

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
 )  
Emergency Broadband Benefit Program ) WC Docket No. 20-445

REPORT AND ORDER

Adopted: February 25, 2021

Released: February 26, 2021

By the Commission: Chairwoman Rosenworcel and Commissioners Starks and Simington issuing separate statements, Commissioner Carr approving in part, concurring in part and issuing a statement.

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    APPENDIX A – FINAL RULES

## I. INTRODUCTION

1. In this Order, we establish the Emergency Broadband Benefit Program to support broadband services and devices to help low-income households stay connected during the COVID-19 pandemic.<sup>1</sup> Efforts to slow the spread of COVID-19 have resulted in the dramatic disruption of many aspects of Americans' lives, including social distancing measures to prevent person-to-person transmission that have required the closure of businesses and schools across the country for indefinite periods of times, which in turn has caused millions of Americans to become newly unemployed or unable to find work. These closures have also led people to turn to virtual learning, telemedicine, and telework to enable social distancing measures, which has only increased every household's need for access to broadband services. The cost of broadband services, however, can be difficult to overcome for low-income families and for families that have been struggling during the pandemic.

2. On December 27, 2020, the Consolidated Appropriations Act, 2021 (Consolidated Appropriations Act) became law.<sup>2</sup> Among other actions intended to provide relief during the pandemic, the Consolidated Appropriations Act establishes an Emergency Broadband Connectivity Fund of \$3.2 billion in the Treasury of the United States for the fiscal year 2021,<sup>3</sup> to remain available until expended. The Consolidated Appropriations Act directs the Federal Communications Commission (Commission) to use that fund to establish an Emergency Broadband Benefit Program, under which eligible low-income households may receive a discount off the cost of broadband service and certain connected devices during an emergency period relating to the COVID-19 pandemic, and participating providers can receive a reimbursement for such discounts.<sup>4</sup>

3. In creating the Emergency Broadband Benefit Program, the Consolidated Appropriations Act does not preclude the Commission from utilizing in whole or in part any of our part 54 rules or amending them to suit the EBB Program.<sup>5</sup> Moreover, Congress directed the Commission to utilize existing regulatory tools in support of the EBB Program, such as the National Verifier and the National Lifeline Accountability Database,<sup>6</sup> originally designed to support the existing Lifeline program, which helps ensure low-income consumers have access to affordable voice or broadband Internet access service, though the EBB Program is funded through a separate appropriation from the Universal Service Fund.<sup>7</sup>

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<sup>1</sup> The coronavirus COVID-19 pandemic is an outbreak of a respiratory illness that has spread throughout the United States. See Centers for Disease Control and Prevention, Coronavirus (COVID-19), <https://www.cdc.gov/coronavirus/2019-ncov/index.html> (last visited Feb. 2, 2021).

<sup>2</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (2020), available at <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (Consolidated Appropriations Act).

<sup>3</sup> Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904(i), 134 Stat. 2130, 2135.

<sup>4</sup> *Id.* § 904(b)(1). Under Section 904, the emergency period “ends on the date that is 6 months after the date on which the determination by the Secretary of Health and Human Services pursuant to section 319 of the Public Health Service Act (42 U.S.C. § 247d) that a public health emergency exists as a result of COVID-19, including any renewal thereof, terminates.” *Id.* § 904(a)(8).

<sup>5</sup> Section 904(f) *Part 54 Regulations* provides that “[n]othing in this section shall be construed to prevent the Commission from providing that the regulations in part 54 of title 47, Code of Federal Regulations, or any successor regulation, shall apply in whole or in part to the Emergency Broadband Benefit Program, shall not apply in whole or in part to such Program, or shall be modified in whole or in part for purposes of application to such Program.” *Id.* § 904(f).

<sup>6</sup> *Id.* § 904(b)(2).

<sup>7</sup> Section 904(i)(4) *Relationship to universal service contributions*, provides that “[r]eimbursements provided under this section shall be provided from amounts made available under this subsection and not from contributions under section 254(d) of the Communications Act of 1934 (47 U.S.C. § 254(d)).” *Id.* § 904(i)(4).

(continued...)

Consistent with Congress' direction in the Consolidated Appropriations Act, we now establish the Emergency Benefit Broadband Program.

## II. BACKGROUND

### A. Emergency Broadband Benefit Program

4. Pursuant to the Consolidated Appropriations Act, the Emergency Broadband Benefit Program (EBB Program or Program) will use available funding from the Emergency Broadband Connectivity Fund to support participating providers' provision of qualifying broadband service offerings and connected devices to qualifying households. To participate in the Program, a broadband provider must elect to participate and either be designated as an eligible telecommunications carrier (ETC) or be approved by the Commission.<sup>8</sup> Participating providers will make available to eligible households a monthly discount off the standard rate for an Internet service offering and associated equipment, up to \$50.00 per month.<sup>9</sup> On Tribal lands, the monthly discount may be up to \$75.00 per month.<sup>10</sup>

5. Participating providers will receive reimbursement from the EBB Program for the discounts provided.<sup>11</sup> Participating providers that also supply an eligible household with a connected device, defined in the Consolidated Appropriations Act as a laptop, desktop computer, or tablet, for use during the emergency period may receive a single reimbursement of up to \$100.00 for the connected device, if the charge to the eligible household for that device is more than \$10.00 but less than \$50.00.<sup>12</sup> A participating provider may receive reimbursement for only one supported device per eligible household.<sup>13</sup> Providers must submit certain certifications to the Commission to receive reimbursement, and the Commission is required to adopt audit requirements to ensure provider compliance and prevent waste, fraud, and abuse.<sup>14</sup>

6. In implementing the EBB Program, the Consolidated Appropriations Act permits the Commission to apply rules contained in part 54 of the Commission's rules, including those governing the Lifeline program,<sup>15</sup> which requires the Commission to enforce the requirements of the Consolidated Appropriations Act and treat any violation of the Consolidated Appropriations Act as a violation of the Communications Act of 1934,<sup>16</sup> exempts the Commission from certain rulemaking requirements under the Administrative Procedure Act and the Paperwork Reduction Act,<sup>17</sup> and grants the Commission authority to use the services of the Lifeline program administrator, the Universal Service Administrative Company

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<sup>8</sup> *Id.* §§ 904(a)(12), (d)(2).

<sup>9</sup> *Id.* § 904(a)(7).

<sup>10</sup> *Id.* In its comment, TDI et al. asks that the reimbursement level should be "at the highest allowable level" for "households that have a person who is deaf, hard of hearing, DeafBlind, or deaf with mobility issues." TDI et al. Comments at 2. However, the higher allowable amounts are specifically reserved for "eligible household[s] on Tribal land." Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(7).

<sup>11</sup> *Id.* § 904(b)(4).

<sup>12</sup> *Id.* § 904(b)(5).

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* § 904(b)(6).

<sup>15</sup> *See id.* § 904(f).

<sup>16</sup> *See id.* § 904(g).

<sup>17</sup> *See id.* § 904(h) (establishing that 5 U.S.C. § 553 shall not apply to a regulation promulgated under section 904(c) or a rulemaking proceeding to promulgate such a regulation and that a collection of information conducted or sponsored under the regulations required by section 904(c) shall not constitute a collection of information for the purposes of 44 U.S.C. §§ 3501-3531).

(USAC), to implement the EBB Program.<sup>18</sup> The Consolidated Appropriations Act also requires the Commission to adopt audit requirements to ensure that participating providers comply with the Consolidated Appropriations Act and to prevent waste, fraud, and abuse.<sup>19</sup> The Consolidated Appropriations Act required the Commission to provide a 20-day public comment period not later than 5 days after its enactment, to provide a 20-day public reply comment period immediately following the initial comment period, and to promulgate regulations not later than 60 days after its enactment.<sup>20</sup> On January 4, 2021, the Wireline Competition Bureau (Bureau) sought comment on how the Commission should implement the EBB Program.<sup>21</sup>

## B. Lifeline Program

7. The Commission's Lifeline program provides qualifying low-income households discounts on voice or broadband Internet access service, as well as on bundled service.<sup>22</sup> Consumers can qualify for the Lifeline program by participating in a qualifying assistance program (i.e., Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), Federal Public Housing Assistance (FPHA), or Veterans and Survivors Pension Benefit) or by having an income at or below 135% of the Federal Poverty Guidelines. Residents of Tribal lands can also qualify for the Lifeline program by meeting the aforementioned criteria or by participating in a qualifying Tribal-specific federal assistance program.<sup>23</sup>

8. The Lifeline program is administered by USAC, which operates the National Lifeline Eligibility Verifier (National Verifier) and National Lifeline Accountability Database (NLAD) to make eligibility determinations, prevent duplication, and record enrollment in the program.<sup>24</sup> In the Lifeline program, service providers use the NLAD to enroll households that have qualified for Lifeline through the

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<sup>18</sup> *Id.* § 904(i)(5). USAC is an independent, not-for-profit corporation designated as the permanent administrator of the Universal Service Fund by the Commission. *See* 47 CFR §§ 54.701 *et seq.* On February 3, 2021, the FCC executed an MOU establishing USAC as the administrator of the program. The MOU is available at [https://www.fcc.gov/sites/default/files/fcc\\_usac\\_ebbp\\_mou\\_02.03.2021.pdf](https://www.fcc.gov/sites/default/files/fcc_usac_ebbp_mou_02.03.2021.pdf). We interpret Section 904(i)(5) as authorization for us to use USAC to perform any services in connection with the EBB Program that USAC currently performs in connection with other FCC programs. This approach best implements the statutory text, which directs us to “avail” ourselves of “the services of [USAC],” and reflects the fact that Congress “is and has been aware” of USAC’s involvement in other FCC programs, and did not limit or restrict any such involvement here. *La. Forestry Ass’n Inc. v. Sec’y of U.S. Dep’t of Labor*, 745 F.3d 653, 674 (3d Cir. 2014). As set forth below, we also expressly adopt for the EBB Program our rule from the Lifeline program restricting USAC from making policy, interpreting unclear statutes or rules relied upon to implement the EBB Program, or interpreting the intent of Congress. *See infra* para. 150.

<sup>19</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(7).

<sup>20</sup> *Id.* § 904(c).

<sup>21</sup> *See Wireline Competition Bureau Seeks Comment on Emergency Broadband Connectivity Fund Assistance*, WC Docket No. 20-445, Public Notice, DA 21-6, at 2 (WCB 2021) (*Public Notice*).

<sup>22</sup> *See* 47 CFR § 54.400(n) (“Voice Telephony services and broadband Internet access services are supported services for the Lifeline program.”).

<sup>23</sup> *See* 47 CFR § 54.409(b) (listing the following qualifying Tribal specific federal assistance programs: Bureau of Indian Affairs general assistance, Tribally-administered Temporary Assistance for Needy Families, Head Start (only those households meeting its income qualifying standard), and the Food Distribution Program on Indian Reservations).

<sup>24</sup> *See Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6734, para. 179 (2012) (*2012 Lifeline Order*); *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4006-21, paras. 126-66 (2016) (*2016 Lifeline Order*).

(continued...)

National Verifier, creating a record that forms the basis of providers' claims for reimbursement.<sup>25</sup> The National Verifier checks an applicant's identity, address, eligibility based on income or qualifying government program participation, and compliance with the one per household limit.<sup>26</sup> The National Verifier has launched in all 56 states and territories as of December 2020.<sup>27</sup> USAC also operates the Representative Accountability Database (RAD), with which all ETC enrollment representatives must register to access USAC's Lifeline systems in the process of Lifeline enrollment, benefit transfers, subscriber information updates, recertification, and de-enrollment.<sup>28</sup> The use of these databases and systems in the Lifeline program has helped to facilitate the enrollment and reimbursement processes while combatting waste, fraud, and abuse in the Lifeline program.

### III. DISCUSSION

9. We now establish the requirements and processes of the EBB Program, pursuant to the Consolidated Appropriations Act. In this section, we discuss the providers that may participate in the EBB Program, the household eligibility requirements for the program, benefits for covered services and devices, the program's budget and reimbursement, and other administrative aspects of the program.

#### A. Participating Providers

10. Congress in the Consolidated Appropriations Act established that in order to participate in the EBB Program a carrier must have provided broadband Internet access service to households as of December 1, 2020.<sup>29</sup> To meet these requirements, Congress defined "participating provider" as either existing ETCs or providers approved by the Commission under an "expedited approval process."<sup>30</sup> Congress directed the Commission to create an "expedited approval process" to approve providers to participate EBB Program where the provider is not an ETC.<sup>31</sup> This expedited approval process requires that providers with an "established program as of April 1, 2020" offering broadband services to eligible households with verification process sufficient to prevent fraud, waste, and abuse "shall be automatically approve[d]."<sup>32</sup> We seek to encourage as many providers as possible to participate in the EBB Program. Consistent with the Consolidated Appropriations Act and the proposal in the Public Notice, we also adopt a carrier election process administered by USAC applicable to all providers participating in the EBB Program.<sup>33</sup> Providers that have not already been designated as an ETC by a state or the Commission must also file for automatic approval or seek expedited approval from the Commission. In the Consolidated Appropriations Act, Congress recognized the pressing need to quickly deliver much-needed support to Americans by providing the Commission with the authority to streamline and expedite the provider participation process. At the same time, the Commission must also safeguard the Program's funding to

<sup>25</sup> See 47 CFR § 54.407(a).

<sup>26</sup> Universal Service Administrative Co., *Eligibility Decision Process*, <https://www.usac.org/lifeline/eligibility/national-verifier/eligibility-decision-process/> (last visited Feb. 17, 2021).

<sup>27</sup> Universal Service Administrative Co., *Lifeline – January 2021 Newsletter* (Jan. 28, 2021), <https://view.outreach.usac.org/?qs=06ef94802948a9a144a414c5df5142fd2a5dc44036c6bb4097c736f9e9575a3f1efd6571786bc81d214534733a1ba43ea9ab825942ff2bc1e5ffb4d78e5496576e68ac1b7c78ce6> (last visited Feb. 8, 2021).

<sup>28</sup> *Bridging the Digital Divide for Low-Income Consumers*, Fifth Report and Order, Memorandum Opinion and Order and Order on Reconsideration, and Further Notice of Proposed Rulemaking, 34 FCC Rcd 10886, 10918, para. 78 (2019) (*2019 Lifeline Order*).

<sup>29</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(2), (a)(9), (a)(12), (d).

<sup>30</sup> *Id.* at § 904(a)(12)(A).

<sup>31</sup> *Id.* at § 904(d)(2).

<sup>32</sup> *Id.* at § 904(d)(2)(B).

<sup>33</sup> See *Public Notice* at 2.

ensure it provides help to those in need and is not wasted by providers unable to quickly deliver broadband services. Accordingly, the election and approval processes we adopt provide assurances that providers can promptly deliver broadband services to low-income households.

11. We direct the Wireline Competition Bureau, within seven days of the adoption of this Order, to announce a timeline for the submission of information by providers required by the Consolidated Appropriations Act, such as applications from non-ETCs to participate in the EBB Program, requests by all providers for approval of alternative verification processes, and the submission by ETCs and non-ETCs of election notices. The announcement will specify the date for a priority application deadline by which providers must submit these filings to receive approval prior to the beginning of the EBB Program. We also direct the Bureau to announce at a later date other administrative deadlines or milestones, such as when the EBB Program will begin and when providers may begin enrolling subscribers in the program. We expect that the EBB Program and the enrollment process will begin in less than 60 days after the adoption of this Order.

### 1. Providers Eligible to Participate

12. In the Consolidated Appropriations Act, a “participating provider” for the EBB Program shall be a “broadband provider” that is either “designated as an eligible telecommunications carrier” or seeks approval from the Commission for participation in the EBB Program.<sup>34</sup> We agree with commenters that the Commission should establish a broad, technologically neutral approach to provider participation in the EBB Program.<sup>35</sup> This interpretation of provider eligibility aligns with the plain language of the Consolidated Appropriations Act, which defines “broadband provider” as any “provider of broadband internet access service.”<sup>36</sup> Further, the Consolidated Appropriations Act defines “broadband internet access service” broadly by referencing the definition in section 8.1 of the Commission’s rules.<sup>37</sup> Section 8.1 defines “broadband internet access service” as:

“a mass-market retail service by wire or radio that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up internet access service. This term also encompasses any service that the Commission finds to be providing a functional equivalent of the service described in the previous sentence or that is used to evade the protections set forth in this part.”<sup>38</sup>

Accordingly, ETCs and non-ETCs seeking to participate in the EBB Program must establish they provide broadband services to participate, and we decline to further narrow provider eligibility among those providers that offer broadband services as defined by the Consolidated Appropriations Act. This interpretation allows not only for ETCs or non-ETCs like traditional Internet Service Providers (ISPs) including cable providers and wireless Internet service providers, but also permits non-traditional broadband providers like community-owned networks, electric cooperatives, or municipal governments.<sup>39</sup>

<sup>34</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(12).

<sup>35</sup> See ACA Connects Comments at 3-5; American Association of Service Coordinators at 2; California Emerging Technology Fund (CETF) Comments at 4-5; City and County of San Francisco Comments at 1; City of Austin, TX Comments at 2; City of Longmont, CO Comments at 3; Colorado Communications and Utility Alliance Comments at 2-3; National Association of Housing and Redevelopment Officials Comments at 2; National Association of Telecommunications Officers and Advisors Comments at 2-3; Nebraska Public Service Commission Comments at 5.

<sup>36</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(2).

<sup>37</sup> *Id.* § 904(a)(1).

<sup>38</sup> 47 CFR § 8.1(b).

<sup>39</sup> See, e.g., Next Century Cities Comments at 8-11 (describing community-owned networks and non-traditional ISPs); City of Longmont, CO Comments at 2; City of Seattle, Washington State Broadband Office, *et al.* Comments (continued...)

13. In the Consolidated Appropriations Act, Congress established that participating providers would be eligible to receive reimbursement for “internet service offering[s]” offered in the “same manner, and on the same terms, as described in any of such provider’s offerings for broadband internet access service to [an eligible] household[s], as on December 1, 2020.”<sup>40</sup> We interpret this provision to require participating providers to have offered retail broadband Internet access service to eligible households as of December 1, 2020. Consistent with the Commission’s broadband data reporting rules, participating providers will be able to establish through certification that they provided broadband Internet access service and reimbursable Internet service offerings on December 1, 2020 through reference to timely filing of FCC Form 477.<sup>41</sup> For providers that do not file FCC Form 477, participating providers must certify that they provided retail broadband Internet access service to end-users as of December 1, 2020.<sup>42</sup> We further clarify that the retail broadband Internet access service must be provisioned to end users, meaning the provider of retail broadband Internet access service maintains a direct relationship with the customer, is responsible for dealing with customer complaints, handles customer billing, and provides quality of service guarantees to the end user.<sup>43</sup> We find these provider certifications, in addition to the submission of broadband plan and rate information described below, appropriately satisfy the Consolidated Appropriations Act’s eligibility requirements. As described further below, ETCs must make a showing that they offer qualifying broadband service in the election notice filed with USAC. Non-ETCs will make a threshold showing in the approval process to the Bureau.

## 2. Election to Participate in Emergency Broadband Benefit Program by Existing ETCs and Bureau-Approved Providers

14. The Consolidated Appropriations Act directed the Commission to establish an expedited process where existing ETCs and other approved providers could “elect” to participate in the EBB Program and gain access to the necessary USAC databases being used to administer the Program.<sup>44</sup> We adopt the proposal to require all participating providers to file an election notice to participate in the EBB

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at 7; City of Los Angeles, *et al.* Comments at 15-17; City of Oakland Comments at 1-2; National Association of Telecommunications Officers and Advisors (NATOA) Reply at 5-6; Small Business & Entrepreneurship Council (SBE) Reply at 2; LGBT Technology Partnership Reply at 2; The Wisconsin Department of Public Instruction Reply at 3; City of Casa Grande, Arizona Reply at 1; Next Century Cities Reply at 12-14; City of San Jose Reply Comments at 2.

