents use "in-house" personnel whose pay is comparable to mid-to-senior level federal employees (GS-15/5, plus 30% overhead), therefore, the Commission estimates respondents' costs to be about \$87.37 per hour for recordkeeping and submission of the report on complaints regarding the equipment and appeals on eligibility.

1,590 hours/submission x \$87.37 /hour = \$138,918.30

Total Annual "In-House" Costs = \$138,918.30

Cumulative Number of Respondents: 106

Cumulative Number of Annual Responses: 583

Cumulative Annual Burden Hours: 22,472 hours

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Cumulative Annual “In-House” Costs: \$1,963,378.60

13. There are no annual costs to respondents. The annual reports will be prepared by respondents’ “in-house” staff. Therefore:

- (a) Total annualized capital/start-up costs: **None**
- (b) Total annual cost (O&M): **None**
- (c) Total annualized cost requested: **None**

14. The FCC will administer the semi-annual filed by program recipients (“using Commission staff”):

The Commission will use staff attorneys at the GS-15/5 level, to process annual reports filed by program recipients, and therefore, the Commission estimates the time to process each semi-annual report to be approximately 8 hours.

On average, the Commission estimates that it will receive approximately 106 reports annually, thus:

106 annual reports x 8 hours/annual report processing x \$67.21 = \$56,994.08

Total Cost to Federal Government: \$56,994.08

15. This a new collection of information. If the proposed information collection requirements are adopted by the Commission in a final rulemaking, program changes/increases will be added to OMB’s inventory for this collection as follows: 106 respondents; 583 responses; 22,472 annual burden hours; and \$0 annual cost.
16. There no plans to publish the result of the collection of information.
17. The Commission is not seeking approval not to display the expiration date for OMB approval of the information collection because the collection does not includes a form number.
18. There are no exceptions to the Certification Statement.

B. Collections of Information Employing Statistical Methods

The Commission does not anticipate that the collection of information will employ any statistical methods.