

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) requires the Commission to take various measures to ensure that people with disabilities have access to emerging communications technologies in the 21<sup>st</sup> century.<sup>1</sup> Section 105 of the CVAA adds Section 719 to the Communications Act of 1934, as amended (the Act), as follows:
  - (a) Within six months after the date of enactment of the CVAA, the Commission must establish rules that define as eligible for relay service support those programs that are approved by the Commission for the distribution of specialized customer premises equipment (CPE) designed 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.
  - (b) For purposes of Section 719, the term “individuals who are deaf-blind” has the same meaning given such term in the Helen Keller National Center (HKNC) Act, as amended by the Rehabilitation Act Amendments of 1992 (29 U.S.C. 1905(2)).
  - (c) The total amount of support the Commission may provide from its Interstate Telecommunications Relay Service (TRS) Fund for any fiscal year may not exceed \$10,000,000.<sup>2</sup>

On April 4, 2011, the Commission adopted rules to establish the National Deaf-Blind Equipment Distribution Program (NDBEDP) in accordance with Section 719 of the Act.<sup>3</sup> Established as a pilot program, the NDBEDP supports the distribution of communications equipment and the provision of related services, such as outreach, assessments, and training, to low-income individuals who are deaf-blind.

The Commission delegated authority to administer this program to the Consumer and Governmental Affairs Bureau (CGB or Bureau),<sup>4</sup> which launched the pilot program on July 1, 2012.<sup>5</sup> To implement the program, the Bureau certified 53 entities – one entity in each state, plus the District of Columbia, Puerto Rico, and the U.S. Virgin Islands – to receive reimbursement for its NDBEDP activities from the TRS Fund.<sup>6</sup> Each entity has full oversight and responsibility for distributing equipment and providing related services in that state, either directly or through collaboration, partnership, or

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<sup>1</sup> Pub. L. No. 111-260, 124 Stat. 2751 (2010); Pub. L. 111-265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA).

<sup>2</sup> Section 719 of the Act is codified at 47 U.S.C. § 620.

<sup>3</sup> *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, Report and Order, 26 FCC Rcd 5640 (2011) (*NDBEDP Pilot Program Order*). See also 47 C.F.R. § 64.610 (NDBEDP pilot program rules).

<sup>4</sup> See, generally, *NDBEDP Pilot Program Order*, 26 FCC Rcd at 5685, ¶ 105.

<sup>5</sup> *Commission Announces Launch of the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 7403 (CGB 2012).

<sup>6</sup> See *Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 7397 (CGB 2012) (*NDBEDP Certification PN*).

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contract with other individuals or entities in-state or out-of-state, including other NDBEDP certified programs.

The Commission is seeking OMB approval/clearance for a three-year extension of this information collection while it transitions from a pilot program to a permanent NDBEDP. Towards that end, on August 1, 2014, the Commission invited comment on which rules governing the NDBEDP pilot program should be retained and which should be modified to make the permanent NDBEDP more effective and more efficient.<sup>7</sup> Comments filed in response to the Public Notice, along with lessons learned during the pilot program, will help the Commission prepare a Notice of Proposed Rulemaking to adopt rules for a permanent NDBEDP.<sup>8</sup> The extension of this information collection will help to ensure a smooth transition between the pilot and permanent programs, allowing equipment and related services to continue to be provided without interruption to low-income individuals who are deaf-blind.

***Information Collection Requirements:***

In the *NDBEDP Pilot Program Order*, the Commission adopted rules requiring the following:

- (a) *Applications for certification.* State equipment distribution programs, other public programs, and private entities may submit applications for NDBEDP certification to the Commission. For each state, the Commission certifies a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement from the TRS Fund.
- (b) *Reports.* Each program certified under the NDBEDP must submit certain data electronically to the Commission, as instructed by the NDBEDP Administrator, every six months, commencing with the start of the pilot program.
- (c) *Recordkeeping.* Each program certified under the NDBEDP must retain all records associated with the distribution of equipment and provision of related services under the NDBEDP for two years following the termination of the pilot program.
- (d) *Verification of deaf-blind eligibility.* Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.
- (e) *Verification of low-income eligibility.* Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the income eligibility requirements.
- (f) *Reimbursement claims.* Programs certified under the NDBEDP are reimbursed for the cost of equipment that has been distributed to eligible individuals and authorized related services, up to the state's funding allotment under this program. Within 30 days after the end of each