<sup>40</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(9).

<sup>41</sup> See *Form 477 Data as of December 31, 2020 are Due No Later than March 1, 2021*, Public Notice, DA 21-33 (OEA 2021); See FCC, *Form 477 Resources*, <https://www.fcc.gov/economics-analytics/industry-analysis-division/form-477-resources> (Jan. 22, 2021). The Commission will consult the subscription data provided on the FCC Form 477 to determine compliance with this requirement. To fulfill this requirement, a provider should reference the most recent FCC Form 477 data month submission showing service in the jurisdiction. See FCC, *Who Must File Form 477?*, <https://us-fcc.app.box.com/v/WhoMustFileForm477>, para. 1 (Dec. 31, 2019) (“An entity that is a facilities-based provider of broadband connections to end users must complete and file the applicable portions of this form if it has one or more broadband connection in service to an end user on the as-of date associated with the form (either June 30 or December 31).”). For providers that cannot reference an earlier FCC Form 477 filing and will be filing FCC Form 477 data for the December 31, 2020 on the extended deadline, the provider should certify to providing service as of December 1, 2020 and reference the upcoming FCC Form 477 filing. See *FCC Form 477 Filing Interface Experiencing Technical Issues; Filing Deadline Extended*, Public Notice, DA 21-218 (OEA 2021).

<sup>42</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6).

<sup>43</sup> This approach is consistent with the Commission’s approach to “offering” services. See *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, 35 FCC Rcd 6077, 6129, para. 139 & n.322 (2020).

<sup>44</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(12)(B), (3).

Program.<sup>45</sup> This election will be filed with USAC to facilitate the administration of the program and provide USAC the necessary information to incorporate providers into its systems for eligibility determination, enrollment, and reimbursement.<sup>46</sup>

15. Existing ETCs will need to only file an election with USAC, while non-ETCs will need to first apply and then obtain Bureau approval prior to filing their election with USAC. Accordingly, we direct the Bureau to establish a priority application window during which non-ETC providers seeking approval to participate in the EBB Program will have the opportunity to obtain approval prior to commencement of consumer enrollments. Non-ETCs that file complete applications for approval meeting the necessary criteria by the priority application deadline will know of their status prior to the start date for the EBB Program. We believe establishing this priority application deadline provides adequate time for prospective providers to evaluate the rules of the EBB Program adopted today and to prepare applications, while also encouraging prospective providers to accelerate their consideration consistent with the need to quickly begin providing these supported broadband services. We direct the Bureau and USAC to work expeditiously to review provider applications and elections, respectively, and we direct the Bureau to issue additional guidance and instruction as necessary for providers seeking to participate in the EBB Program. Further, we expect the Bureau and USAC to prioritize their reviews to limit excessive delay in issuing approvals of the applications and elections once properly submitted by the providers.

16. We agree with commenters that providers and, more importantly, their subscribers should have equal opportunity and access to the Emergency Broadband Benefit.<sup>47</sup> By allowing non-ETC providers to obtain the necessary administrative approvals prior to the commencement of the program, eligible households will have more choices in the provider they can select to obtain supported broadband service and devices. Following the close of this priority application window, the Bureau, in coordination with USAC, will establish and announce a uniform start date on which providers can begin to enroll qualifying subscribers in the EBB Program.<sup>48</sup> This start date must allow for processing of elections and applications of both existing ETCs and non-ETCs to enable a consistent start date for all providers.

17. By establishing a priority application window and uniform start date, we intend to afford providers the necessary time to update their systems and enrollment processes to effectively participate in the Program. Furthermore, preparation and modification to both Commission and USAC systems is necessary to administer the Program. While leveraging the existing Lifeline processes provides some efficiencies, USAC needs to modify the Lifeline systems to accommodate workflows associated with the EBB Program, including updates to the National Verifier, NLAD, RAD, and the Lifeline Claims System (LCS). These updates require development, security assessments, and privacy assessments and approvals

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<sup>45</sup> *Public Notice* at 2.

<sup>46</sup> See USTelecom Comments at 12, 17; Verizon Comments at 4; ACA Connects Comments at 14; CETF Comments at 27; Comcast Comments at 11-13; Competitive Carrier Association (CCA) Comments at 5; Emergency Broadband Benefit Carriers Comments at 3-4; Hughes Network Systems Comments at 3; NTCA Comments at 14-15; Thacker-Grigsby Telephone Company, Inc. Comments at 1-2; T-Mobile Comments at 8.

<sup>47</sup> See ACA Connects Comments at 3-5; American Association of Service Coordinators at 2; CETF Comments at 4-5; City and County of San Francisco Comments at 1; City of Austin, TX Comments at 2; City of Longmont, CO Comments at 3; Colorado Communications and Utility Alliance Comments at 2-3; Comcast Comments at 18-20; National Association of Housing and Redevelopment Officials Comments at 2; National Association of Telecommunications Officers and Advisors Comments at 2-3; Nebraska Public Service Commission Comments at 5; NCTA-The Internet & Television Association (NCTA) Comments at 6-7; Wireless Internet Service Providers Association Comments (WISPA) Comments 4-6; ACA Connects Reply at 2; CTIA Reply at 5; SBE Reply at 2; Starry Reply at 8; Verizon Reply at 3.

<sup>48</sup> A participating provider may not begin offering the Emergency Broadband Benefit or claim reimbursement for that benefit until after the Program has started, the provider has received all necessary application and election notice approvals.



required by the Privacy Act,<sup>49</sup> such as System of Records Notices (SORNs), Computer Matching Agreements (CMAs),<sup>50</sup> and systems testing to ensure an effective launch. These measures comply with Congressional and government-wide directives designed to protect the privacy and security of members of the public who submit their information to the government, including households who choose to participate in the Program. While we can launch the EBB Program with manual review processes that do not require all of these approvals, automated eligibility, and administrative processes greatly improve functionality. We remain committed to expeditiously and successfully launching the EBB Program.

**a. Obligations of Existing ETCs to Participate in the Emergency Broadband Benefit Program**

18. The Consolidated Appropriations Act provides that an existing ETC is a “participating provider” for the purposes of the EBB Program.<sup>51</sup> The Consolidated Appropriations Act does not require existing ETCs to seek approval to participate in the Program.<sup>52</sup> Instead, existing ETCs must only “elect” to participate in the Program to be eligible for reimbursement for broadband services.<sup>53</sup> Existing ETCs will be able to file these elections to participate in the EBB Program in the states or territories where they have already received an existing ETC designation. To ease administrative burdens, we allow an ETC to file an election for itself and its affiliates who provided broadband service as of December 1, 2020 within the states or territories (collectively “jurisdictions”) where the provider was designated as an ETC.<sup>54</sup> In other jurisdictions where neither the provider nor its affiliate has an existing ETC designation, the provider must seek either automatic or expedited approval from the Bureau prior to submitting the election notice to USAC.

19. We find extending elections to ETC affiliates is consistent with the Commission’s practices in Lifeline and High Cost that ETCs can satisfy their statutory obligations to “offer” reimbursable and supported services through affiliated entities.<sup>55</sup> Similarly, commenters support the ability of ETCs and affiliates to elect to participate in jurisdictions where the ETC is designated.<sup>56</sup> Allowing elections to be filed for both ETCs and affiliates without seeking additional approval for the affiliated entities will also ease administrative burdens and more quickly allow providers access to the

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<sup>49</sup> 5 U.S.C. § 552a.

<sup>50</sup> 5 U.S.C. § 552a(r).

<sup>51</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(12)(A)(i).

<sup>52</sup> *Id.* § 904(d)(2)(A).

<sup>53</sup> *Id.* § 904(a)(12)(B).

<sup>54</sup> See 47 U.S.C. § 153(2) (defining an affiliate as “a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person”). We also find support in the record for permitting the election to be made by ETCs and affiliates within the ETC’s service area. See Viasat Comments at 4; T-Mobile Comments at 8; Verizon Comments at 4-5; WTA Comments at 8; AT&T Comments at 10; NTCA Comments at 3 n.5, 7-8 n.14.

<sup>55</sup> See *2016 Lifeline Order*, 31 FCC Rcd at 4058-59, para. 262 (explaining that under the Commission’s interpretation of section 214(e)(1), the requirement that an ETC offer the supported services through “its own facilities or a combination of its own facilities and resale of another carrier’s service” would be satisfied when service is provided by any affiliate within the holding company structure); *Rural Digital Opportunity Fund Phase I Auction Scheduled For October 29, 2020; Notice and Filing Requirements and Other Procedures For Auction 904*, WC Docket Nos. 20-34 et al., Public Notice, 35 FCC Rcd 6077, 6128-29, paras. 138-139 (2020) (explaining the Commission’s practice of not requiring a provider to offer universal service wholly over its own facilities and allowing a provider to offer services over facilities as either exclusively the ETC’s own or when the service is provided by any affiliate within the holding company structure).

<sup>56</sup> See Viasat Comments at 4; T-Mobile Comments at 8; Verizon Comments at 4-5; WTA Comments at 8; AT&T Comments at 10; NTCA Comments at 3 n.5, 7-8 n.14; Tracfone Reply at 4-7.

EBB Program. Further, ETCs and affiliated entities are more familiar with the obligations and requirements within a particular jurisdiction to safeguard funds similar to the EBB Program. We find permitting this election is consistent with the Consolidated Appropriations Act's provisions regarding ETC elections and the Commission past treatment of ETC requirements.

20. We decline to adopt the proposals in the record that would allow an existing ETC to offer service supported by the EBB Program in any jurisdiction, or even nationwide, regardless of where the ETC has been designated or where it had previously provided broadband service.<sup>57</sup> First, ETC designations are inherently geographically limited due to the unique authority states have to designate ETCs.<sup>58</sup> Thus, we believe the provision in the Consolidated Appropriations Act that relies on existing ETC designations and automatically qualifies ETCs to participate in the EBB Program supports the proposition that ETCs should be limited in the EBB Program to the jurisdictions in which they have already been designated. Moreover, had the Consolidated Appropriations Act intended to allow ETCs to offer supported service everywhere regardless of the designation, Congress would not have needed to provide a path for non-ETC providers to participate in the program in addition to ETCs.<sup>59</sup> As identified in the record,<sup>60</sup> providers with existing ETC designations or affiliated with ETCs have significant relevant experience with the policies and procedures needed to carry out the EBB Program obligations. However, in states where a provider is not designated as an ETC, we have less confidence that the provider has established procedures and compliance processes necessary for program participation in that state. This decision is further bolstered by the Consolidated Appropriations Act's requirement that participating providers would be eligible to receive reimbursement for "internet service offerings" offered in the "same manner, and on the same terms, as described in any of such provider's offerings for broadband internet access service to [eligible] household, as on December 1, 2020."<sup>61</sup> Approving a provider to participate in a jurisdiction where it previously did not offer service would render this statutory provision moot.

**b. Provider Election Process to Participate in the Emergency Broadband Benefit Program**

21. We direct USAC, under the supervision of and in coordination with the Bureau, to establish and administer a process to enable all participating EBB Program providers to file election notices containing information sufficient to effectively administer the program. We direct USAC to collect information in such notices that includes: (1) the states in which the provider plans to participate in the EBB Program; (2) a statement that, in each such state, the provider was a "broadband provider" as of December 1, 2020; (3) a list of states where the provider is an existing ETC, if any; (4) a list of states where the provider received FCC approval, whether automatic or expedited, to participate, if any; (5) whether the provider intends to distribute connected devices under the EBB Program; (6) a description of the Internet service offerings for which the provider plans to seek reimbursement from the EBB Program in each state; (7) documentation demonstrating the standard rates for those services; and (8) any other administrative information necessary for USAC to establish participating providers in the EBB Program. In addition to these criteria, participating providers must certify under penalty of perjury that the information set forth in the election notice is true, accurate, and complete; they understand and will

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<sup>57</sup> See NaLA Comments at 4-8 (proposing all ETCs designated by any state of the Commission should be permitted to offer the Emergency Broadband Benefit in all states and that the December 1, 2020 limitation in the statute does not impose geographic limitations).

<sup>58</sup> See 47 U.S.C. § 214(e)(2) ("A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission.").

<sup>59</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(12)(A)(ii).

<sup>60</sup> See Viasat Comments at 4; T-Mobile Comments at 8; Verizon Comments at 4-5; WTA Comments at 8; AT&T Comments at 10; NTCA Comments at 3 n.5, 7-8 n.14; Tracfone Reply at 5-6; Verizon Reply at 2-3.

<sup>61</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(9).

comply with all statutory and regulatory obligations described within this Order, including the public interest conditions of offering EBB Program services throughout the provider's designated service area; and all terms and conditions and other requirements applicable to using the National Verifier, NLAD, RAD, and other USAC systems. Providing materially false information in the election notice will disqualify a provider from participation in the EBB Program. We find support in the record for adopting these requirements and certifications.<sup>62</sup> These requirements align with the Consolidated Appropriations Act's requirements for provider participation and eligibility.<sup>63</sup>

22. Provider elections must include the following information to establish that the provider has met the criteria and can provide enough information to allow USAC to administer the program. We direct USAC, under the supervision of and in coordination with the Bureau, to establish and administer this election process consistent with this Order.

- (a) *List of states in which the provider plans to participate in the EBB Program.* A provider must list each state in which it will offer EBB Program services. Consistent with USAC's existing processes, providers should be prepared to identify to USAC the postal ZIP code(s) or Census Block(s) where the provider will offer EBB Program service to obtain Service Provider Identification Number(s) (SPINs) or Study Area Codes (SACs) to the extent necessary.
- (b) *A statement that, in each such state, the provider was a "broadband provider" as of December 1, 2020.* Consistent with the Commission's broadband data reporting rules, participating providers will be able to establish that they provided broadband Internet access service and reimbursable Internet service offerings on December 1, 2020 through reference to previous FCC Form 477 filings.<sup>64</sup> Providers are required to submit data as of December 31, 2020, and reference to a FCC Form 477 filing for the December data submission will demonstrate the provider offered broadband services.<sup>65</sup> Providers that are not required to file FCC Form 477 must certify that they provided retail broadband Internet access service to end users as of December 1, 2020 and identify the underlying carrier providing the network facilities.<sup>66</sup>
- (c) *A statement identifying where the provider is an existing ETC.* A provider who is an ETC or is affiliated with an ETC seeking to begin offering the Emergency Broadband Benefit must submit

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<sup>62</sup> See USTelecom Comments at 12, 17; Verizon Comments at 4; ACA Connects Comments at 14; CETF Comments at 27; Comcast Comments at 11-13; CCA Comments at 5; Emergency Broadband Benefit Carriers Comments at 3-4; Hughes Network Systems Comments at 3; NTCA Comments at 14-15; Thacker-Grigsby Telephone Company, Inc. Comments at 1-2; T-Mobile Comments at 8.

<sup>63</sup> Consolidated Appropriations Act, div. N, tit. IX, §§ 904(a)(9), (a)(13), (d)(2)(A) ("The Commission shall establish an expedited process by which the Commission approves as participating providers broadband providers that are not designated as [ETCs] . . .").

<sup>64</sup> See *Form 477 Data as of December 31, 2020 are Due No Later than March 1, 2021*, Public Notice, DA 21-33 (OEA 2021); See FCC, *Form 477 Resources*, <https://www.fcc.gov/economics-analytics/industry-analysis-division/form-477-resources> (Jan. 22, 2021). The Commission will consult the subscription data provided on the FCC Form 477 to determine compliance with this requirement. To fulfill this requirement, a provider should reference the most recent FCC Form 477 data month submission showing service in the jurisdiction. See FCC, *Who Must File Form 477?*, <https://us-fcc.app.box.com/v/WhoMustFileForm477>, para. 1 (Dec. 31, 2019) ("An entity that is a facilities-based provider of broadband connections to end users must complete and file the applicable portions of this form if it has one or more broadband connection in service to an end user on the as-of date associated with the form (either June 30 or December 31)."). For providers that cannot reference an earlier FCC Form 477 filing and will be filing FCC Form 477 data for the December 31, 2020 on the extended deadline, the provider should certify to providing service as of December 1, 2020 and reference the upcoming FCC Form 477 filing. See *FCC Form 477 Filing Interface Experiencing Technical Issues; Filing Deadline Extended*, Public Notice, DA 21-218 (OEA 2021).

<sup>65</sup> *Id.*

<sup>66</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6).

to USAC documentation demonstrating that it is a participating provider in specific states. While ETCs are automatically eligible to participate and likely have already obtained administrative numbers from USAC, such as SPINs or SACs, requiring demonstration of ETC status, filing this statement with USAC will allow for better processing of elections.

- (d) *A statement identifying where the provider received FCC approval to participate in the EBB Program.* Providers seeking approvals outside of states where they are existing ETCs or are affiliated with existing ETCs will need to identify those states and submit the Bureau approval to participate in the program.<sup>67</sup>
- (e) *A statement confirming whether the provider intends to distribute connected devices under the EBB Program.* Providers seeking reimbursement for connected devices must submit a statement of intent to distribute connected devices as part of their election notice. These providers should also include documentation detailing the equipment, rates, and applicable costs of the laptop, desktop or tablet. Connected devices should be accessible to and usable by users with disabilities.<sup>68</sup> To the extent the provider will offer connected devices that are also generally available to the public, it may provide summary information regarding the devices, rates, and costs, such as a link to a public website or screenshots.
- (f) *Description and documentation of the Internet service offerings for which the provider plans to seek reimbursement from the EBB Program in each state.* Providers must submit documentation for the Internet service offerings they will offer through the EBB Program. The participating provider should provide information detailing each service offering for which it plans to seek reimbursement from the EBB Program. This information and documentation should identify the service plan, details about the service such as speed and data caps, the service offering standard rate, equipment costs, jurisdiction where it is offered, and documentation establishing the rate was available on December 1, 2020. The provider can provide this information and documentation through the submission of price lists, rack rates, rate cards, or similar documentation. For service offerings that are publicly available a website or screenshot can be provided. For offerings that cannot be publicly viewed the provider should submit documentation demonstrating the offering was available on December 1, 2020 such as customer bills or publicly available advertisements. The provider can provide aggregated summaries of service offerings and standard rates made available to eligible households, if those offerings and rates are the same for multiple jurisdictions. This will reduce the administrative burden for both participating providers and the Commission in producing and reviewing voluminous service offering descriptions that are substantially similar.<sup>69</sup>

23. In addition, providers must also be able to provide or otherwise obtain the necessary administrative registrations to utilize Commission and USAC processes. These processes include the Commission Registration System (CORES), FCC Registration Number (FRN), Service Provider Identification Number(s) (SPINs), Study Area Codes (SACs), System for Award Management (SAM), and/or Dun & Bradstreet DUNS number for all entities the provider anticipates seeking reimbursement. Providers should be prepared to provide this administrative information during the election process to USAC.

24. *Processing of Elections.* We direct USAC in coordination with the Bureau to

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<sup>67</sup> See 47 U.S.C. § 153(2) (defining an affiliate as “a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person”).

<sup>68</sup> See TDI et al. Comments at 4 (stating that if “people who are deaf, hard of hearing, DeafBlind, or deaf with mobility issues cannot access the equipment that allows them to most effectively utilize broadband service, they will be less likely to maximize use of their broadband service”).