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<sup>7</sup> *Consumer and Governmental Affairs Bureau Seeks Comment on the National Deaf-Blind Equipment Distribution Program*, CG Docket No. 10-210, Public Notice, 29 FCC Rcd 9451 (CGB 2014) (*Permanent NDBEDP PN*).

<sup>8</sup> This Commission will seek OMB approval/clearance for any modification of this information collection that may be necessary when it proposes and adopts rules for the permanent NDBEDP.

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reimbursement period during the Fund Year,<sup>9</sup> each program certified under the NDBEDP pilot must submit documentation that supports its claim for reimbursement.

The statutory authority for this information collection is contained in Sections 1, 4(i), 4(j), and 719 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), and 620.

2. All collections of information are promulgated pursuant to Section 105 of the CVAA which adds Section 719 to the Communications Act and requires that the Commission 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 CPE to low-income individuals who are deaf-blind.

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

- (a) As required by the Privacy Act, 5 U.S.C. § 552a, the FCC published a system of records notice (SORN), FCC/CGB-3, "National Deaf-Blind Equipment Distribution Program," in the *Federal Register* on January 19, 2012 (77 FR 2721), which became effective on February 28, 2012.
  - (b) The Commission is in the process of preparing the new PIA related to the PII covered by these information collections, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 552a.
3. During the pilot program, the Commission permits applications for certification to participate in the NDBEDP, verifications of disability, income verifications, and claims for reimbursement to be submitted electronically. The rules adopted for the NDBEDP pilot program establish semi-annual reporting requirements for NDBEDP certified programs and require those reports to be submitted electronically. Requiring information collections to be submitted electronically is intended to promote electronic recordkeeping to facilitate and reduce the burden of reporting by these certified programs. In addition, these electronic submissions will facilitate efficient and effective assessment and evaluation of NDBEDP certified programs for the administration and operation of the pilot program and for the development of rules for the permanent program. Finally, 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.
  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.
  6. There are no statutory consequences if such information is not submitted by NDBEDP certified programs.
  7. The collections are not being conducted in any manner inconsistent with the guideline of 5 CFR Section 1320.

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<sup>9</sup> During the pilot program, certified programs have been permitted to submit reimbursement claims every six months, quarterly, or monthly. See *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Order, 27 FCC Rcd 2812 (CGB 2012) (waiving the requirement to submit reimbursement claims every six months and permitting certified programs to elect, by notifying the TRS Fund Administrator, to submit claims quarterly or monthly).

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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 80 FR 7590, February 11, 2015. The Commission did not receive any comments in response to the notice.
9. The Commission does not anticipate providing any payment or gift to respondents.
10. As stated above in question 2, the Commission is in the process of preparing the new PIA related to the PII covered by these information collections, as required by OMB's Memorandum M-03-22 (September 26, 2003) and by the Privacy Act, 5 U.S.C. § 522a.
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:

***Information Collection Requirements***

In the *NDBEDP Pilot Program Order*, the Commission adopted rules requiring the following:

- (a) *Applications for certification.* State equipment distribution programs, other public programs, and private entities may submit applications for NDBEDP certification to the Commission. For each state, the Commission certifies a single program as the sole authorized entity to participate in the NDBEDP and receive reimbursement from the TRS Fund. The Commission determines whether to grant certification based on the ability of a program to meet the following qualifications, either directly or in coordination with other programs or entities, as evidenced in the application and any supplemental materials, including letters of recommendation:
  - expertise in the field of deaf-blindness, including familiarity with the culture and etiquette of people who are deaf-blind, to ensure that equipment distribution and the provision of related services occurs in a manner that is relevant and useful to consumers who are deaf-blind;
  - the ability to communicate effectively with people who are deaf-blind (for training and other purposes), by among other things, using sign language, providing materials in Braille, ensuring that information made available online is accessible, and using other assistive technologies and methods to achieve effective communication;
  - staffing and facilities sufficient to administer the program, including the ability to distribute equipment and provide related services to eligible individuals throughout the state, including those in remote areas;
  - experience with the distribution of specialized CPE, especially to people who are deaf-blind;
  - experience in how to train users on how to use the equipment and how to set up the equipment for its effective use; and
  - familiarity with the telecommunications, Internet access, and advanced communications services that will be used with the distributed equipment.

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To implement the pilot program in 2012, the Bureau certified 53 entities to receive reimbursement for their NDBEDP activities from the TRS Fund.<sup>10</sup> For various reasons, nine state programs relinquished their certifications during the first two-and-a-half years of the NDBEDP pilot program, requiring the Commission to seek replacements in those states. In almost all these instances, the Commission received one application for certification to replace the prior state program. Therefore, the Commission estimates that a total of three entities (state equipment distribution programs, other public programs, and private entities) will apply for NDBEDP certification annually.

**Annual Number of Respondents: 3**

This process will be done on an as-needed basis during the NDBEDP pilot program.

3 respondents/applicants will complete and submit one application.

**Annual Number of Responses: 3 Responses**

The Commission estimates that 3 respondents/applicants will require approximately 5 hours for completing and submitting the application for Commission certification.

3 respondents/applicants x 5 hours = 15 hours

**Annual Burden Hours: 15 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), therefore, the Commission estimates respondents’ costs to be about \$68.56 per hour to complete and submit the application for Commission certification.

15 hours for completing the application process x \$68.56 per hour = \$1,028.40

**Annual “In-House” Costs = \$1,028.40**

(b) *Reports.* Each program certified under the NDBEDP must submit the following data electronically to the Commission, as instructed by the NDBEDP Administrator, every six months, commencing with the start of the pilot program:

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

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<sup>10</sup> See *Commission Announces Entities Certified to Participate in the National Deaf-Blind Equipment Distribution Program*, Public Notice, 27 FCC Rcd 7397 (CGB 2012) (*NDBEDP Certification PN*).

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- 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;
- for each piece of equipment distributed, the amount of time, following any assessment conducted, that the requesting individual waited to receive that equipment;
- 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 individuals on using equipment;
- the cost, time and any other resources allocated to maintain, repair, cover under warranty, and refurbish equipment;
- the cost, time and any other resources allocated to outreach activities related to the NDBEDP, and the type of outreach efforts undertaken;
- the cost, time and any other resources allocated to upgrading the distributed equipment, along with the nature of such upgrades;
- to the extent that the program has denied equipment requests made by their deaf-blind residents, a summary of the number and types of equipment requests denied and reasons for such denials;
- to the extent that the program has received complaints related to the program, a summary of the number and types of such complaints and their resolution; and
- the number of qualified applicants on waiting lists to receive equipment.

Because the Commission selects up to 53 entities to become certified program recipients of funding under the NDBEDP, the Commission estimates that 53 certified programs will be affected by this information collection. The Commission estimates these 53 certified programs will be required to submit data every six months.

**Annual Number of Respondents: 53**

This process will be done twice a year (once every six months).

2 responses/submission per year

53 respondents/certified programs x 2 responses/submission per year = 106 responses

**Annual Number of Responses: 106 Responses**

The Commission estimates that each response will require approximately 20 hours for the collection and submission of the required data.

106 responses/submission x 20 hours = 2,120 hours/year

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**Annual Number of Burden Hours: 2,120 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); therefore, the Commission estimates respondents’ costs to be about \$68.56 per hour to comply with the requirement to submit data.

2,120 hours to submit data x \$68.56/hour = \$145,347.20

**Annual “In-House” Costs = \$145,347.20**

- (c) *Recordkeeping.* Each program certified under the NDBEDP must retain all records associated with the distribution of equipment and provision of related services under the NDBEDP for two years following the termination of the pilot program.