<sup>69</sup> See Letter from Mike Saperstein, Vice President, USTelecom, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-445, at 2 (filed Feb. 19, 2021); Letter from Michael R. Romano, Senior Vice President, NTCA, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-445, at 2 (filed Feb. 22, 2021); NCTA Comments at 7.

expeditiously process election notices. USAC should establish necessary systems and processes to systematically review election notices as quickly as possible, and at least ensure all elections filed by existing ETCs and elections from providers seeking approvals in the priority application window are processed prior to the commencement of the program. USAC should notify a provider promptly if its election notice is incomplete or otherwise contains errors that prevent USAC from processing the election notice. USAC shall process election notices received during the priority application window prior to the uniform reimbursement start date. USAC will only reject election notices that are materially incomplete and that the provider fails to update.

### 3. Non-ETC Provider Application and Approval Process

25. The Consolidated Appropriations Act establishes that providers not already designated as an ETC that wish to participate in the EBB Program can seek either an automatic or expedited approval from the Commission based on certain criteria.<sup>70</sup> Specifically, the Consolidated Appropriations Act requires the Commission to establish an expedited process for such approval and “to automatically approve as a participating provider a broadband provider that has an established program as of April 1, 2020, that is widely available and offers internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse.”<sup>71</sup> Consistent with this Congressional directive, we establish both an automatic approval and an expedited approval process for non-ETC providers seeking to participate in the Program. We delegate to the Bureau the authority to establish the process by which providers seek these approvals, including through appropriate direction to USAC. Eligible providers that have submitted complete applications by the priority application deadline will know prior to the start date of the EBB Program if they are eligible to participate. Applications from providers filed after priority application deadline will be reviewed on an expedited, rolling basis.

26. Some commenters have suggested the Commission provide an opportunity for states to assist in the decisions to approve non-ETC providers for the EBB Program. After due consideration, we decline to provide a formal role in the approval process to state public utilities commissions (PUCs). First, we acknowledge the states’ traditional and essential role in designating ETCs as provided in section 214.<sup>72</sup> It is well-established that states have the primary responsibility for designating ETCs, and the Commission is only to designate an ETC where a state lacks jurisdiction over the carrier applying for designation.<sup>73</sup> In fact, in the Consolidated Appropriations Act, Congress has recognized the importance of states’ roles in the selection of providers for the EBB Program by permitting ETCs designated by states automatic entry. However, the Consolidated Appropriations Act also specifically requires that non-ETC providers be approved for participation by the Commission and does not provide a role for the states.<sup>74</sup> We also recognize this is a temporary, emergency program with limited funding and it is essential we move quickly in establishing the program and approving the participating providers. While we decline to establish a formal role for states in the approval of those non-ETC providers, we understand the states’ interest in knowing the providers who are or will be providing the supported broadband service in their jurisdiction and thus we will make publicly available the names of approved providers in each state, along

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<sup>70</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(d).

<sup>71</sup> *Id.* § 904(d)(2).

<sup>72</sup> See California Public Utilities Commission Comments at 3-4; Michigan Public Service Commission (Michigan PSC) Comments at 2-5; Mississippi Public Service Commission Comments at 3; NARUC Comments at 9, 11-12; Nebraska Public Service Commission Comments at 5-6; Vermont Public Utility Commission and Vermont Department of Public Service (Vermont PUC et al.) Comments at 4-5; Michigan Department of Labor and Economic Opportunity Reply at 2-3; Michigan Department of Agriculture and Rural Development Reply Comments at 2-3; Michigan Economic Development Corporation Reply at 2-3; Michigan Department of Health and Human Services Reply at 2-3; Vermont PUC and Department of Public Service Reply at 1-2.

<sup>73</sup> See 47 U.S.C. §§ 214(e)(2), (6).

<sup>74</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904(d)(2).

with other information related to our approvals.

a. **Automatic Approval Process for Providers with Existing Support Programs**

27. We adopt an automatic approval process consistent with the Consolidated Appropriations Act to enable non-ETC broadband providers with “an established program as of April 1, 2020, that is widely available and offers Internet service offerings to eligible households and maintains verification processes that are sufficient to avoid fraud, waste, and abuse” to be automatically approved upon the filing of information meeting the criteria.<sup>75</sup> Any non-ETC broadband provider seeking to qualify for such automatic approval must file an application describing: (1) the jurisdiction in which it plans to participate, (2) the service areas in which the provider has the authority, if needed, to operate in each state, but has not been designated an eligible telecommunications carrier, and (3) a description, supported by documentation, of the established program with which the provider seeks to qualify for automatic admission to the EBB Program.

28. *Established Program as of April 1, 2020.* To facilitate provider participation in the program, we adopt a broad interpretation of what constitutes an “established program” that is “widely available.”<sup>76</sup> We find that this requirement encompasses any eligible broadband provider that maintains an existing program that was made available by April 1, 2020 to subscribers meeting at least one of the criteria in the Consolidated Appropriations Act’s definition of an eligible household.<sup>77</sup> Specifically, providers offering broadband subscribers discounted rates based on criteria such as low-income, loss of income, participation in federal, state, or local assistance programs, or other means-tested eligibility criteria qualify for this automatic approval process. Additionally, providers that made commitments to keep subscribers connected during the pandemic and offered widely available bill forbearance or forgiveness programs beginning no later than April 1, 2020 and continuing through the end of this EBB Program, will be eligible for automatic approval. We find that providing automatic approval for providers that actively offer targeted low-income programs or programs in which providers otherwise engaged in systematic and ongoing billing practices, like forbearance or forgiveness, that actively reduced costs for struggling subscribers is consistent with the Consolidated Appropriations Act’s requirements. These actions reduced the financial burden on struggling households consistent with the Congressional intent of the EBB Program. The principal consideration in determining an “established program” for automatic approval is whether subscribers receive or were eligible to receive a financial benefit through either reduced rates or rate forbearance.

29. Consistent with such a broad interpretation, we find that a program is “widely established” when it was offered to subscribers in a substantial portion of the service provider’s service area in a particular state. We decline to adopt an interpretation that a program must be offered throughout the provider’s national or multi-state service territory to be widely available. We find support in the record that many considerations factor into offering such programs that are not consistent across jurisdictions, such as state and local privacy laws, access to eligibility information, broadband carrier requirements, or the lack of consistent assistance programs.<sup>78</sup> We believe Congress’s use of “widely

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<sup>75</sup> *Id.* § 904(d)(2).

<sup>76</sup> *Id.* § 904(d)(2); *see also* Information Technology & Innovation Foundation Comments at 2-3; ACA Connects Comments at 17-19; NCTA Comments at 4-5; WISPA Comments at 8-10; Starry at 3; Verizon at 5; Comcast at 4, 14-15; Charter Communications at 4-5; City of Longmont, CO Comments at 5-6; Multicultural Media, Telecom and Internet Council, National Urban League Comments at 8-9 (Multicultural Media *et al.*); Starry Comments at 3; WTA Comments at 8.

<sup>77</sup> *See* Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6).

<sup>78</sup> *See* ACA Connects Comments at 18-19; CCA Comments at 6-7; Cherokee Nation Comments at 2; City of Longmont, CO Comments at 5-6; DigitalC Comments at 4-5; LeadingAge Comments at 3; NeighborWorks America Comments at 3; Stewards of Affordable Housing at 2.

(continued...)

available” in lieu of more sweeping alternatives expresses the intent to have this term apply to service offerings made publicly available even if the existing program was not available throughout a providers entire service area. Further, the public interest favors an interpretation of this requirement that broadly defines the type of qualifying programs, supports expeditious entry where possible and in turn makes EBB Program support available as quickly as possible.<sup>79</sup>

30. *Required Verification Processes.* The Consolidated Appropriations Act also requires that providers seeking automatic approval to participate in the EBB Program have established programs that maintain verification processes that are “sufficient to avoid fraud, waste, and abuse.”<sup>80</sup> We find that applying this requirement in a forward-looking manner strikes the appropriate balance between responsible stewardship of the funds and ensuring broad provider participation. Providers that have been offering a broadband program for eligible households have generally foregone collecting revenue they might otherwise have assessed from participating subscribers. Those providers therefore already have incentive to prevent enrollment in their programs by ineligible households. Providers submitting applications for automatic approval must describe only the established program and participation requirements to meet the approval criteria.<sup>81</sup>

31. Providers that receive automatic approval to participate in the EBB Program will use the Lifeline National Verifier and NLAD to verify household eligibility or their own alternative household eligibility verification processes, or the combination of both before seeking reimbursement. Even if a provider has its own existing broadband program for determining eligible households, it may decide to use the National Verifier for some or all applications to the EBB Program, although it is not required to do so. We find that permitting automatically approved providers to use USAC’s eligibility determination systems in a manner consistent with the Consolidated Appropriations Act as described below further bolsters program protections against waste, fraud, and abuse.<sup>82</sup>

32. *Timing of Approvals.* Providers that file applications certifying to and making necessary demonstrations for the criteria outlined above will receive approval automatically upon filing once the Bureau confirms all required information was submitted. We agree with commenters in the record who argue the intent of Congress was to create an automatic presumption of approval for providers with existing support programs.<sup>83</sup> Thus, we delegate to the Bureau the authority to create and administer an application process that will automatically approve provider applications meeting the criteria described above. Additionally, once approved, all providers must file with USAC an election to participate in the EBB Program to gain access to USAC systems.

#### **b. Expedited Review Process for Non-ETC Providers**

33. We adopt an expedited review process for non-ETC providers that do not qualify for automatic application processing and are not affiliated with an ETC in the same jurisdiction. Such providers must file an application for expedited review to receive approval from the Bureau to participate

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<sup>79</sup> See ACA Connects Comments at 18-19; CCA Comments at 6-7; Cherokee Nation Comments at 2; City of Longmont, CO Comments at 5-6; DigitalC Comments at 4-5; LeadingAge Comments at 3; NeighborWorks America Comments at 3; Stewards of Affordable Housing at 2.

<sup>80</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(d)(2)(b).

<sup>81</sup> See *infra* paras. 62-67.

<sup>82</sup> *Infra* Section III.B.2-3, paras. 49-67.

<sup>83</sup> ACA Connects Comments at 17-19; NCTA Comments at 4-6; WISPA Comments at 8; Starry at 3; Verizon at 5; Comcast at 4, 14-15; Charter Comments at 4-5; CTIA Comments at 11; INCOMPAS Comments at 10; Information Technology & Innovation Foundation Comments at 2-3; Student Internet Equity Coalition Comments at 7; T-Mobile Comments at 8; Altice Reply at 1-2.

in the EBB Program. As proposed in the *Public Notice*,<sup>84</sup> each non-ETC broadband provider seeking to participate must file an application describing: (1) the state(s) in which it plans to participate, (2) the service areas in which the provider has the authority, if needed, to operate in each state but has not been designated an eligible telecommunications carrier, and (3) documentation of the provider's plan to combat waste, fraud, and abuse. These requirements align with the Consolidated Appropriations Act's requirements for provider participation and eligibility.<sup>85</sup>

34. Provider applications for review must establish a sufficient showing that the provider has met the criteria for expedited review and approval, as outlined below. We direct the Bureau to establish and administer this expedited application review process consistent with this Order.

- (a) *A list of states or territories where the provider will offer EBB Program services.* A provider seeking approval must list each jurisdiction in which it seeks to be approved to offer EBB Program services. While the provider need only identify the state or territory where it plans to offer qualifying services for purposes of its submission to the Bureau, providers should be prepared to identify to USAC in their election the postal ZIP code(s) or Census Block(s) where Program service will be offered to obtain Service Provider Identification Number(s) (SPINs) or Study Area Codes (SACs), as necessary.
- (b) *A statement identifying the jurisdiction in which the provider requires FCC approval and jurisdictions in which the provider is an existing ETC.* Providers that are designated as an ETC or affiliated with an ETC<sup>86</sup> in some states or territories must submit an application and obtain Bureau approval to participate in the Program in states or territories where the provider is not designated as an ETC. Providers, even if already designated as an ETC in some states or territories, must seek Bureau approval to offer EBB Program services in states or territories in which the provider is not designated as an ETC. Because such applications will be reviewed on either an automatic or expedited basis, we do not expect such a requirement to impose a significant burden on providers. Providers without an ETC designation or unaffiliated with an ETC must certify that they are authorized to provide broadband services as of December 1, 2020.
- (c) *Documentation of the provider's plan to combat waste, fraud, and abuse.* Participating provider applications must include a certification that the provider understands and complies with all statutory and regulatory obligations, including those described within this Order, as public interest conditions of offering EBB Program services. Specifically, a provider must certify that it will:
  - (i) confirm a household's eligibility for the Program through either the National Verifier or a Commission-approved eligibility verification process prior to seeking reimbursement for the respective subscriber;
  - (ii) follow all enrollment requirements and obtain all certifications as required by the EBB Program, including providing eligible households with information describing the Program's eligibility requirements, one-per-household rule, and enrollment procedures;
  - (iii) interact with the necessary USAC systems, including the National Verifier, NLAD, and RAD, before submitting claims for reimbursement, including performing the necessary checks to ensure the household is not receiving duplicative benefits within the EBB Program;
  - (iv) de-enroll from the Program any household it has a reasonable basis to believe is no longer

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<sup>84</sup> *Public Notice* at 5.

<sup>85</sup> Consolidated Appropriations Act, div. N, tit. IX, §§ 904(a)(9), (13), (d)(2)(A) ("The Commission shall establish an expedited process by which the Commission approves as participating providers broadband providers that are not designated as [ETCs] . . .").

<sup>86</sup> See 47 U.S.C. § 153(2) (defining an affiliate as "a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person").



- eligible to receive the benefit consistent with Program requirements;
- (v) comply with the Program's document retention requirements and agree to make such documentation available to the Commission or USAC, upon request or any entities (for example, auditors) operating on their behalf; and
  - (vi) agree to the Commission's enforcement and forfeiture authority.

35. *Timing of Approvals.* Providers that have filed an application satisfying the criteria outlined above will receive expedited review. We decline to adopt a deemed granted date or other specific application review deadlines for the expedited review process. Providers submitting applications by the priority application deadline will receive a determination prior to the start of the EBB Program. Accordingly, we believe specific application review deadlines are unnecessary. We delegate to the Bureau the authority to create and administer an application review process that will expeditiously consider provider applications meeting the criteria described above. Additionally, all approved providers must file an election with USAC to participate in the EBB Program.

#### 4. Conditions and Requirements for Participating Providers

36. We find there is authority within the Consolidated Appropriations Act to require participating providers to offer the EBB Program benefit throughout the provider's approved service area. Additionally, we find that use of existing USAC databases is the most efficient way to begin the program quickly while ensuring adequate safeguards to prevent waste, fraud, and abuse. Accordingly, we authorize USAC to make available the appropriate databases to administer the program including the National Verifier, NLAD, RAD, and LCS. We direct USAC to take the appropriate actions to update, modify, or create the necessary USAC systems to administer the EBB Program in line with the Commission's direction in this Order. We further delegate authority to the Bureau and the Office of Managing Director to supervise and coordinate with USAC all actions necessary to make USAC databases and systems available for the EBB Program.

37. *Public Interest Conditions of Approvals.* We adopt our proposal to require providers to offer the EBB Program discount on at least one service offering across all of its approved service areas in each of the states in which it is approved to participate. We find that such an approach is consistent with the Consolidated Appropriations Act's requirements regarding the establishment of the Program to reimburse providers for discounts provided to subscribers<sup>87</sup> and supports the public interest in ensuring subscribers have access to the EBB Program. Further, the Consolidated Appropriations Act grants the authority to the Commission to determine whether a provider meets the requirements to participate in the EBB Program.<sup>88</sup> We agree with commenters that providers should not have to extend service offerings into areas where they currently do not exist and should not be mandated to offer a certain quality of service for the reasons further explained below.<sup>89</sup> Requiring providers to expand or otherwise deploy service offerings or existing programs into areas where they currently do not exist increases provider burdens and delays implementation for providers seeking to quickly offer EBB Program services. Approved providers must offer at least one EBB Program-reimbursed service to each of its eligible households within its service area. However, we also encourage participating providers to make EBB Program support available for all its service offerings for eligible households. Additionally, pursuant to the Consolidated Appropriations Act, participating providers must not deny an eligible household the ability to participate in the EBB Program based on any past or present arrearages with that provider, may not require an eligible household to pay an early termination fee if the household enters into a contract for its EBB Program-supported service and later terminates that contract, and may not subject EBB Program-

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<sup>87</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(4).

<sup>88</sup> *Id.* §§ 904(a)(12), (d)(2).

<sup>89</sup> *Supra* para. 20; *infra* Section III(C), paras. 70-75.

supported service to a mandatory waiting period based on a household having previously received service from that provider.<sup>90</sup>

38. *Notice to Consumers.* Providers also play an important role in ensuring that their customers are informed about the EBB Program at the point of application and enrollment. Providers will have a direct relationship with their customers, and as such, have a responsibility to ensure that these customers have the information they need to make an informed decision about the broadband service product they subscribe to supported by the EBB Program. Accordingly, we require participating providers to collect and retain documentation demonstrating that, prior to enrolling an existing subscriber in the EBB Program, the provider clearly disclosed to the household that the EBB Program is a government program that reduces the customer's broadband Internet access service bill, is temporary in nature, that the household will be subject to the provider's undiscounted rates and general terms and conditions at the end of the program if they continue to receive service, that the household may obtain broadband service supported by the EBB Program from any participating provider of their choosing, and that the household may transfer their EBB Program benefit to another provider at any time. The provider must also retain documentation demonstrating that, having received such disclosures, the household provided affirmative consent to applying their Emergency Broadband Benefit to the service received from the EBB provider. We believe that this disclosure and consent process will help ensure that low-income households are aware of their choices in the EBB Program without creating overly burdensome application requirements for those households.

39. *Use of the National Verifier, NLAD, RAD and other USAC databases.* We find that, consistent with the Consolidated Appropriations Act's provision allowing us to use USAC's systems and services to implement the EBB Program, participating providers will be required to use certain USAC systems, such as the Lifeline NLAD and RAD, for program administration and will be permitted to use the National Verifier to determine household eligibility.<sup>91</sup> We adopt our proposal to rely on the USAC-administered National Verifier, NLAD, RAD, LCS, and other established processes for the EBB Program, including the provider reimbursement process, call centers for program support, provider and consumer outreach, and conducting program integrity reviews.<sup>92</sup> Accordingly, we adopt the applicable part 54 rules that currently govern Lifeline provider interactions with these USAC systems. Specifically, we apply the requirements of sections 54.400(i), (o) defining the NLAD and National Verifier; 54.404 outlining carrier interactions with the NLAD; 54.406 outlining enrollment agent activities and requiring registration with the RAD; 54.410 where appropriate in requiring the use of the National Verifier for eligibility determinations; and 54.419 allowing the use of electronic signatures.<sup>93</sup> We direct the Bureau, and USAC as directed by the Bureau, to issue any further guidance or instruction necessary to clarify the obligations of EBB Program providers when using USAC databases and the administrative process established for the EBB Program.

40. *Safe harbor for participating providers.* The Consolidated Appropriations Act provides a safe harbor provision stating that the Commission may not enforce a violation of the Consolidated Appropriations Act using sections 501, 502, or 503 of the Communications Act, or any rules of the Commission promulgated under such sections, if a participating provider demonstrates that it relied in good faith on information provided to such provider to make any verification required by subsection

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<sup>90</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6), (b)(6)(B)(ii)-(iii).

<sup>91</sup> This requirement is only to the extent necessary as determined by the Bureau and USAC to administer the program. Providers with approved alternative verification process will not be required to use the National Verifier to enroll subscribers through that alternative process.

<sup>92</sup> *Public Notice* at 12.

<sup>93</sup> See 47 CFR §§ 54.400(i), (o), 54.404, 54.406, 54.410, 54.419. We clarify that where the language of the existing Lifeline rules conflict with the directions in this Order or any later guidance issued by WCB, or by USAC at the direction of WCB, the Order or subsequent guidance is controlling.