The Commission estimates that 53 certified programs under the NDBEDP will be required to retain NDBEDP-related records.

**Annual Number of Respondents: 53**

The Commission estimates that each respondent will retain records annually.

**Annual Number of 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/year

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

**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), therefore, the Commission estimates respondents’ costs to be about \$68.56 per hour to retain records.

1,272 hours to retain records x \$68.56 /hour = \$87,208.32

**Annual “In-House” Costs = \$87,208.32**

- (d) *Verification of deaf-blind eligibility.* Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

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The Commission estimates that 53 certified programs under the NDBEDP will be required to obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

**Annual Number of Respondents: 53**

The Commission estimates that these respondents, collectively, will obtain verifications every year that approximately 1,000 NDBEDP applicants meet the definition of an individual who is deaf-blind.

**Annual Number of Responses: 1,000 Responses**

The Commission estimates that the average hourly burden for obtaining verification is 30 minutes (0.5 hour) for each applicant.

0.5 hour x 1,000 verifications = 500 hours/year

**Annual Number of Burden Hours: 500 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), therefore, the Commission estimates respondents’ costs to be about \$68.56 per hour to obtain verification that NDBEDP applicants meet the definition of an individual who is deaf-blind.

500 hours to obtain verifications x \$68.56/hour = \$34,280.00

**Annual “In-House” Costs = \$34,280.00**

- (e) *Verification of low-income eligibility.* Each program certified under the NDBEDP must obtain verification that NDBEDP applicants meet the income eligibility requirements.

The Commission estimates that 53 certified program under the NDBEDP will be required to obtain verification that NDBEDP applicants meet the income eligibility requirements.

**Annual Number of Respondents: 53**

The Commission estimates that these respondents, collectively, will obtain verifications every year that approximately 1,000 NDBEDP applicants meet the income eligibility requirements.

**Annual Number of Responses: 1,000 Responses**

The Commission estimates that the average hourly burden for obtaining verification is 30 minutes (0.5 hour) for each applicant.

0.5 hour x 1,000 verifications = 500 hours/year

**Annual Number of Burden Hours: 500 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), therefore, the Commission estimates respondents’ costs to be about \$68.56 per hour to obtain verification that NDBEDP applicants meet the income eligibility requirements.

500 hours to obtain verifications x \$68.56/hour = \$34,280.00

**Annual “In-House” Costs = \$34,280.00**

- (f) *Reimbursement claims.* Programs certified under the NDBEDP shall be reimbursed for the cost of equipment that has been distributed to eligible individuals and authorized related services, up to the state’s funding allotment under this program. Within 30 days after the end of each reimbursement period during the Fund Year,<sup>11</sup> each program certified under the NDBEDP pilot must submit documentation that supports its claim for reimbursement of the reasonable costs of the following:
- equipment and related expenses, including maintenance, repairs, warranties, returns, refurbishing , upgrading, and replacing equipment distributed to consumers;
  - individual needs assessments;
  - installation of equipment and individualized consumer training;
  - maintenance of an inventory of equipment that can be loaned to the consumer during periods of equipment repair;
  - outreach efforts to inform state residents about the NDBEDP; and
  - administration of the program, but not to exceed 15 percent of the total reimbursable costs for the distribution of equipment and related services permitted under the NDBEDP.

The Commission estimates that 53 certified programs will notify the TRS Fund Administrator about the frequency of their reimbursement claims and submit requests for reimbursement of expenses incurred in participating in the NDBEDP.

**Annual Number of Respondents: 53**

- (1) *Election of reimbursement period.* The Commission expects that each respondent will elect to submit requests for reimbursement on a schedule that best meets its needs and will notify the TRS Fund Administrator of that election at the start of each Fund Year.