904(b)(2).<sup>94</sup> Section 904(b)(2) imposes a duty on participating providers to verify whether a household is eligible to receive the service and connected devices supported by this Program. We establish that this safe harbor will apply to providers who utilize the National Verifier for eligibility determinations or any alternative eligibility verification process that has received approval from the Commission consistent with this Order. The safe harbor applies to providers who act in “good faith” with respect to these eligibility verification processes.<sup>95</sup> The Commission has extensive experience in evaluating good faith actions of regulated entities in both negotiation and cost reimbursement.<sup>96</sup> In line with this experience, this safe harbor applies to participating providers for eligibility determinations who act in good faith based on information provided to them in the household eligibility and enrollment process. Good faith will be determined on the totality of circumstances surrounding the participating providers actions or statements. Participating providers that reasonably rely upon the documentation regarding eligibility determinations provided by eligible households or eligibility determinations from the National Verifier will be able to avail themselves of this statutory safe harbor for purposes of their compliance with the EBB Program rules.

### 5. Application and Election Procedures

41. A provider application to participate in the EBB Program will provide information used to determine whether the applicant has the legal and technical qualifications to participate in the EBB Program. An applicant must certify, under penalty of perjury, its qualifications. Non-ETC providers must certify under penalty of perjury that the information set forth in their application is true, accurate, and complete; they understand and will comply with all statutory and regulatory obligations described within this Order; and all terms and conditions and other requirements applicable to using the National Verifier, NLAD, RAD, and other USAC systems. Providing materially false information in the application will disqualify a provider from participation in the EBB Program. Eligibility to participate in the program is based on an applicant’s submission of required information and certifications. A potential applicant must take seriously its compliance duties and responsibilities and carefully determine before filing an application that it is able to meet the obligations associated with EBB Program support. An applicant’s filing and subsequent approval does not guarantee the applicant will receive EBB Program reimbursement. Each participating provider must file all required forms, information, and certifications with the Commission and USAC to receive reimbursement.

42. A non-ETC provider seeking to participate in the EBB Program must file the appropriate application, whether it is eligible for expedited or automatic approval, electronically, whether filing for automated or expedited approval, through the process announced by the Bureau following the adoption of this order.<sup>97</sup> An applicant provider bears full responsibility for submitting an accurate, complete, and timely application, and should thoroughly review the Program participating provider requirements, in addition to any subsequent guidance, to ensure all required information is included in its application. An applicant provider should be cognizant that submitting an application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the appropriate instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submitting a false

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<sup>94</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(j).

<sup>95</sup> *Id.*

<sup>96</sup> See *DIRECTV, LLC and AT&T Services, Inc. vs. Deerfield Media, Inc., et al.*, Memorandum Opinion and Order, Notice of Apparent Liability for Forfeiture, 35 FCC Rcd 10695, 10696-98, paras. 1-6 (2020) (discussing the Commission’s good faith obligations in retransmission consent); 47 CFR § 27.1182 (requiring good faith submission of cost sharing plan for AWS relocations); 47 CFR § 54.711 (requiring good faith estimates of contributor’s policies and procedures).

<sup>97</sup> Applicants will receive a response confirming receipt and should contact the Bureau if they do not receive such confirmation. Confirmation of receipt does not constitute determination that the application is complete as filed.

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certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, and ineligibility to participate in future Commission auctions or competitions, as well as criminal prosecution and/or liability under the False Claims Act.

**B. Household Eligibility**

**1. Emergency Broadband Benefit Program Eligible Households**

43. The Consolidated Appropriations Act directs that a household will qualify for the EBB Program<sup>98</sup> if at least one member of the household: (1) meets the qualifications for participation in the Lifeline program;<sup>99</sup> (2) has applied for and been approved to receive benefits under the free and reduced price lunch program under the Richard B. Russell National School Lunch Act<sup>100</sup> or the school breakfast program under section 4 of the Child Nutrition Act of 1966<sup>101</sup>; (3) has experienced a substantial loss of income since February 29, 2020 that is documented by layoff or furlough notice, application for unemployment insurance benefits, or similar documentation or that is otherwise verifiable through the National Verifier or the NLAD;<sup>102</sup> (4) has received a Federal Pell Grant under section 401 of the Higher Education Act of 1965<sup>103</sup> in the current award year;<sup>104</sup> or (5) meets the eligibility criteria for a participating provider's existing low-income or COVID-19 program, subject to approval by the Commission and any other requirements deemed by the Commission to be necessary in the public interest.<sup>105</sup> A household is eligible for the EBB Program regardless of whether any member of the household already receives a Lifeline benefit.<sup>106</sup> Further, a household is eligible for the Program "regardless of whether any member of the household has any past or present arrearages with a broadband provider."<sup>107</sup>

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<sup>98</sup> We also received comments seeking to expand eligibility to include other bases, such as participation in HUD programs that are not included in the Lifeline program, but we decline to expand eligibility beyond the eligibility requirements provided in the Consolidated Appropriations Act. *See, e.g.*, Internet for All Coalition – Internet for Dallas Comments at 2; LeadingAge Comments at 1-2; National Affordable Housing Management Association Comments (NAHMA) at 2; Stewards of Affordable Housing for the Future Comments at 2-3; American Association of Service Coordinators Comments at 2 (AASC).

<sup>99</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(A). A low-income consumer qualifies for Lifeline if the household is at or below 135% of the Federal Poverty Guidelines for a household of that size, or if at least one member of the household participates in Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), Federal Public Housing Assistance (FPHA), or Veterans and Survivors Pension Benefit. 47 CFR § 54.409(a). Under section 54.409(b), if the household is on Tribal lands, the household is eligible for Lifeline if at least one member of the household participates in in one of the following Tribal-specific federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations. 47 CFR § 54.409(b).

<sup>100</sup> 42 U.S.C. § 1751 *et seq.*

<sup>101</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(B); *see* 42 U.S.C. § 1751 *et seq.* (Richard B. Russell National School Lunch Act); 42 U.S.C. § 1773 (Child Nutrition Act of 1966).

<sup>102</sup> *Id.* § 904(a)(6)(C).

<sup>103</sup> *See* 20 U.S.C. § 1070a.

<sup>104</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(D).

<sup>105</sup> *Id.* § 904(a)(6)(E).

<sup>106</sup> *Id.* § 904(a)(6).

<sup>107</sup> *Id.*

44. While the Consolidated Appropriations Act provides a definition for “eligible household,”<sup>108</sup> it does not define “household” itself, and the *Public Notice* sought comment on “using the definition of ‘household’ provided in our Lifeline rules for purposes of administering the Program.”<sup>109</sup> The Lifeline rules define “household” as:

any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians.<sup>110</sup>

The record contains broad consensus supporting the proposal to use Lifeline’s definition of household, and we adopt this proposal.<sup>111</sup> Other commenters agree generally, without reference to the Lifeline definition, that multiple people should be able to receive the Program benefit at a single address, so long as the people were part of different households, similar to Lifeline’s definition of a household.<sup>112</sup> Some commenters disagree with our proposal to permit one benefit per household, noting that often times households will have multiple people requiring access to quality broadband and devices, and each may need a benefit even though they are part of the same household.<sup>113</sup> While we are cognizant of the varying needs of households, we read the Consolidated Appropriations Act to allow only a single benefit per household.<sup>114</sup> As a result, we will use the Lifeline program’s definition of household and we limit to each economic unit a single monthly Emergency Broadband Benefit and single connected device reimbursement. To help applicants determine if there is more than one household at an address, we will

<sup>108</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6).

<sup>109</sup> *Public Notice* at 6.

<sup>110</sup> 47 CFR § 54.400(h).

<sup>111</sup> See Vermont PUC et al. Comments at 5; NCLC and United Church of Christ (NCLC and UCC) Comments at 7; NTCA – The Rural Broadband Association Comments at 11 (NTCA); T-Mobile USA, Inc. Comments at 13; WISPA Comments at 10; National League of Cities Comments at 1; CTIA Comments at 5; EBBC Comments at 9 (EBBC); Microsoft Comments at 6-7; CETF Comments at 16; INCOMPAS Comments at 12-13; Michigan PSC Comments at 6; New York State Public Service Commission Comments at 4 (NYSPSC); Public Knowledge Reply at 8.

<sup>112</sup> Cathy Murahashi Comments at 1; Cities of Los Angeles et al. Comments at 18 (people living in family shelters, domestic violence shelters, or other temporary shelters should not be considered a single household); National Rural Electric Cooperative Association Comments at 6 (separate units at a single address should be separate households); LeadingAge Comments at 2 (there should not be a limit on beneficiaries at a multifamily housing address, even if there are no separate units and apartments); Baltimore Regional Housing Partnership Comments at 2 (the Commission should clarify that address includes separate units and apartments at multifamily housing properties); National Affordable Housing Management Association Comments at 3 (same); TracFone Wireless, Inc. Comments at 15 (Tracfone); Greater Washington DC Chapter of the Internet Society Comments at 4 (support having all economic households eligible for the benefit).

<sup>113</sup> Tech Goes Home Comments at 1; American Association of People with Disabilities Comments at 2 (suggesting that the “program allow for a number of enrollments and associated devices equal to the number of eligible people with disabilities in each household”) (AAPD); Navajo Nation Telecommunications Regulatory Commission Comments at 6-7; Council of the Great City Schools Comments at 5; Council of the Great City Schools Reply at 3-4.

<sup>114</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6) (distinguishing between a household and a member of the household); *id.* § 904(a)(7) (allowing the emergency broadband benefit of a monthly discount for “an eligible household,” and not for separate members of a household).

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make available for the EBB Program a Household Worksheet to confirm whether an applicant is part of an independent economic household from other existing EBB subscribers.<sup>115</sup> For providers conducting eligibility determinations pursuant to an approved alternative verification process, we will require that such processes include measures to confirm that a household, under the definition we adopt here, is not receiving more than one EBB Program benefit. We also direct USAC to conduct periodic program integrity reviews to confirm that EBB subscribers located at the same address are in compliance with these requirements.

45. Commenters also argue the EBB Program should support broadband provided to multiple dwelling units at a single address, such as senior and student living, mobile home parks, apartment buildings, and federal housing units, that receive service as part of a bulk billing arrangement where the households “are not directly billed for services by their internet service provider, but instead pay a monthly fee for broadband services to their landlord.”<sup>116</sup> Similarly, there may be “entities such as school districts, health care providers, assisted living or nursing facilities, and local governments who purchase service ‘in bulk’ for eligible households.”<sup>117</sup> We conclude on balance to make available the Emergency Broadband Benefit available in these arrangements as long as the provider is approved in the Program and the household is eligible under the statute. These eligible households are at risk of missing out on broadband services supported by the EBB Program because they may not be directly billed by the participating provider and may not have a typical relationship with the participating provider. As a result, we believe that including support in the EBB Program for these eligible households will increase the number of struggling households that are able to benefit from the EBB Program. In situations where the support is passed through as a discount off of the monthly price paid by the eligible household, the eligible household must provide consent to the bulk purchaser/aggregator or participating provider to apply their EBB Program benefit to that service, and the participating provider must retain documentation of such consent.<sup>118</sup> The participating provider claiming reimbursement for the service provided under the bulk arrangement must retain documentation demonstrating that the amount claimed by the provider from the EBB Program is fully passed through to the eligible household as a discount off of the monthly price that the eligible household otherwise would have paid directly to the bulk purchaser. To ensure compliance with these requirements, we require participating providers offering service through such bulk billing arrangements to retain documentation demonstrating the identity of the entity or entities through which the discount was passed and the eligible households who received the subsidized service. As an example, if a bulk purchaser typically provides eligible households broadband service for \$30 a month, each eligible household that receives such service must provide consent to the bulk purchaser or participating provider that the participating provider can seek reimbursement from the EBB Program for the \$30 a month service. The participating provider would need to retain documentation of such consent, as well as documentation that the \$30 that the participating provider is seeking reimbursement for will be fully passed through to the eligible household. As a result of the discount, the bulk purchaser would be paying \$30 less to the participating provider, and the eligible household would be receiving free broadband service and not paying anything to the bulk purchaser. In cases where the household does not pay a fee for the service, either to the provider or a bulk purchaser/aggregator, but the fee is paid by another entity, the service cannot be claimed for EBB Program support.

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<sup>115</sup> See Universal Service Administrative Co., *Lifeline Program Household Worksheet*, available at [https://www.usac.org/wp-content/uploads/lifeline/documents/forms/LI\\_Worksheet\\_UniversalForms-1.pdf](https://www.usac.org/wp-content/uploads/lifeline/documents/forms/LI_Worksheet_UniversalForms-1.pdf).

<sup>116</sup> Charter Comments at 5-6; National Association of Telecommunications Officers and Advisors Comments at 3-4.

<sup>117</sup> City and County of San Francisco Comments at 2; *see also* Cities of Los Angeles et al. Comments at 15; National League of Cities Comments at 2.

<sup>118</sup> Such consent must be retained by the participating provider in compliance with the program requirements.

46. The *Public Notice* sought comment on whether there should be a limitation on the number of benefits per address regardless of the number of households.<sup>119</sup> We conclude that we should not impose any limitations inconsistent with the Lifeline definition of a “household.” We also sought comment on whether additional enrollments at a single address require a separate, more rigorous verification process.<sup>120</sup> Some commenters cautioned against using a separate process,<sup>121</sup> and we find that the Household Worksheet as used in Lifeline will help protect against duplicate benefits, while not being overly burdensome to applicants. The *Public Notice* also sought comment on whether an applicant should certify that no other person in the economic household is receiving a benefit.<sup>122</sup> We find that the Household Worksheet requires an applicant to confirm their understanding of the one-per-household rule and that the person will lose their benefit if they break the rule, and we do not need any further certification from an EBB Program subscriber regarding more than one benefit at a household.<sup>123</sup> We further direct USAC to apply its existing periodic Lifeline program integrity reviews for addresses with an unusually high number of subscribers to addresses enrolled in the EBB Program as well.

47. The Bureau also sought comment on whether the EBB Program should adopt the same NLAD processes used for Lifeline.<sup>124</sup> After consideration of the record, we conclude that the Commission should use the NLAD for a variety of functions for the EBB Program. The Consolidated Appropriations Act, for example, contemplates the use of the NLAD by participating providers for purposes of determining whether a household is an eligible household.<sup>125</sup> The *Public Notice* sought comment on a proposal to require all participating providers to track enrollments of eligible households in the EBB Program in the NLAD to prevent duplicative support.<sup>126</sup> There was broad support in the record supporting the proposal,<sup>127</sup> and we adopt it. Further, we find that all providers, including those that use an approved alternative verification process or verify eligibility via a school as discussed below,<sup>128</sup> must enroll their subscribers in the NLAD prior to claiming reimbursement for those subscribers, to prevent duplicative support between providers.

48. Finally, we observe that households are eligible to participate in both the EBB Program and the Lifeline program, either on the same or different services,<sup>129</sup> and we direct USAC to enable the NLAD to allow an eligible household to have separate subscriber IDs for the EBB Program and Lifeline and to associate such subscriber IDs with a respective Lifeline provider or Emergency Broadband Benefit provider, as applicable. If a household is enrolled only in the Lifeline program, then it will only have a Lifeline subscriber ID and be associated with a Lifeline provider. If a household is enrolled only in the

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<sup>119</sup> *Public Notice* at 6.

<sup>120</sup> *Id.*

<sup>121</sup> City and County of San Francisco Comments at 2; Free Press, Action Now Comments at 5 (there should not be additional verification barriers for multiple households at a single address).

<sup>122</sup> *Public Notice* at 6.

<sup>123</sup> See Universal Service Administrative Co., *Lifeline Program Household Worksheet*, available at [https://www.usac.org/wp-content/uploads/lifeline/documents/forms/LI\\_Worksheet\\_UniversalForms-1.pdf](https://www.usac.org/wp-content/uploads/lifeline/documents/forms/LI_Worksheet_UniversalForms-1.pdf).

<sup>124</sup> *Public Notice* at 6; see also 47 CFR § 54.404(b)-(c).

<sup>125</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(3)(A).

<sup>126</sup> *Public Notice* at 6.

<sup>127</sup> California PUC Comments at 4-5; TracFone Comments at 8; USTelecom-The Broadband Association Comments at 6; WISPA Comments at 11; AT&T Services, Inc. Comments at 3; CTIA Comments at 5; National Lifeline Association Comments at 12 (NaLA); City of Longmont, CO Comments at 6; Colorado Communications and Utility Alliance Comments at 6; CETF Comments at 16; INCOMPAS Comments at 13; NYSPSC Comments at 4.

<sup>128</sup> See Consolidated Appropriations Act, div. N, tit. IX § 904(b)(2)(B)-(C).

<sup>129</sup> *Public Notice* at 6.

EBB Program, then it will only have an EBB Program subscriber ID and be associated with an EBB Program provider. If a household is enrolled in both the Lifeline program and the EBB program, then it will have separate Lifeline and EBB Program subscriber IDs, and each of those subscriber IDs will be associated with their respective Lifeline or EBB Program provider (in some cases, a household may choose the same provider for both the Lifeline program and the EBB Program).

## 2. National Verifier and NLAD Eligibility Determination

49. The Consolidated Appropriations Act provides that participating providers can use one of three methods to verify eligibility for the EBB Program.<sup>130</sup> In this section, we discuss the first method of verification, use of the National Verifier and NLAD. The Consolidated Appropriations Act allows a participating provider to use the National Verifier and NLAD to confirm applicants' eligibility.<sup>131</sup> We find that allowing participating providers to use the National Verifier will help to stand up the EBB Program quickly and provide administrative efficiency, while also serving as an effective tool to prevent waste, fraud, and abuse. We direct USAC to make available an EBB Program consumer portal and application form leveraging the existing National Verifier infrastructure. Commenters also requested that we enable a service provider portal or eligibility check application programming interface (API)<sup>132</sup> so that providers can help consumers with the application process.<sup>133</sup> We agree that these additional application methods would enable providers to help enroll consumers, and we direct USAC to make available these other application methods as well if feasible within the overall timeframe of the Program.

50. Generally, the National Verifier is a system of systems, with computer connections to state and federal eligibility databases that can automatically check and confirm a household's eligibility electronically,<sup>134</sup> followed by manual review of eligibility documentation for any applicants whose eligibility cannot be verified using an automated data source. To assist those participating providers that want the National Verifier to be a one-stop shop for determining eligibility for the EBB Program<sup>135</sup> and do not to conduct their own verification processes, we direct USAC to enable the National Verifier to verify three additional eligibility bases that are required by the Consolidated Appropriations Act for the EBB Program: (1) participation in free and reduced lunch program under the Richard B. Russell National School Lunch Act or the school breakfast program under section 4 of the Child Nutrition Act;<sup>136</sup> (2) a substantial loss of income since February 29, 2020;<sup>137</sup> and (3) receipt of a Federal Pell Grant under section

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<sup>130</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(2). These methods are (1) use of the National Verifier or NLAD; (2) an alternative verification process of the participating provider; or (3) relying on a school based on participation of a household in the school breakfast or lunch programs.

<sup>131</sup> *Id.*

<sup>132</sup> An eligibility check API would allow a provider to connect their own systems with the National Verifier, allowing a consumer to apply for the EBB Program on the provider's own website.

<sup>133</sup> CTIA Comments at 7 (provider-focused document API should be enabled); NaLA Comments at 10 (requesting the Commission to enable the service provider document transmission API).

<sup>134</sup> The National Verifier "has federal data connections with the United States Department of Housing and Urban Development (HUD) to verify participation in the Federal Public Housing Assistance program (FPHA) and with the Centers for Medicare and Medicaid Services (CMS) to verify participation in Medicaid," and also has connections with many other state databases. Universal Service Administrative Co., *Eligibility Decision Process*, <https://www.usac.org/lifeline/eligibility/national-verifier/eligibility-decision-process/> (last visited Feb. 8, 2021).

<sup>135</sup> AT&T Comments at 2-3; CTIA Comments at 6; NTCA Comments at 11; USTelecom Comments at 7; *see also* Altice Comments at 3-4 (requesting that the Commission establish a single database that allows providers to access to verify eligibility).

<sup>136</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(B).

<sup>137</sup> *Id.* § 904(a)(6)(C).



401 of the Higher Education Act of 1965 in the current award year.<sup>138</sup> The Consolidated Appropriations Act contemplates substantial loss of income and Federal Pell Grant participation would be verified by the National Verifier where possible,<sup>139</sup> and commenters agreed with adding those eligibility bases to the National Verifier.<sup>140</sup> Commenters also suggested that participation in school breakfast or lunch should also be added to the National Verifier,<sup>141</sup> and we agree. Where possible, we direct USAC to enable database connections through computer matching agreements with the respective government entities for those programs. Where not possible, we direct USAC, under the direction of the Bureau, to allow eligible households to submit documentation so that USAC can manually process the eligibility information for inclusion in the National Verifier. We delegate authority to the Bureau to direct USAC in these efforts and to provide any additional interpretations of Section 904 necessary for implementing use of the National Verifier for the EBB Program. Unless and until such database connections have been enabled, USAC will verify program eligibility based on manual documentation review, consistent with the guidelines discussed below.

51. Where the National Verifier cannot verify eligibility through any automated data sources, we delegate to the Bureau to direct USAC to establish documentation criteria for the three added eligibility programs. While the Consolidated Appropriations Act identified a few types of documentation to demonstrate income loss, such as “layoff or furlough notice, application for unemployment benefits, or similar documentation,”<sup>142</sup> we sought comment on other types of documentation.<sup>143</sup> Some commenters argued that other documentation for substantial loss of income should be construed broadly,<sup>144</sup> or that we should keep in mind the widespread loss of income.<sup>145</sup> Consistent with our clarification of “substantial loss of income since February 29, 2020,” discussed below, any documentation must clearly show loss of a job, including due to a furlough, that began after February 29, 2020, however documented, as well as the household’s annual income for 2020. In addition, many commenters suggested acceptable documentation for receipt of a Pell Grant under Section 904(a)(6)(D), including: (1) written or electronic confirmation from a student’s Institution of Higher Education that the student has received a Pell Grant for the current award year; (2) a student’s official financial aid award letter documenting the amount of a student’s Pell Grant award received for the current year; (3) a copy of a student’s paid invoice that clearly documents the student’s receipt of a Pell Grant during the current award year; and (4) a copy of a student’s Student Aid Report that clearly documents the student’s receipt of a Pell Grant during the current award year.<sup>146</sup> USAC should consider these documents when establishing documentation criteria for receipt of a Pell Grant.

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<sup>138</sup> *Id.* § 904(a)(6)(D).

<sup>139</sup> *Id.* §§ 904(a)(6)(C)-(D).

<sup>140</sup> USTelecom Comments at 5-7; Verizon Comments at 6; Competitive Carriers Association Comments at 8; SBE Council Reply at 2.

<sup>141</sup> USTelecom Comments at 4-5; Illinois Office of Broadband Comments at 10; NaLA Comments at 12.

<sup>142</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(C).

<sup>143</sup> *Public Notice* at 6, n.40. Other commenters also sought clarification on what “other similar documentation” is sufficient to qualify a customer. *See, e.g.*, EBBC Comments at 8.

<sup>144</sup> *See, e.g.*, GCI Comments at 4-5 (some employees may not have received a formal furlough letter, but an e-mail or text instead); Vermont PUC et al. Comments at 6; City of Longmont, CO Reply at 5.

<sup>145</sup> Benton Institute Comments at 33.

<sup>146</sup> *See, e.g.*, Alejandro Espinozaw Olazaba Comments at 1; Stephanie Bunsey Comments at 1; Higher Learning Advocates Comments at 2; William Davies Comments at 1; Students United Comments at 1; Anita Kilbroune Greer Comments at 1; New America SHEEO Comments at 7; uAspire Comments at 1; New America’s Open Technology Institute Comments at 5-6; Public Knowledge Comments at 4; LeadMN Comments 1-2; National Collegiate Attainment Network Comments at 2; Higher Learning Advocates Reply at 1.

(continued...)

52. The Consolidated Appropriations Act allows that current Lifeline enrollees are automatically eligible for the EBB Program based on their Lifeline eligibility. Many commenters suggested that customers already enrolled in Lifeline should not have to also apply for the EBB Program.<sup>147</sup> We find that current Lifeline households will not need to apply for the EBB Program or submit new eligibility documentation if they are already enrolled in NLAD.<sup>148</sup> Current Lifeline enrollees, however, must still opt-in or affirmatively request enrollment in the EBB Program.<sup>149</sup> As explained above, providers must collect and retain documentation demonstrating that, prior to enrolling an existing Lifeline household in the EBB Program, the provider made clear disclosures regarding the EBB Program benefit and the consumer's choices within the EBB Program, and the household provided affirmative consent to applying their Emergency Broadband Benefit to the service received from the EBB provider.<sup>150</sup>

53. In the Lifeline program, potential households are required to provide the last four digits of a Social Security Number to enroll in National Verifier and NLAD to verify subscriber identity.<sup>151</sup> Some commenters, however, argue that the Consolidated Appropriations Act does not require a Social Security Number for enrollment in the EBB Program, and that if the Commission imposes a Social Security Number requirement, many of the neediest households may not be able to enroll because they may not have a Social Security Number, may have difficulty accessing data, or fear providing a Social Security Number.<sup>152</sup> Commenters have suggested alternative forms of identification instead of a Social Security Number, such as an Individual Taxpayer Identification Number (ITIN),<sup>153</sup> Government ID,<sup>154</sup> current utility bill,<sup>155</sup> or current employment photo identification badge.<sup>156</sup> While we permit a consumer to use the last four digits of a Social Security Number during enrollment, we are persuaded that accepting only a Social Security Number may prevent eligible households from enrolling in the EBB Program. Applicants who choose not to provide the last four digits of their Social Security Number or cannot be verified using a Social Security Number may verify their identity using a variety of other types of identity

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<sup>147</sup> EBBC Comments at 6; USTelecom Comments at 3; AAPD Comments at 3.

<sup>148</sup> For Lifeline households in states that have opted out of the NLAD (California, Oregon, and Texas), and whose participation in Lifeline cannot be verified in the NLAD, USAC may require documentation demonstrating Lifeline enrollment, and we direct USAC to work with the Bureau to determine if documentation is necessary and if so, to establish documentation criteria for Lifeline households in those states.

<sup>149</sup> See USTelecom Comments at 3-4.

<sup>150</sup> See *supra* para. 38.

<sup>151</sup> See 47 CFR §§ 54.404(b)(6), (c)(4), 54.410(d)(2).

<sup>152</sup> See, e.g., Hispanic Technology & Telecommunications Partnership Comments at 2; LeadingAge Comments at 2; Multicultural Media et al. Comments at 6; National Hispanic Media Coalition Comments at 5-6; Stewards of Affordable Housing Comments at 4; Charter Comments at 7; Cities of Los Angeles et al. Comments at 14; Public Knowledge Comments at 105; NCLC and United Church of Christ Comments at 9; Benton Institute for Broadband & Society, American Civil Liberties Union, New America's Open Technology Institute, Common Cause, National Hispanic Media Coalition, Public Knowledge, UnidosUS, Joint Center for Political and Economic Studies, MediaJustice, Free Press Reply at 4-5; Westchester County Legislators Reply at 1.

<sup>153</sup> NCLC and United Church of Christ Comments at 9; Public Knowledge et al. Comments at 4-5; Hispanic Technology & Telecommunications Partnership Comments at 2; Multicultural Media et al. Comments at 6; National Hispanic Media Coalition Comments at 5-6.

<sup>154</sup> Public Knowledge et al. Comments at 4-5; National Hispanic Media Coalition Comments at 2, Cities of Los Angeles et al. Comments at 14; Benton Institute for Broadband & Society, American Civil Liberties Union, New America's Open Technology Institute, Common Cause, National Hispanic Media Coalition, Public Knowledge, UnidosUS, Joint Center for Political and Economic Studies, MediaJustice, Free Press Reply at 4-5; Westchester County Legislators Reply at 1.

<sup>155</sup> Cities of Los Angeles et al. Comments at 14.

<sup>156</sup> *Id.*

documentation, including a government-issued ID, passport, driver's license, or Individual Taxpayer Identification Number documentation.<sup>157</sup> We direct USAC to work with the Bureau to establish approval criteria for acceptable identity documentation. In developing that criteria, USAC should consider the methods used to verify identity by providers with existing low-income programs.

54. The *Public Notice* proposed that eligible households will be required to interact directly with National Verifier as is currently required for the Lifeline benefit,<sup>158</sup> and many commenters supported this proposal.<sup>159</sup> We adopt this proposal and will require households to interact directly with National Verifier. Some commenters suggested that the Commission permit service providers to submit verification requests through the National Verifier on behalf of households even if the households consumers are not physically present with the service provider,<sup>160</sup> while others were concerned that consumers may not be able to access National Verifier as they do not have broadband access, and places such as libraries or community centers that typically offer broadband access are closed or operating in a limited capacity due to the pandemic.<sup>161</sup> Although allowing service providers to remotely submit information on behalf of consumers may benefit some consumers, we find that the risk to program integrity and potential for waste, fraud, and abuse outweighs the benefit. Further, households that do not have Internet access to apply electronically through the National Verifier may still apply for the Program using a paper application. In addition, verification through the National Verifier is not the only way for households to get verified in the Program, as service providers may have their own approved alternative verification processes to enroll households, while other households may be qualified by a provider through verification with a school. Given these alternatives, we do not think that permitting providers to sign up consumers remotely is necessary.

55. The Consolidated Appropriations Act permits households with members who qualify for free and reduced-price school lunch or the school breakfast program to enroll in the EBB Program. As a result, we will permit qualifying households to apply for the EBB Program and will have USAC enable the National Verifier to approve the household based on participation in free and reduced lunch program or the school breakfast program. In the *Public Notice*, the Bureau sought comment on the reduced or free school breakfast or lunch eligibility from Section 904(a)(6)(B) and how to treat households with students enrolled in this program in schools or school districts that participate in the USDA Community Eligibility Provision.<sup>162</sup> Participation in the Community Eligibility Provision allows the nation's highest-poverty schools and school districts to serve breakfast and lunch at no cost to all enrolled students without needing to collect individual household applications.<sup>163</sup> Thus, households with a student enrolled in a school or school district participating in the Community Eligibility Provision will not have "applied for and been approved to receive" school lunch or breakfast programs,<sup>164</sup> but are still beneficiaries of these programs. Many commenters support that households with children enrolled in largely low-income

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<sup>157</sup> See *id.*; HTTP Comments at 2; MMTC NUL Comments at 6; National Hispanic Media Coalition Comments at 6; NCLC and United Church of Christ Comments at 9; Public Knowledge Comments at 4-5.

<sup>158</sup> *Public Notice* at 7.

<sup>159</sup> See, e.g., ITIF Comments at 2.

<sup>160</sup> ACA Connects Comments at 22-23; Altice Comments at 3-4; NTCA Comments at 11; Related Companies Reply at 2.

<sup>161</sup> Michigan PSC Comments at 6; Michigan Department of Labor and Economic Opportunity Reply at 3; Michigan Department of Agriculture and Rural Development Reply at 3; Michigan Economic Development Corporation Reply at 3; Michigan Department of Health and Human Services Reply at 3.

<sup>162</sup> *Public Notice* at 7.

<sup>163</sup> USDA, Food and Nutrition Service, Child Nutrition Programs, Community Eligibility Provision, <https://www.fns.usda.gov/cn/community-eligibility-provision>.

<sup>164</sup> See Consolidated Appropriations Act, div. N. tit. IX § 904(a)(6)(B).

schools or school districts that participate in the Community Eligibility Provision should be eligible for the emergency broadband benefit under Section 904(a)(6)(B) despite not individually applying for assistance.<sup>165</sup> We agree with these commenters.

56. Some commenters argue that accepting participation in the Community Eligibility Provision would be overinclusive.<sup>166</sup> On balance, we find that the risk of including otherwise ineligible households is outweighed by the importance of making the EBB Program accessible and removing barriers to participation. Indeed, because the schools that participate in the Community Eligibility Provision are among the highest-poverty schools in the nation, we believe that including households with students that attend those schools efficiently targets low-income households and excluding such schools would counterintuitively effectively remove the National School Lunch Program as a qualifying program for households in largely low-income schools and school districts. We also recognize that allowing use of the Community Eligibility Provision as a qualifying program limits disclosure to less sensitive information of households.<sup>167</sup> While the Consolidated Appropriations Act does not provide a specific time frame for when the member of the household should have been approved for benefits under the free and reduced price lunch or breakfast programs,<sup>168</sup> the California Emerging Technology Fund proposed that the Commission should allow proof of enrollment in these programs for either the 2019-2020 and 2020-2021 school year, given that many schools have been closed since mid-March 2020 due to the pandemic and students may not be enrolled in the programs in the current school year.<sup>169</sup> We agree with this proposal. We therefore will accept for eligibility determination purposes a household's confirmation that the household has dependent children who participated or are participating in the Community Eligibility Provision school breakfast or free and reduced-price school lunch program in the 2019-2020 or 2020-2021 school year. We direct USAC to develop a process for such eligibility determinations that has the capability to, after a household provides the name of a dependent child's school, automatically check for CEP participation against the nationwide lists maintained by U.S. Department of Agriculture and/or the Food Research & Action Center. We also direct USAC to conduct program integrity reviews of a sample of households who enrolled in the Program using this eligibility criteria to confirm Program compliance.

57. The *Public Notice* also sought comment on whether a school's participation in the E-Rate program would facilitate any needed verification.<sup>170</sup> We received some comments supporting the idea that a school participating in E-Rate should be sufficient to confirm household eligibility for its students' households.<sup>171</sup> However, schools can participate in E-Rate even if less than 1% of its students are eligible for the National School Lunch Program.<sup>172</sup> As such, we do not find that a school's participation in E-Rate

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<sup>165</sup> Cities of Los Angeles, CA, Chicago, IL, Portland, OR, Boston, MA, and the Texas Coalition of Cities for Utility Issues Comments at 10, 13 (Cities of Los Angeles et al.); Tech Goes Home Comments at 2; DigitalC Comments at 8; Center for Democracy & Technology Comments at 4 (CDT); WISPA at 10; Free Press, Access Now Comments at 5-6; New America's Open Technology Institute Comments at 6; Benton Institute for Broadband & Society Comments at 31 (Benton Institute); CETF Comments at 18 (CETF); Aurora Institute Comments at 2-3; NAHMA Comments at 2; AASC Comments at 3; Council of the Great City Schools Comments at 3.

<sup>166</sup> NTCA Comments at 13.

<sup>167</sup> CDT Comments at 4; Free Press, Access Now Comments at 6.

<sup>168</sup> See Consolidated Appropriations Act, div. N. tit. IX § 904(a)(6)(B).

<sup>169</sup> CETF Comments at 18.

<sup>170</sup> *Public Notice* at 7.

<sup>171</sup> City of Austin, TX Comments at 3; DigitalC Comments at 8; Student Internet Equity Coalition Comments at 6-7.

<sup>172</sup> Universal Service Administrative Co., *Discount Matrix*, <https://www.usac.org/wp-content/uploads/e-rate/documents/samples/Discount-Matrix.pdf> (last visited Feb. 5, 2021). GCI Communications Corp. noted in its comments that some schools may report that 100% of their students are eligible for free and reduced price lunch, and therefore those schools should be included. GCI Communications Corp. Comments at 2-3 (GCI). We find,

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alone will provide any help as to the eligibility of households that have students enrolled in that school, and we decline to use participation in E-Rate as a basis of eligibility for qualifying for school lunch or breakfast.

58. Households with members who have experienced a substantial loss of income are also qualified to enroll in the EBB Program according to the Consolidated Appropriations Act. The Bureau sought comment on how to define a “substantial loss of income since February 29, 2020” in Section 904(a)(6)(C) and whether households with an income above a certain level should be excluded from the program.<sup>173</sup> Although we received comments that the Commission should clearly define “substantial loss of income,”<sup>174</sup> only a few commenters provided criteria for the Commission to consider.<sup>175</sup> Consistent with the requirements of the Consolidated Appropriations Act,<sup>176</sup> we clarify that a “substantial loss of income” includes the loss of a job, including a furlough, that is documented by a layoff or furlough notice, application for unemployment insurance benefits, or similar documentation. We permit households with such members to enroll in the EBB Program through the National Verifier. To target eligibility to households most in need, we agree with commenters that we should impose a household income limitation, and consistent with the criteria established by the Centers for Disease Control to halt evictions, a household that has suffered a job loss must not have had an income in 2020 greater than \$99,000 for single-filers and \$198,000 for joint filers to be eligible for the EBB Program.<sup>177</sup>

59. The Consolidated Appropriations Act also permits eligibility into the EBB Program if a member of a household has received a Federal Pell Grant under Section 401 of the Higher Education Act of 1965 in the current award year.<sup>178</sup> Commenters supported and welcomed the inclusion of receipt a Pell Grant as an eligibility basis for the Program.<sup>179</sup> USTelecom has asked for clarification on what constitutes a household for purposes of a Pell Grant, given that students that are awarded Pell Grants are typically living away from parents, yet that student may be dependent on parental support.<sup>180</sup> We clarify that consistent with the Program’s adoption of the Lifeline definition of “household,” people are part of the same household if they share income and expenses and live at the same address. If the recipient of a Pell Grant lives at a separate address from the recipient’s parents, the recipient and the family are separate households, and only the recipient of the Pell Grant would be eligible for the Program using Pell Grant eligibility.

60. The Consolidated Appropriations Act also allows into the EBB Program a household where at least one member meets the eligibility criteria for a participating provider’s existing low-income

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however that it is better to rely on participation in Community Eligibility Provision, as that provides a more robust data set and will be more administrable.

<sup>173</sup> *Public Notice* at 6, n.40.

<sup>174</sup> Benton Institute Comments at 32-33 (suggesting that the Commission consult with the CDC to see how CDC defines “substantial loss of household income”); USTelecom Comments at 6; Emergency Broadband Benefit Carriers (ETCs) Comments at 8 (EBBC).

<sup>175</sup> *See, e.g.*, USTelecom Comments at 5-6 (suggesting a percentage decline in monthly household income, how long the decline was, whether a new job offset that loss).

<sup>176</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(C).

<sup>177</sup> *See* Benton Institute Comments at 32-33 (noting for purposes of income limits for eviction protection that CDC considered people to be low-income if they were, among others earning no more than \$99,000 in annual income (\$198,000 for joint) for calendar year 2020).

<sup>178</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(D).

<sup>179</sup> Alejandro Espinozaw Olazaba Comments at 1; LeadMN Comments at 1; Stephanie Bunsey Comments at 1.