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<sup>11</sup> During the pilot program, certified programs have been permitted to submit reimbursement claims every six months, quarterly, or monthly. See *Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010, Section 105, Relay Services for Deaf-Blind Individuals*, Order, 27 FCC Rcd 2812 (CGB 2012) (waiving the requirement to submit reimbursement claims every six months and permitting certified programs to elect, by notifying the TRS Fund Administrator, to submit claims quarterly or monthly).

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1 responses/submission per year

53 respondents/certified programs x 1 responses/submission per year = 53 responses

**Annual Number of Responses: 53 Responses**

The Commission estimates that each response will require approximately 1 hour for notifying the TRS Fund Administrator.

53 responses/submission x 1 hours = 53 hours/year

**Annual Number of Burden Hours: 53 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), therefore, the Commission estimates respondents’ costs to be about \$68.56 per hour for notifying the TRS Fund Administrator.

53 hours/submission x \$68.56 /hour = \$3,633.68

**Annual “In-House” Costs = \$3,633.68**

(2) *Submission of reimbursement claims.* Currently, 10 certified programs submit claims monthly (120 claims), 36 programs submit claims quarterly (144 claims), and seven programs submit claims semi-annually (14 claims), or a total of 278 claims. The Commission estimates that the 53 programs will continue to submit an average of 5.25 claims each per year.

53 respondents/certified programs x 5.25 responses/submission per year = 278.25 responses

**Annual Number of Responses: 278 Responses (rounded)**

The Commission estimates that each response will require approximately 5 hours for recordkeeping and submission of the report on the administrative expenses.

278 responses/submission x 5 hours = 1,390 hours/year

**Annual Number of Burden Hours: 1,390 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), therefore, the Commission estimates respondents’ costs to be about \$68.56 per hour for recordkeeping and submission of the report on the administrative expenses.

1,390 hours/submission x \$68.56 /hour = \$95,298.40

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**Annual “In-House” Costs = \$95,298.40**

**Cumulative Number of Respondents: 56**

**Cumulative Number of Annual Responses: 2,493**

**Cumulative Annual Burden Hours: 5,850 hours**

**Cumulative Annual “In-House” Costs: \$401,076.00**

	<b>Annual Number of Respondents</b>	<b>Annual Number of Responses</b>	<b>Annual Number of Burden Hours</b>	<b>Annual “In-House” Costs</b>
(a) Applications for certification	3	3	15	\$1,028.40
(b) Reports	53	106	2,120	\$145,347.20
(c) Recordkeeping	53	53	1,272	\$87,208.32
(d) Verification of deaf-blind eligibility	53	1,000	500	\$34,280.00
(e) Verification of low-income eligibility	53	1,000	500	\$34,280.00
(f) Reimbursement claims				
(1) Election of reimbursement period	53	53	53	\$3,633.68
(2) Submission of reimbursement claims	53	278	1,390	\$95,298.40
<b>Total</b>	<b>56</b>	<b>2,493</b>	<b>5,850</b>	<b>\$401,076.00</b>

13. There are no outside costs to respondents. In addition to the above information collection requirements, each certified program under the NDBEDP must engage an independent auditor to perform an annual audit designed to detect and prevent fraud, waste and abuse. The certified programs are reimbursed for the costs of these regular audits from the TRS Fund as reasonable costs of administration NDBEDP. 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 review the semi-annual reports 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:

$$106 \text{ annual reports} \times 8 \text{ hours/year report processing} \times \$68.56 = \$58,138.88$$

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**Total Cost to Federal Government: \$58,138.88**

15. The Commission has adjusted the total number of respondents, annual responses, and annual burden hours from previous estimates, which were provided before the Commission launched the pilot program. The current estimates are based on the Commission's experience gained through the operation of the NDBEDP pilot program since it was launched in July 2012 and more accurately reflect the actual information collection burdens.

Therefore, the OMB inventory should now reflect the following burdens: annual number of respondents decreased by **-50**, from 106 to 56 respondents; annual number of responses increased by **+1,504**, from 989 to 2,493 responses; annual burden hours decreased by **-15,615**, from 21,465 to 5,850 annual hours; and \$0 annual cost.

16. There are 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 include 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.