<sup>180</sup> USTelecom Comments at 6-7.

or COVID-19 program.<sup>181</sup> For eligibility under this provision, commenters suggested that providers should be able to continue to operate the program with the existing eligibility requirements.<sup>182</sup> Although this provision of the Consolidated Appropriations Act suggests the Commission could impose other eligibility requirements on these existing programs that we consider necessary for the public interest, at this time and given the emergency nature of the EBB Program, we decline to modify the programmatic or income eligibility requirements of any provider's existing low-income or COVID-19 program for purposes of eligibility in the EBB Program. Some commenters suggested that we should work with providers to set a baseline eligibility for the provider's existing low-income or COVID-19 program.<sup>183</sup> We similarly believe imposing baseline criteria on all existing low-income or COVID-19 programs would be disruptive to those programs and cause undue burden on the providers at a time when it is essential those programs continue to operate efficiently. Finally, consistent with the Consolidated Appropriations Act's allowance that a broadband provider that had an established a low-income or COVID-19 program as of April 1, 2020 shall be automatically approved as a participating provider,<sup>184</sup> and to ensure that such eligibility determinations are made pursuant to well-established verification mechanisms, we find that a participating provider's existing low-income or COVID-19 program must have been available as of April 1, 2020, and any eligibility criteria for such programs must have been established as of April 1, 2020, for use of that program as a qualifying program under Section 904(a)(6)(E).<sup>185</sup>

61. Some commenters suggested that although we do not allow Lifeline applicants to self-certify, we should allow EBB Program applicants to self-certify given the emergency nature of the EBB Program.<sup>186</sup> While we recognize that self-certification could in some circumstances lessen the burden on some households, we decline to allow self-certification. Self-certification presents a sizable risk of waste fraud and abuse in the EBB Program. Further, we find the Consolidated Appropriations Act contemplates documentation and verification to confirm eligibility and permitting a household to enroll in the EBB Program while only self-certifying to eligibility would run contrary to these statutory requirements.<sup>187</sup> And given the many bases of eligibility through which a household is able to enroll in the EBB Program and different avenues for verification, we find that these ample opportunities make self-certification far less urgent.

### 3. Participating Provider Alternative Verification Process

62. The Consolidated Appropriations Act also allows a participating provider to "rely upon an alternative verification process of the participating provider," subject to certain conditions.<sup>188</sup> As set out by the Consolidated Appropriations Act, the "participating provider submits information as required by the Commission regarding the alternative verification process prior to seeking reimbursement," and the Commission has seven days after receipt of the information to notify the participating provider if the

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<sup>181</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(E).

<sup>182</sup> ACA Comments at 24; HTTP Comments at 2.

<sup>183</sup> HTTP Comments at 2.

<sup>184</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(d)(2)(B).

<sup>185</sup> *See id.* § 904(a)(6)(E) (permitting the Commission to impose "any other eligibility requirements [it] may consider necessary for the public interest").

<sup>186</sup> Verizon Comments at 7 (households in free and reduced price lunch program should be able to self-certify); Public Knowledge Reply at 4-5; Higher Learning Advocates Reply at 2 (self-certification proposed by Verizon should be extended to Pell Grant recipients).

<sup>187</sup> *See, e.g.,* Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(6)(C) (requiring that loss of income should be documented or otherwise verifiable through the National Verifier); *id.* § 904(a)(6)(D) (requiring that receipt of a Federal Pell Grant be verifiable).

<sup>188</sup> *Id.* § 904(b)(2)(B).

participating provider's "alternative verification process will be sufficient to avoid waste, fraud, and abuse."<sup>189</sup>

63. The *Public Notice* sought comment on what information should be provided to the Commission concerning the alternative verification process,<sup>190</sup> and the criteria the Commission should consider in determining whether a provider's alternative verification process is sufficient to avoid waste, fraud, and abuse.<sup>191</sup> Some commenters suggested that the Commission create a model "alternative verification process" for participating providers to choose,<sup>192</sup> while others suggested that the Commission automatically approve the verification processes for providers that have low-income programs that are not provided with government assistance and instead subsidized by the provider, as those providers already have strong incentives to ensure that only qualified customers take advantage of those programs.<sup>193</sup> Other commenters proposed that local governments may act as the alternative verification process for providers.<sup>194</sup> The Navajo Nation Telecommunications Regulatory Commission suggested that the Commission should work with providers who have worked in Indian Country to get their input as to verification, given the challenge that Lifeline has in verifying consumers in Indian Country.<sup>195</sup> We also received comments that any alternative verification process should be allowed to have different household eligibility definitions,<sup>196</sup> but we cannot expand eligibility beyond what the Consolidated Appropriations Act authorizes. We do note, however, that under Section 904(a)(6)(E) a broadband provider's eligibility criteria for their *existing* low-income or COVID-19 program may provide eligibility bases other than those explicitly listed in Sections 904(a)(6)(A)-(D).

64. Regardless of how a provider seeks or receives authorization to participate in the EBB Program (as an ETC, as a non-ETC with expedited approval, or as a non-ETC with automatic approval), a provider must submit and receive Bureau approval of its alternative verification process prior to using such a process to enroll consumers in the EBB Program.<sup>197</sup> The *Public Notice* proposed that the Commission delegate to the Bureau authority to review and approve (or deny) alternative verification processes,<sup>198</sup> and we adopt this proposal. We direct the Bureau to develop a process for submitting proposed alternative verification processes and to review and approve or reject such submissions within the seven days required by the Consolidated Appropriations Act. For ETCs, we direct such providers to submit to the Bureau requests for approval describing their alternative verification process after submitting their notice of election to USAC. The ETC's request for approval of its alternative verification process must still go through the approval process required by Section 904(b)(2)(B) and be

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<sup>189</sup> *Id.*

<sup>190</sup> *Public Notice* at 8.

<sup>191</sup> *Id.*; *see supra* para. 25.

<sup>192</sup> Benton Institute Comments at 31.

<sup>193</sup> Charter Comments at 4 (the Commission should automatically approve providers that have existing verification processes for their own programs); Comcast Comments at 10-11; Competitive Carriers Association Comments at 7; Hispanic Technology & Telecommunications Partnership Comments at 2; NCTA Comments at 12-13; ACA Connects Comments at 21; ITIF Comments at 2.

<sup>194</sup> NATOA Comments at 2-3; City of Longmont, CO Comments at 7-8 (explaining that Longmont has a program providing broadband for qualifying low-income consumers); Colorado Communications and Utility Alliance Comments at 5; Delaware Department of Technology and Information Reply at 1-4; NATOA Reply at 3-4.

<sup>195</sup> Navajo Nation Telecommunications Regulatory Commission Comments at 5.

<sup>196</sup> *See, e.g.*, NeighborWorks America Comments at 3-4; EducationSuperHighway Comments at 7; ACA Connects – America's Communication Association Comments at 25.

<sup>197</sup> *See* Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(2)(B).

<sup>198</sup> *Public Notice* at 8.

approved by the Bureau before the ETC can begin providing EBB Program service.<sup>199</sup> For providers seeking a non-ETC approval from the Bureau, we direct such providers to submit requests for approval describing their alternative verification process along with their application to participate in the EBB Program, where possible. Although the provider application to participate may be granted automatically if the provider qualifies for such a grant,<sup>200</sup> the provider's request for approval of its alternative verification process must still go through the approval process required by Section 904(b)(2)(B) and be approved by the Bureau before the provider can begin providing EBB Program service.<sup>201</sup>

65. We also agree with commenters that non-ETCs that are automatically approved as a participating provider based on having an established low-income or COVID-19 program as of April 1, 2020 pursuant to Section 904(d)(2)(B) should also have the alternative verification processes for those programs automatically approved.<sup>202</sup> The Consolidated Appropriations Act not only provides an automatic approval for such providers but also deems as eligible for the EBB Program households with at least one member that meets the eligibility criteria for a participating provider's existing low-income or COVID-19 program. We find Congress' heavy reliance on these existing aid programs instructive. We are persuaded that such providers have strong incentives to ensure that only qualified customers take advantage of a provider's own low-income or COVID-19 program, as these programs are currently subsidized by the provider. Any such automatically approved provider must still submit a description of their alternative verification process to the Bureau.

66. The *Public Notice* proposed to allow alternative verification methods that are at least as stringent as methods used by the National Verifier,<sup>203</sup> and we received comment agreeing with this proposal.<sup>204</sup> To be at least as stringent as the National Verifier, information collected by participating providers in the alternative verification process should at least include the applicant's: (1) full name, (2) phone number, (3) date of birth, (4) e-mail address, (5) home and mailing addresses, (6) name and date of birth of the benefit qualifying person if different than applicant, (7) basis for inclusion in program (e.g., SNAP, SSI, Medicaid, school lunch, Pell Grant, income, provider's existing program, etc.) and documentation supporting verification of eligibility, and (8) certifications from the household that the information included in the application is true. The provider must describe the processes it (or a third-party) uses to verify the requested information above, including the applicant's identity and eligibility, and as required by the Consolidated Appropriations Act, the provider must explain why the provider's alternative process will be sufficient to avoid waste, fraud, and abuse. For example, Comcast requires consumers to submit an application to obtain proof of identification and establish eligibility for its Internet Essentials program, which is open to individuals in a high poverty area or through participation in a government assistance program.<sup>205</sup> Comcast cross-references information from the application against internal databases populated with publicly available data from government sources to confirm participation in National School Lunch Program, residence at a public housing address, or residence in high poverty area, and if eligibility cannot be verified through internal databases or based on participation in a different government program, Comcast requires documentation of proof of participation and the documentation is reviewed by a vendor.<sup>206</sup> The provider must also explain how it trains its employees and agents to prevent ineligible enrollments, including enrollments based on fabricated documents. If the

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<sup>199</sup> *See id.*

<sup>200</sup> *See* Consolidated Appropriations Act, div. N, tit. IX, § 904(d)(2)(B).

<sup>201</sup> *See id.*

<sup>202</sup> *See supra* note 192.

<sup>203</sup> *Public Notice* at 8.

<sup>204</sup> AT&T Services, Inc. Comments at 4-5 (AT&T).

<sup>205</sup> Comcast Comments at 10.

<sup>206</sup> *Id.* at 11.



alternative verification process fails to include any of the above information, the provider should explain why it thinks such information is not necessary to prevent waste, fraud, and abuse. If a provider without an established low-income program seeks approval of an alternative verification process, it must explain why it proposes to use an alternative verification process instead of the National Verifier eligibility determinations. We decline to issue a model alternative verification process, and we further decline to approve any of the other alternative verification processes submitted by commenters at this time.

67. The *Public Notice* also sought comment on documentation and records providers should be required to keep to comply with audit requirements.<sup>207</sup> Commenters suggested that the providers should at least collect and retain documentation of the applicant's identity and eligibility criteria.<sup>208</sup> We require that providers keep all documentation provided to them from the applicant used to make eligibility determinations, for as long as the applicant receives the Emergency Broadband Benefit, and also for no less than the six full calendar years following the termination of the EBB Program.<sup>209</sup> For example, if a subscriber enrolls in the Program through participation in the school breakfast or lunch program or the Pell Grant, retained documentation should include the name of the school and school year for which the subscriber has claimed eligibility. This requirement is similar to the document retention requirement used in the Lifeline program but is long enough to cover the statute of limitations under the False Claims Act<sup>210</sup> laws for federal wire fraud,<sup>211</sup> and ensures that documentation is available to confirm program compliance. Commenters also agree<sup>212</sup> with the proposal in the *Public Notice* that providers identify the alternative verification process used when enrolling a household in the NLAD,<sup>213</sup> and we adopt that proposal. We also direct USAC to conduct periodic program integrity reviews to ensure that subscribers enrolled through a provider's alternative verification process are eligible for the emergency broadband benefit.

#### 4. School-Based Eligibility Verification

68. The Consolidated Appropriations Act also allows a participating provider to rely on a school to verify eligibility under the free and reduced price school lunch or school breakfast program.<sup>214</sup> The *Public Notice* proposed that a provider identify the school it relied on when enrolling a household in NLAD,<sup>215</sup> and commenters agreed.<sup>216</sup> We also sought comment on what other information a participating provider should be required to submit or maintain.<sup>217</sup> Commenters were concerned about the ability of schools to provide information about households and individuals enrolled in the program without violating data privacy and confidentiality laws.<sup>218</sup> We also received a comment suggesting that we create a standard protective order or consent form that providers can use.<sup>219</sup> One commenters was also

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<sup>207</sup> *Public Notice* at 8.

<sup>208</sup> AT&T Comments at 5.

<sup>209</sup> See CETF Comments at 18 (recommending retaining documentation for at least five years).

<sup>210</sup> See 31 U.S.C. § 3731(b)(1).

<sup>211</sup> See 18 U.S.C. §§ 1343, 3282.

<sup>212</sup> Nebraska PSC Comments at 6.

<sup>213</sup> *Public Notice* at 7; Benton Institute Comments at 31.

<sup>214</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(2)(C).

<sup>215</sup> *Public Notice* at 7.

<sup>216</sup> NaLA Comments at 12.

<sup>217</sup> *Id.*

<sup>218</sup> CDT Comments at 3-4; Council of the Great City Schools Comments at 2-3; NTCA Comments at 12-13.

<sup>219</sup> Council of the Great City Schools Reply at 2.

concerned that there may be significant administrative burdens and staffing requirements placed on schools if they are required to verify students, particularly if schools have a large number of students that qualify.<sup>220</sup> One commenter estimates that it could take a school district 192 hours a month to process income verification requests from service providers.<sup>221</sup> We share those concerns and are sympathetic to the burdens this method could impose on schools, especially during the pandemic when so many school administrators and teachers are struggling with the challenges of safe, in-person education, supporting students in need, and distance learning. We conclude that, to comply with the requirements of the Consolidated Appropriations Act, for a participating provider to rely on information provided by a school when enrolling a household in the EBB Program, the participating provider must certify in NLAD that it relied on information provided by a school for eligibility verification and that it retains documentation indicating: (1) the school providing the information, (2) the program(s) that the school participates in, (3) the household that qualifies (and qualifying student(s)),<sup>222</sup> (4) and the program(s) the household participates in.<sup>223</sup> We believe this permits access to the EBB Program for student households through the school and also minimizes the burden on the school, especially in light of the relevant privacy and consent requirements.<sup>224</sup> At the same time, households with students can also verify eligibility for and enroll in the EBB Program without relying upon schools, and will be able to use on any of the qualifying criteria for eligible households set forth in the Consolidated Appropriations Act. And while we decline to create a standard protective order or consent form at this time, we recognize that may be a beneficial tool for consumers and providers and delegate to the Bureau the authority to create such a form if it is needed for the National Verifier's processes.

### C. Covered Services and Devices

69. The COVID-19 pandemic continues to challenge Americans' access to and reliance on broadband connections as households try to adapt and ensure that they have the tools to succeed in their everyday tasks, including telework, telehealth, telemedicine, and virtual learning.<sup>225</sup> The Consolidated Appropriations Act permits, in the EBB Program, eligible households to receive a discount off the cost of broadband service and certain connected devices, and participating providers can receive a reimbursement for such discounts during the emergency period.<sup>226</sup>

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<sup>220</sup> *Id.* at 3.

<sup>221</sup> *Id.*

<sup>222</sup> Some commenters thought that the Commission should not require documentation of the qualifying student. WISPA at 10. However, we do not find that identifying the name of the qualifying student, with parental consent, is inappropriate. For example, in the Lifeline program, if a household qualifies for Lifeline based on the participation of a child in a federal assistance program, the household must identify the child as the benefit qualifying person when applying for Lifeline. Universal Service Administrative Co., *Do I Qualify?*, <https://www.lifelinesupport.org/do-i-qualify/> (last visited Feb. 5, 2021).

<sup>223</sup> Commenters agreed that schools need to obtain parental consent to disclose a student's participation in a school lunch or breakfast program. *See, e.g.*, CDT Comments at 5-6; Public Knowledge Comments at 5 (arguing that schools should proactively reach out to students to obtain parental consent); State Educational Technology Directors Association, Consortium for School Networking, and Alliance for Excellent Education Comments at 3; Council of the Great City Schools Comments at 2.

<sup>224</sup> *See* Disclosure of Children's Free and Reduced Price Meals and Free Milk Eligibility Information in the Child Nutrition Programs, 72 Fed. Reg. 10885 (Mar. 12, 2007) (requiring parental consent to disclose a student's participation in certain programs except in limited circumstances).

<sup>225</sup> TDI et al. Comments at 3 (noting that "the COVID-19 pandemic has exacerbated communication barriers for people who are deaf, hard of hearing, DeafBlind, or deaf with mobility issues").

<sup>226</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(1).

70. *Services.* In describing the services eligible for EBB Program support, the Consolidated Appropriations Act defines “internet service offering”<sup>227</sup> as a broadband Internet access service provided to a household, and defines “broadband Internet access service” with the meaning given to that term in section 8.1(b) of the Commission’s rules.<sup>228</sup> The Consolidated Appropriations Act further requires that an Internet service offering must have a “standard rate” in order to receive the emergency broadband benefit,<sup>229</sup> and that standard rate equals the “the monthly retail rate for the applicable tier of broadband internet access service as of December 1, 2020, excluding any taxes or other governmental fees.”<sup>230</sup> We interpret this requirement to mean that an Internet service offering eligible for EBB Program support must have a retail rate that was on offer as of December 1, 2020 and that, but for the application of the EBB Program discount, would have been charged to the customer on a monthly basis. We interpret the Consolidated Appropriations Act’s reference to a “monthly retail rate”<sup>231</sup> to exclude broadband service products that are priced based primarily on the data allowance of the product (for example, a purchase 1 GB of data for \$5.00) and are sold separate from a monthly recurring service plan). This requirement also helps to focus limited funding toward more robust broadband service offerings to maximize the program’s benefits for enrolled households. Additionally, we clarify that the Consolidated Appropriations Act’s application of the emergency broadband benefit as a discount off of the monthly retail rate charged to the subscriber means that service plans that are already offered with no fee to the end user—for example, as a result of Lifeline program support or other benefit programs—are not eligible for additional or duplicative support from the EBB Program. At the same time, the Consolidated Appropriations Act does permit plans where the end result is no fee being assessed on the household *after* the application of the monthly benefit.<sup>232</sup>

71. Some parties have asked that we require participating providers to make the emergency broadband benefit available on all of their service offerings.<sup>233</sup> On balance, we believe that dictating the required offerings in a temporary program will discourage participation and result in less consumer choice than would otherwise be available if we provided participating providers with more flexibility. However, we note that participating providers may apply the emergency broadband benefit to any of their eligible offerings, including promotional offerings that were available as of December 1, 2020. Specifically, pursuant to the Consolidated Appropriations Act, participating providers are required to make available to eligible households a monthly discount off the standard rate for an Internet service offering and associated equipment, up to \$50.00 per month. For households residing on Tribal lands, the monthly discount may be up to \$75.00 per month.<sup>234</sup> Participating providers will receive reimbursement from the Program for the discounts provided.

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<sup>227</sup> *Id.* § 904(a)(9).

<sup>228</sup> *See id.* § 904(a)(1) (citing 47 CFR § 8.1(b)).

<sup>229</sup> *See id.* § 904(a)(7).

<sup>230</sup> *See id.* § 904(a)(13).

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

<sup>232</sup> *See id.* § 904(b)(6)(B)(i)(I).

<sup>233</sup> NDIA Comments at 7 (“The FCC should clarify . . . that an eligible household has the right to apply EBB to any internet service offering of a participating provider that was available to that household as of December 1, 2020”); Nat’l League of Cities Comments at 1 (urging the Commission to “require participating providers to offer their full suite of broadband options throughout their entire service area”); Free Press and Access Now Reply at 13-14 (suggesting that the Commission should clarify that “approved providers must accept the benefit for all available service tiers”); Common Cause Reply at 2-4; *see also* MMTN Comments at 8 (low-income consumers should be made aware that the benefit can be used to offset the cost of higher-priced broadband plans, and is not limited to low-cost broadband plans).

<sup>234</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(7).

72. We provide further clarity on the Internet service offerings and associated equipment eligible for reimbursement.<sup>235</sup> Internet service offering is defined as “broadband internet access service provided by such provider to a household, offered in the same manner, and on the same terms, as described in any of such provider’s offerings for broadband internet access service to such household, as on December 1, 2020.”<sup>236</sup> Accordingly, providers who participate in the EBB Program are only eligible to receive reimbursement for offerings that were available on and include the same terms as those available as of December 1, 2020. The majority of commenters do not oppose the service offering date of December 1, 2020, but some commenters explain that the December 1, 2020 date should not limit the ability of providers to offer upgrades on top of such existing service offerings to consumers.<sup>237</sup> We agree and find that participating providers may offer free enhancements of service quality elements of a discount-eligible Internet service offerings but may not increase the price charged for that offering. We believe the December 1, 2020 restriction is best understood as a method of avoiding arbitrage opportunities and waste in the Program by allowing unscrupulous providers to take advantage of the increased subsidy available. By referring to offerings that were available prior to the enactment of the law, the Consolidated Appropriations Act prevents participating providers from increasing prices above the usual market rate for their services for the purpose of claiming the maximum reimbursement amount. Interpreting that restriction to also restrict the ability of participating providers to offer free upgrades to the quality of the broadband services provided to eligible households, however, such as speed, data caps, and other non-price elements, would be contrary to the law’s purpose of supporting robust modern broadband service during an unprecedented pandemic. We therefore permit provider offerings that were available on and include the same terms as those available as of December 1, 2020 to include free enhancements in quality with respect to such non-price elements.<sup>238</sup>

73. *Minimum Service Standards.* We decline to apply minimum service standards to covered services for the EBB Program. We find that qualifying Internet service offerings must include a broadband connection (as defined in section 904(a)(9))—fixed or mobile—that permits households to rely on these connections for the purposes essential to participating in society during the pandemic, such as telework, remote learning, and telehealth. A majority of commenters support this approach, explaining that broadband speeds should be sufficient for telework and distance learning, and discount-eligible Internet service offerings should feature speeds comparable to those offered to market-rate customers.<sup>239</sup> We also recognize that Congress did not limit the discount to lower-cost broadband plans. Consumers purchasing discounted services under the EBB Program qualify for the same protections as those purchasing services at standard rates. Thus, providers that offer discounted broadband services pursuant to the EBB Program rules, either on a standalone or bundled basis, must comply with the same consumer-protection requirements that apply to the corresponding services that they offered on or before December

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<sup>235</sup> *Public Notice* at 8.

<sup>236</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(9).

<sup>237</sup> Participating providers are required to file an election notice with USAC that would, amongst other things, include a description of any Internet service offerings for which the provider plans to seek reimbursement in each state, while also including documentation of the standard rates for those offerings. *See, e.g.,* Altice Comments at 7 (“The Commission should make clear that any one or more of a provider’s existing plans in a certain service area of geographic market is eligible for reimbursement through EBBP.”).

<sup>238</sup> *See* AT&T Comments at 8 (suggesting the Commission apply the EBB program benefits “to service plans that have been enhanced since December 1, 2020 if the changes to the offering benefits the consumer”); CTIA Reply at 8 (explaining that “providers should be permitted to apply the EBB subsidy to plans that have been enhanced . . . as long as the enhanced service plans cost less for the value received than the provider’s plan on December 1, 2020”); Verizon Reply at 11 (“The reality, of course, is that in the competitive marketplace service offerings will continue to improve, and Congress clearly intended EBB customers to be able to apply their benefit to the same improved service offerings that are available to non-EBB customers.”).

<sup>239</sup> NARUC Comments at 10; California PUC Comments at 6-7.

1, 2020. Thus, providers must disclose accurate information regarding the performance characteristics, commercial terms, and other features of their discounted broadband services to enable consumers to make informed choices regarding the purchase and use of such services.<sup>240</sup>

74. Some commenters also suggest that participating providers should offer services that meet the Commission’s definition of broadband at 25/3 Mbps<sup>241</sup> or encourage the Commission to require high-capacity, affordable broadband service.<sup>242</sup> Given the emergency nature of the EBB Program and the vital need to maximize consumer choice and benefits in a short timeframe, we are not persuaded by such arguments. By administering the program within the definition of “Internet service offering,” and permitting non-ETCs to participate, we obviate the need for lengthy service obligations and the risk of slow speeds and maintain consumer choice—allowing consumers to select offerings that work best for their household—as well as permit participating providers to serve eligible households as quickly as possible during the emergency period.<sup>243</sup> We further decline to apply the Lifeline program’s minimum service standards to covered services for the EBB Program.<sup>244</sup> We recognize that some commenters encourage us to use Lifeline’s minimum service standards or the Lifeline program itself as a starting point.<sup>245</sup> Indeed, we understand that low-income consumers must have access to reliable broadband connections vital for basic education, health care, remote work, disability access and public safety, but the Consolidated Appropriations Act does not indicate Congressional intent that we apply Lifeline’s minimum service standards for the EBB Program. We are supported in this decision by the measures we adopt today that clarify that participation in the EBB Program does not preclude the same household from participating in the Lifeline program or other aid programs offered at the state and local level as long as participants meet the requirements for such programs.<sup>246</sup> Even though the EBB Program is an emergency,

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<sup>240</sup> 47 CFR § 8.1(a). In addition, to the extent providers’ bundled service offerings are subject to the Commission’s truth-in-billing rules, providers’ bills for discounted offerings must include clear descriptions of the service corresponding to each identified charge on the bill, so that consumers can confirm that the services for which they are billed correspond to those that they have requested and received; and such bills may not include any charges that consumers have not authorized. 47 CFR §§ 64.2401(b), (f).

<sup>241</sup> EducationSuperHighway Comments at 11; Benton Institute Comments at 36; NRECA Comments at 4; Hughes Network Systems Comments at 6; California PUC Comments at 6-7; Common Sense Comments at 5; INCOMPAS at 14; *see also* AARP Reply at (“The FCC should ensure that the program does not result in an inferior “tier” of service offered to low-income households.”).

<sup>242</sup> Common Sense Comments at 5 (explaining that students need speeds of 200/10 Mbps); NARUC Comments at 10 (broadband access services must remain affordable); NRECA Comments at 4 (supporting additional benchmark of 100/20 Mbps); Starry Reply at 6-7 (asserting that service should exceed 25/3 because that standard falls short of household needs); State of Colorado Office of e-Health Innovation Reply at 1 (supporting a minimum bandwidth of 100 Mbps symmetrical speed or greater); Montgomery County, MD Reply at 11 (recommending a minimum upload speed of 10 Mbps while providing estimates on speed/usage needs of various applications and households).

<sup>243</sup> CTIA Comments at 8-9 (explaining that consumers should be able to choose the service they want applied to the EBBP); *see also* CETF Comments at 9 (expressing concerns that providers may offer slow speeds that will not meet consumer needs).

<sup>244</sup> On July 31, 2020, the Wireline Competition Bureau updated the minimum service standards for speed and data capacity for Lifeline-supported services as required by the *2016 Lifeline Order*. *See 2016 Lifeline Order*, 31 FCC Rcd at 3989-3997, paras. 73-98; 47 CFR § 54.408. Here, we note as it relates to broadband speeds, as of December 1, 2020, the Lifeline minimum service standard for fixed broadband speed is 25 Mbps downstream and 3 Mbps upstream, as calculated from FCC Form 477 data, and the Lifeline minimum service standard for mobile broadband speed remains 3G mobile technology. *See Wireline Competition Bureau Announces Updated Lifeline Minimum Service Standards and Indexed Budget Amount*, Public Notice, 35 FCC Rcd 8121(WCB 2020).

<sup>245</sup> NTCA Comments at 18; NYSPSC Comments at 3.

<sup>246</sup> *See* Consolidated Appropriations Act, div. N, tit. IX, § 904(e) (explaining that the EBB Program “shall not affect the collection, distribution, or administration of the Lifeline Assistance Program”). *See also* Illinois Office of Broadband Comments at 6 (encouraging the Commission to clarify that households are permitted to combine EBBP

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temporary program, it will operate concurrently with Universal Service Fund programs and other existing programs at the state and local levels so eligible consumers can choose a broadband connection that meets their connectivity needs.

75. We do, however, anticipate that providers that elect to participate in the EBB Program that are already designated as ETCs through their participation in other Universal Service Fund programs, particularly the Lifeline program, will draw from that experience and offer similar or upgraded broadband services. In the EBB Program, we anticipate that existing ETCs will continue to offer quality and innovative services, and we encourage other broadband providers (non-ETCs) to offer service standards that promote robust broadband access to vital services.

76. *Bundled Service Offerings.* We also recognize that participating providers in the EBB Program may offer qualifying broadband service combined with other services, otherwise known as bundled service offerings (e.g., voice, data, texting, associated equipment). While the Consolidated Appropriations Act does not explicitly direct the Commission regarding how to handle bundled broadband service offerings, we find if such bundled service options were offered “in the same manner, and on the same terms” on December 1, 2020, participating providers should be able to apply the monthly discount of up to \$50 per month, or up to \$75 for Tribal lands, to the entire bundled service. We draw this conclusion from record support that views such offerings as enhancing flexibility between participating providers and consumers.<sup>247</sup> Also, we draw from our experience with the Lifeline program that participating providers in the EBB Program, including ETCs that are already adept at applying such a discount in the Lifeline program to bundled services, offer bundled service offerings to address consumer demands outside of any Commission regulation.<sup>248</sup> In contrast to the record support for permitting EBB Program reimbursement for broadband bundled services that include voice and/or text messaging, there is not similar support for permitting reimbursement for the full price of broadband bundled services that include video service.<sup>249</sup> We find that permitting EBB Program reimbursement for the full price of a bundle that includes video service is not contemplated by the statute and is not necessary to ensure that consumers in the EBB Program have robust service choices, and we therefore do not permit support for such bundles with video service.

77. We find that the Consolidated Appropriations Act’s requirement that the service

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support for a connected device with aid from other state, local, or community programs to help defray cost); ACA Connects Comments at 6 (“Commission should ensure that EBBP is able to leverage existing programs that provide free or discounted broadband service to households impacted by COVID-19, including programs that are tailored to K-12 schoolchildren lacking broadband at home.”); Comcast Comments at 3 (explaining that providers should be able to offer their low-income programs as well as other existing offerings that meet the program criteria).

<sup>247</sup> NaLA Comments at 8; AT&T Comments at 7; California PUC Comments at 7; Michigan PSC Comments at 3; NYSPSC Comments at 2; NRECA Comments at 5; NCTA Comments at 17; T-Mobile Comments at 3; TracFone Comments at 12; CTIA Comments at 9; USTelecom Comments at 12; Verizon Comments at 9; Verizon Reply at 8-9; USTelecom Reply at 9; CTIA Reply at 6; TracFone Reply at 3; Frontier Reply at 4; EBBC Reply at 5; AT&T Reply 6-7; NaLA Reply at 10-15. *See* Letter from Michele K. Thomas, Indra Sehdev Chalk, T-Mobile, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 20-445, at 4 (filed Feb. 5, 2021) (T-Mobile *Ex Parte*) (urging the Commission to “allow bundled data/voice/text offers without the need to engage in cumbersome cost-allocations”). *See also* Public Knowledge Comments at 13-14 (supporting the inclusion of bundled plans while also urging that EBB Program “funds go towards the broadband services they were intended for”); *but see* Starry Reply at 7-8 (“[T]he Commission should not accept EBB reimbursement requests for bulk service offerings and should only reimburse for the broadband service line items on bundled bills.”).

<sup>248</sup> *See, e.g.*, Comcast, Internet Essentials Program, <https://www.internetessentials.com/> (last visited Feb. 11, 2021); Cox, Connect2Compete, <https://www.cox.com/residential/internet/connect2compete.html> (last visited Feb. 11, 2021); AT&T, Access from AT&T, <https://www.att.com/internet/access/> (last visited Feb. 11, 2021).

<sup>249</sup> *See* Verizon Reply at 9 (noting that including support for broadband bundles with voice and text messaging service does not implicate the inclusion of “costlier non-broadband services such as video”).

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offerings be offered “in the same manner” as they were on December 1, 2020, authorizes the Commission to support both standalone broadband service offerings and broadband service offerings bundled with voice, text messaging, and/or associated equipment.<sup>250</sup> For many fixed and mobile Internet service offerings, it is common to offer broadband service as part of a bundle without separating out the price of the broadband component and its associated equipment.<sup>251</sup> By permitting participating providers to offer broadband in those same bundles in the EBB Program, we permit providers to make available Internet service offerings “in the same manner” as they were on December 1, 2020.

78. *Associated Equipment and Other Customer Premises Equipment.* The Consolidated Appropriations Act requires participating providers to make available to eligible households a monthly discount off the rate for an Internet service offering *and* associated equipment, up to \$50.00 per month, and on Tribal lands, the monthly discount may be up to \$75 per month.<sup>252</sup> In the *Public Notice*, the Bureau also sought comment on how to define associated equipment and whether that undefined term should include, for example, the monthly rental costs for modems and/or routers that are offered as part and parcel of an Internet service offering.<sup>253</sup> The record overwhelmingly supports including modems, routers, and hotspot devices and antennas, if offered as monthly rental costs or part and parcel of an Internet service offering as eligible for the EBB monthly discount as of December 1, 2020.<sup>254</sup> Combined with record support and recognizing that the Consolidated Appropriations Act does not specifically define or identify any associated equipment as it relates to any particular broadband service, we find that associated equipment includes equipment necessary for the transmission functions of Internet service offerings supported through the EBB Program which households may choose to receive. Commenters support our conclusion by encouraging the Commission to define the scope of eligible associated equipment “in a technology-neutral manner” to accommodate household choice and the different types of broadband networks.<sup>255</sup> We agree that a technology-neutral approach is appropriate as long as it meets the requirements of the Consolidated Appropriations Act. However, we decline to include Wi-Fi extenders or repeaters as associated equipment or any other customer premises equipment that enhances or extends a broadband signal beyond a participating provider’s Internet service offering.<sup>256</sup> First, any associated

<sup>250</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(9).

<sup>251</sup> See *2020 Communications Marketplace Report*, GN Docket 20-60, Report, FCC 20-188, at 29, 30, 100-01, paras. 38-40, 142 (explaining that mobile wireless providers “compete using differentiated plans and bundle services” and that cable providers also bundle “mobile broadband services with their fixed broadband and other offerings”) (*2020 Communications Marketplace Report*). The *2020 Communications Marketplace Report* also noted that “AT&T and Verizon mobile customers are also able to purchase fixed/mobile broadband service bundles where available in AT&T’s and Verizon’s fixed broadband footprint.” *2020 Communications Marketplace Report* at 100-01, para. 142 & n.417 (citing AT&T 2019 SEC Form 10-K at 2; Verizon 2019 SEC Form 10-K at 3). See, e.g., Verizon, *Verizon Fios Home Internet*, <https://www.verizon.com/home/fios-fastest-internet/> (last visited Feb. 18, 2021).

<sup>252</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(7).

<sup>253</sup> *Public Notice* at 8.

<sup>254</sup> USTelecom Comments at 16; Verizon Comments at 12; Local Governments Comments at 19-21; WISPA Comments at 13; TechFreedom Comments at 5; Vermont PUC et al. Comments at 7; Internet for Dallas Comments at 2; National Association of State Directors of Adult Education Comments at 1; Free Press Comments at 4; Public Knowledge Comments at 11-12; T-Mobile Comments at 14; NCTA Comments at 16; CCA Comments at 6; NDIA Comments at 7; Hughes Network Systems Comments at 6; City and County of San Francisco Comments at 2; Michigan PSC Comments at 7; NYSPSC Comments at 4; NNTC Comments at 8 (also supporting the use of antennas for fixed wireless systems); NCLC and United Church of Christ Comments at 10; State Educational Technology Directors Assoc. et al. Comments at 4-5; HelpAge USA Comments at 1-2 (also supporting the additional use of VPN equipment, and VSAT dishes and antennae); Connected DMV Reply at 3.

<sup>255</sup> Viasat Comments at 6.

<sup>256</sup> NDIA Comments at 7 (supporting Wi-Fi repeaters as associated equipment); City and County of San Francisco Comments at 2 (supporting other customer-premise equipment); HelpAge USA Comments at 1-2 (also supporting

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equipment that enhances or extends a broadband signal from its existing coverage area as outlined in the participating provider's Internet service offering would not be offered "in the same manner, and on the same terms" as defined in the Consolidated Appropriations Act.<sup>257</sup> Second, these types of devices are typically sold as add-on options to a broadband connection or sold separately through major manufacturers and are therefore not offered as part and parcel of an Internet service offering.<sup>258</sup> Accordingly, Congress does not clearly allow us to include these devices, and if it had intended to do so, it would have included such devices in its definition of "connected devices."<sup>259</sup> We also note that the "associated equipment" discussed in this paragraph must be billed monthly on the same terms and same manner as it would have been in an offering available on December 1, 2020. The price for such associated equipment cannot be frontloaded. For example, if a provider has a \$30 monthly service offering and would have offered a modem for a monthly rental of \$5 for a total monthly fee of \$35, the provider cannot front-load the monthly rental fee and charge \$20 for four months of a modem rental in the first month in order to maximize reimbursement up to the \$50 monthly discount allowed.

79. *Connected Devices.* The Consolidated Appropriations Act clearly and narrowly defines a "connected device" eligible for a separate, one-time reimbursement as "a laptop or desktop computer or tablet."<sup>260</sup> In the *Public Notice*, we sought comment on whether the Commission should provide any further clarity regarding connected devices that are eligible for reimbursement.<sup>261</sup> The Consolidated Appropriations Act does not leave room for a broad interpretation of "connected device." Congress explicitly declined to include mobile phones in its definition, and thus we find that the definition of a tablet does not include devices that can independently make cellular calls such as large phones or phablets.<sup>262</sup>

80. Various commenters urge the Commission to fund additional end-user devices outside the scope of the Consolidated Appropriations Act, including mobile phones (i.e., smartphones)<sup>263</sup> and portable Wi-Fi hot spots<sup>264</sup> arguing that these devices are capable of supporting video conferencing

the additional use of VPN equipment, and VSAT dishes and antennae); City of Seattle, Washington State Broadband Office, *et al.* Comments at 12 (supporting the additional use of Wi-Fi signal repeaters).

<sup>257</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(7).

<sup>258</sup> See, e.g., Verizon, *Verizon Fios Wi-Fi Extenders*, <https://www.verizon.com/support/residential/internet/equipment/network-extender> (last visited Feb. 17, 2021) (offering a wide variety of equipment to maximize a Wi-Fi connection); Xfinity, *xFi Pod*, <https://www.xfinity.com/learn/internet-service/wifi/xfi-pod> (last visited Feb. 17, 2021) (offering a device to extend and enhance a Wi-Fi network as a "one-time purchase" that is added to a consumer's next bill); Google, *Nest Wifi*, [https://store.google.com/us/product/nest\\_wifi](https://store.google.com/us/product/nest_wifi) (last visited Feb. 17, 2021) (offering "a scalable system that creates a mesh network, which delivers a consistently strong, reliable signal" in which the strength and speed of the signal depends on your internet provider).

<sup>259</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(4) (Connected device means a laptop or desktop).

<sup>260</sup> See *id.*

<sup>261</sup> *Public Notice* at 8.

<sup>262</sup> We do not find a sufficient legal basis to allow households to seek reimbursement for more than one connected device. See *infra* para. 81; see, e.g., HelpAge USA Comments at 1-2 (seeking a guarantee that the program applies to a wide range of connected devices); TDI *et al.* Comments at 4-5 (noting that "for households that contain a person who is deaf, hard of hearing, DeafBlind, or deaf with mobility issues, the Commission should consider providing reimbursement for more devices").

<sup>263</sup> NNTRC Comments at 8-10; CTIA Comments at 10; CCA Comments at 4; TracFone Comments at 16-17; CTIA Reply at 9-10; TracFone Reply 8-9; Internet Society Reply at 14-15; CCA Reply at 3-4.

<sup>264</sup> University of California Student Assoc. Comments at 2; see also State of Colorado Reply at 1 (suggesting that connected devices should include "wireless routers, modems, hotspots, antennas, and indoor Wi-Fi signal repeaters").



platforms and other software, and limiting such devices could “impose more financial burdens to a student.”<sup>265</sup> CTIA, for example, explains that “mobile devices from the 4G era or later should qualify as ‘tablets’ under the definition” while “mobile phones, including feature phones and smartphones from the 3G era or earlier, should not qualify as ‘tablets.’”<sup>266</sup> T-Mobile explains “that certain mobile phones that provide similar functionality as a basic tablet” should be considered a “connected device.”<sup>267</sup> TDI et al. proposes that devices that enable Video Relay Service or Internet Protocol Captioned Telephone Service should be eligible for reimbursement.<sup>268</sup> Conversely, other commenters support the exclusion of mobile phones, with one commenter opposing the inclusion of tablets, as a connected device.<sup>269</sup> Common Sense Media, in its comments, excludes cell phones from its research-based list of requirements for a robust learning experience, explaining that “students and teachers need laptops or tablets capable of meeting the distance learning requirements of their curriculum.”<sup>270</sup> The record also indicates that while tablets are capable of supporting video conferencing platforms and other software, commenters express caution that tablets may require more specific service standards or a broad interpretation.<sup>271</sup> Taking into consideration the record, and the narrow and specific language in the Consolidated Appropriations Act’s definition of a connected device, we are unable to expand the definition of connected device and we conclude that the EBB Program will provide reimbursement for any connected device, defined as “a laptop or desktop computer or tablet.”<sup>272</sup>

81. We next clarify that participating providers may only receive a single reimbursement of up to \$100 for one connected device per household, and the eligible household must contribute towards the cost of the connected device at least \$10 but no more than \$50. The *Public Notice* sought comment on whether eligible households should be able to receive more than one connected device through the EBB Program, for example, if the household changes providers.<sup>273</sup> The Consolidated Appropriations Act provides that a participating provider may receive reimbursement for no more than one connected device per eligible household,<sup>274</sup> but it is silent as to whether households may receive the connected device reimbursement benefit from more than one provider. Although some commenters suggest that eligible households should receive more than one connected device, we find no legal basis to do so.<sup>275</sup> In order to

<sup>265</sup> University of California Student Assoc. Comments at 2; *see also* American Association of People with Disabilities (AAPD) Comments at 1-2 (suggesting that a connected device should include assistive devices, such as built-in voice assistants).

<sup>266</sup> CTIA Comments at 10.

<sup>267</sup> T-Mobile Comments at 14; *see also* TechFreedom Comments at 5 (explaining that the Commission “should support any broadband connection capable of delivering data to devices that can perform the functions of a computer or tablet” and “must include smartphones”).

<sup>268</sup> *See* TDI et al. Comments at 2.

<sup>269</sup> Common Sense Comments at 4-5; EveryoneOn Comments at 2; CETF Comments at 20; DigitalC Comments at 9-10 (proposing the exclusion of tablets and cell phones).

<sup>270</sup> Common Sense Comments at 4-5.

<sup>271</sup> TracFone Wireless Comments at 19-20 (suggesting that “tablet” include 4G/LTE devices that contain a touchscreen); EBBC Comments at 13 (suggesting the “Commission adopt a broad interpretation of ‘tablet’); Michigan PSC Comments at 8 (explaining that “some confusion may likely exist between distinctions of devices such as smaller tablets and larger mobile phones”).

<sup>272</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(4).

<sup>273</sup> *Public Notice* at 6.

<sup>274</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(b)(5).

<sup>275</sup> *See, e.g.*, City of Seattle, Washington State Broadband Office, *et al.* Comments at 11-12 (suggesting more than one device for eligible households); INCOMPAS Comments at 13 (recommending “the Commission establish rules that offer flexibility that would allow households with school-aged children to demonstrate that more than one

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preserve limited funds, ensure that benefits reach the greatest number of eligible households, and avoid wasteful spending, we find that households are limited to a single connected device during the EBB Program for which a provider seeks reimbursement. We take this position in order to maintain the integrity of the EBB Program—ensuring that reimbursements, and the subsequent disbursements, for a connected device are only processed for valid claims that comply with the Consolidated Appropriations Act.

82. *Minimum System Requirements for Connected Devices.* In the *Public Notice*, the Bureau sought comment on whether the Commission should impose minimum system requirements for connected devices supported by the EBB program.<sup>276</sup> We adopt our proposal that a connected device supported by the EBB Program should be expected to support video conferencing platforms and other software essential to ensure full participation in online learning, should be Wi-Fi enabled, and have video and camera functions.<sup>277</sup> The record overwhelmingly supports that, at a minimum, connected devices must be able to support video conferencing and camera functionality and online learning software.<sup>278</sup> Recognizing however that the ongoing COVID-19 pandemic has compounded challenges for numerous households to maintain broadband services, we find that setting minimum system requirements for connected devices could limit consumer choice and exacerbate barriers to broadband service that may have existed prior to COVID-19. While some commenters suggested specific standards the Commission should adopt for connected devices,<sup>279</sup> we decline to adopt such standards and instead encourage

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connected device is needed to meet distance learning or school-based requirements”); CETF Comments at 20 (supporting more than one device for a household); EBBC Comments at 13 (explaining that certain households may need more than one device); AAPD Comments at 1-2 (suggesting the “Commission increase the number of support devices households can receive”); LeadingAge Comments at 3 (recommending one device per person, not per household); Bethlehem Area School District Reply at 1 (“Eligible households should be allowed to receive more than one connected device as many have more than one student in the school district system.”).

<sup>276</sup> *Public Notice* at 9.

<sup>277</sup> *See id.*

<sup>278</sup> CTIA Comments at 10; CCA Comments at 4; Aurora Institute Comments at 3; NCLC and United Church of Christ Comments at 10; National Association of State Directors of Adult Education Comments at 1; EveryoneOn Comments at 2; NaLA Comments at 17; CETF Comments at 20; Internet for Dallas Comments at 2; Public Knowledge Comments at 11-12; WISPA Comments at 13; TracFone Wireless Comments at 19-20; TechFreedom Comments at 7; DigitalC Comments at 9-10; Local Governments Comments at 21; City and County of San Francisco Comments at 2; Student Internet Equity Coalition Comments at 6; HTTP Comments at 3; Nebraska PSC Comments at 6-7; Maine Department of Economic and Community Development/Connect Maine Authority Comments at 2; *but cf.* Michigan PSC Comments at 7-8 (explaining that minimum system requirements could exclude vulnerable populations for participating in the program (e.g., those without children or a need for online learning). *See also supra* Section III(A) (explaining the election process for participating providers that requires documentation of their Internet service offerings and connected devices).

<sup>279</sup> City of Seattle, Washington State Broadband Office, et al. Comments at 11-12 (suggesting the following minimum system requirements: Operating system: Windows 10 Home or Pro and Mac OS 10.13 or higher; Microsoft Office; minimum processor: Core i5, recommended, i7; 8 GB RAM or higher; 250 GB hard drive (minimum), 500 GB+ (recommended); 512 MB video memory of higher graphics card; integrated or external webcam; headset w/ microphone; virus protection software; wi-fi adaptor; 2 year warranty, including battery; insurance for breakage, liquid spills; web content filtering program as option for parents; 7 inch min. screen size); City of Madison, WI Comments at 1-2 (explaining that “School district system requirements include a Chromebook device with webcam, microphone, 4 GB RAM, processor capable of handling virtual meetings, 32GB flash storage and touch-screen display for elementary-aged students” and newly purchased devices must guarantee 4 years of Google Chrome OS management support); NNTRC Comments at 8-10 (supporting the Commission’s proposed requirement for video conferencing and other essential software for virtual learning but also suggests that the Commission adopt a standard that allows support for all devices capable of running apps for the most popular collaborative video conferencing systems such as Zoom, WebEx, and Microsoft Teams); R Street Comments at 6 (“If a user does not need video conferencing capabilities to meet their needs, for example, it does not make sense for

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participating providers and interested stakeholders to explore other opportunities, including partnering with school districts and state and local programs that may provide funding or other avenues for access to end-user devices and equipment due to the COVID-19 pandemic. We also expect that connected devices be accessible to and usable by people with disabilities.<sup>280</sup>

#### D. Benefits for Households on Tribal Lands

83. The Consolidated Appropriations Act also provides a discount up to \$75 for Internet service offerings to eligible households on Tribal Lands.<sup>281</sup> It is vital that we utilize the EBB Program in an efficient way to help provide more households on Tribal lands with affordable, reliable connectivity.<sup>282</sup> We adopt our proposal in the *Public Notice* to use the same definition of Tribal lands as used in the Lifeline program, including certain lands near the Navajo Nation treated as Tribal lands.<sup>283</sup> We also allow members of households on Tribal lands to use their participation in the same Tribal programs permitted under the Lifeline program to qualify for the EBB Program, in addition to other permitted means of qualifying.<sup>284</sup> We also adopt our proposal to use the processes USAC has in place for identifying the location of a household residence.<sup>285</sup>

84. Many commenters support our proposal to use the Lifeline program's definition of Tribal

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the Commission to force an offering to contain such capabilities. With additional flexibility, lower cost devices may be the best option, lowering the burden on the program as a whole and maximizing the value of each subsidy dollar spent.”).

<sup>280</sup> See 47 U.S.C. §§ 255, 617 (requiring equipment that provides telecommunications and advanced communications services to be accessible); see also TDI et al. Comments at 2-4 (explaining the reliance of people who are deaf or hard of hearing on video communications and the accessibility gaps in video conferencing services); AAPD Comments at 1-2 (recommending that connected devices include built-in voice assistants).

<sup>281</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(a)(7).

<sup>282</sup> Cherokee Nation Comments at 2; NNTRC Comments at 10.

<sup>283</sup> See *Public Notice* at 10. Tribal lands include “any federally recognized Indian tribe's reservation, pueblo, or colony, including former reservations in Oklahoma; Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688); Indian allotments; Hawaiian Home Lands - areas held in trust for Native Hawaiians by the state of Hawaii, pursuant to the Hawaiian Homes Commission Act, 1920 July 9, 1921, 42 Stat. 108, et. seq., as amended; and any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in § 54.412.” 47 CFR § 54.400(e). See *Federal-State Joint Board on Universal Service, Smith Bagley, Inc. Petition for Waiver of Section 54.400(e) of the Commission's Rules*, WC Docket No. 03-109, Memorandum Opinion and Order, 20 FCC Rcd 7701, 7704-08, paras. 8-17 (2005) (granting Smith Bagley Inc.'s petition for waiver of section 54.400(e) of the Commission's rules explaining that “[a]lthough the Eastern Navajo Agency is not entirely comprised of Tribal lands under the Commission's definition, the area is almost exclusively populated by Native Americans that suffer from the same conditions present on other federally-recognized Tribal lands”); *Sacred Wind Communications, Inc. and Qwest Corporation, Joint Petition for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix-Glossary of the Commission's Rules; Sacred Wind Communications, Inc. Related Waivers of Parts 36, 54, and 69 of the Communication's Rules*, Order, 21 FCC Rcd 9227, 9239-43, paras. 27-35 (WCB 2006) (clarifying that the 2005 waiver of the Commission's Lifeline and Link-Up eligibility rules to enable eligible residents of the Eastern Navajo Agency to receive enhanced Lifeline and Link-Up support applies to Sacred Wind as well as Smith Bagley, Inc. and granting waiver to permit Sacred Wind and other eligible telecommunications carriers serving the area immediately adjacent to the Eastern Navajo Agency to offer Tier 4 Lifeline and Link-Up benefits to qualified residents).

<sup>284</sup> 47 CFR § 54.409(b). A consumer residing on Tribal lands can qualify for Lifeline if they participate, or a dependent or someone else in their household participates in certain Tribal-specific assistance programs, including: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those households meeting its income qualifying standard); or the Food Distribution Program on Indian Reservations.

<sup>285</sup> *Public Notice* at 10.

lands as well as existing USAC processes for verifying eligibility of households on Tribal lands.<sup>286</sup> We find this is the best and most efficient approach for households and participating providers in the EBB Program because it will continue to help the Commission quickly address existing impediments to connectivity on Tribal lands and allow providers to offer EBB Program benefits to a wide-range of households that will, in turn, increase the number of subscribers of broadband Internet access service.<sup>287</sup> We therefore decline to use any other definitions suggested by commenters that would expand upon the established definitions in our Lifeline rules and would accordingly prevent USAC from using the existing Lifeline informational tools to identify whether an applicant resides on Tribal lands.<sup>288</sup>

85. With respect to other accommodations to ensure eligible households on Tribal lands are able to participate in the EBB Program, some commenters encourage a flexible approach that would use additional methods other than USAC databases (i.e., National Verifier, NLAD) to verify addresses.<sup>289</sup> We disagree with such an approach and find that USAC's databases, especially its mapping tool in the National Verifier, offer a sufficiently comprehensive process for identifying residences on Tribal lands for the EBB Program.<sup>290</sup> Additionally, USAC provides multiple other methods for applicants and providers to submit residential location data to confirm whether an applicant resides on Tribal lands. Expanding or otherwise modifying the USAC systems to accommodate new methods would also require additional time. To facilitate timely and efficient processing of participating providers and eligible households on Tribal lands, we find the benefits of using USAC's existing mapping tool and other address verification methods far outweighs commenters' concerns to this action and also eliminates time-consuming or

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<sup>286</sup> EBBC Comments at 13-14; GCI Comments at 6-7; Cherokee Nation Comments at 2; CETF Comments at 23 (also recommending against the use of Tribal lands definitions as applied in for spectrum licensing); ISOC-DC Reply at 1; Internet Society Reply at 11-12; Seneca Nation of Indians Reply at 2; *see also* EBBC Comments at 14 (supporting the application of the Lifeline program's definition and also recommending that the Commission *also* include "the three-types of off-reservation lands designated in the 5G Fund Order"). As explained above, we decline to further expand the definition of Tribal lands under 47 CFR § 54.400(e).

<sup>287</sup> The definition of "Tribal lands" in 47 CFR § 54.400(e) includes "any land designated as such by the Commission for purposes of this subpart pursuant to the designation process in § 54.412." We include such lands in the definition of Tribal lands for purposes of the EBB Program to include any land designated as part of the Lifeline program.

<sup>288</sup> *See* California PUC Comments at 8 ("FCC should use a broad definition of Tribal Lands that includes the locations where Native Americans actually live."); Greater Washington DC Chapter of the Internet Society (ISOC-DC) Comments at 3 (recommending the "Commission use the definition of Tribal lands contained in 47 CFR § 73.7000"); National Council of Urban Indian Health Reply at 5-6 (urging the Commission to provide Urban Indians the same benefits that AI/ANs living on tribal lands are getting under the Lifeline program); Hawaii Broadband Initiative Reply at 2 (expressing concern about the eligibility of Native Hawaiians who do not reside on Hawaiian Homelands); ISOC-DC Reply at 1 (changing its previous recommendation for the definition in 47 CFR § 73.7000 and now urging the Commission to use the definition of Tribal lands under 47 CFR § 54.400(e)); Internet Society Reply at 11-12 (supporting the Lifeline definition of Tribal lands and also opposing the exclusion of Tribal lands based on population density measures). We note, however, that § 73.7000 includes the same list of federally recognized lands provided in 47 CFR § 54.400(e).

<sup>289</sup> NTCA Comments at 15-16 (suggesting that the Commission also address concerns regarding address verification in rural areas); GCI Comments at 7 (encouraging the Commission to ensure current address verification processes are available to the EBB Program explaining that "Lifeline applicants without a postal address can enter either a descriptive address or the description of the place where they receive their mail (for example, a central village point where mail is brought in)").

<sup>290</sup> Consumers who are required to resolve address errors when submitting applications through the National Verifier (service provider portal, consumer portal, or eligibility check API) are automatically prompted to use the National Verifier mapping tool to drop a pin on a map showing their primary residence. USAC uses the pin-drop to capture the coordinates of the consumer's primary residence. *See National Verifier AMS Resolution Guide*, USAC, at <https://www.usac.org/wp-content/uploads/lifeline/documents/nv/National-Verifier-AMS-Resolution-Guide.pdf>. *See also Enhanced Tribal Benefit*, USAC, at <https://www.usac.org/lifeline/get-started/enhanced-tribal-benefit/#Eligible>.

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wasteful administrative processes. We direct USAC to make available its existing comprehensive address verification methods to applicants and providers in the EBB Program, including providers using their own alternative verification process pursuant to the Consolidated Appropriations Act.

**E. Budget and Reimbursement**

**1. Emergency Broadband Connectivity Fund and Reimbursement for the Emergency Broadband Benefit**

86. The EBB Program is funded through the \$3.2 billion Emergency Broadband Connectivity Fund in the Consolidated Appropriations Act, and does not rely on contributions to the Universal Service Fund.<sup>291</sup> The Consolidated Appropriations Act further provides that no more than 2% of the Emergency Broadband Connectivity Fund (Fund) or \$64 million is to be used for the administration of the EBB Program,<sup>292</sup> and funding for the EBB Program will remain available until the Fund is expended or six months after the end of the Emergency Period as defined in the Consolidated Appropriations Act, whichever comes first.<sup>293</sup> We recognize that while Congress has allocated that a portion of the Fund be used for the administration of the EBB Program, the primary purpose of the Fund is to provide support for the households enrolled in the program. To that end, we direct USAC, in coordination with the Office of the Managing Director, to re-evaluate no later than three months after the start of the EBB Program to determine if there are any of its administrative funds that can be used to fund reimbursements for service and connected device claims. Moreover, we direct USAC to continue to regularly report to the Office of Managing Director its projected budget for its administration of the EBB Program. Based on USAC's initial estimates provided to the Office of Managing Director, USAC's EBB Program administrative costs will be under the 2 percent cap, which includes costs associated with business process outsourcing, project management, IT professional fees, and call center activities. Pursuant to the terms of the Memorandum of Understanding between USAC and the Commission, USAC and the Commission will not incur administrative costs beyond the \$64 million cap.<sup>294</sup>

87. The emergency nature of this program requires a prompt processing of claims that ensures participating providers, including those who currently have no relationship with USAC, receive reimbursement for valid claims for services and connected devices provided to eligible households. To ensure that there is a mechanism for disbursing funds to providers that balances the need to guard against waste, fraud, and abuse in the program with the need to reimburse valid claims quickly and efficiently, we adopt the following requirements for the reimbursement process.

88. *Lifeline Claims System.* We recognize the importance of using existing, functional systems such as the NLAD and the Lifeline Claims System to ensure that EBB Program providers can submit timely reimbursement claims yet are not claiming support for the same household.<sup>295</sup> The NLAD plays a vital role in ensuring that providers can only claim subscribers enrolled in NLAD on the first of each month and the information captured in NLAD serves as the basis for claims in the Lifeline Claims System. As with Lifeline, we will require providers in the EBB Program to transmit to the NLAD the required information necessary to uniquely identify households. To help maintain the integrity of the

<sup>291</sup> Consolidated Appropriations Act, div. N, tit. IX, §§ 904(b)(1), (i)(4).

<sup>292</sup> *Id.* § 904(i)(3); see also *Memorandum of Understanding Between the Federal Communications Commission and the Universal Service Administrative Company Regarding the Emergency Broadband Benefit Program*, at 2, (Feb. 3, 2021), [https://www.fcc.gov/sites/default/files/fcc\\_usac\\_ebbp\\_mou\\_02.03.2021.pdf](https://www.fcc.gov/sites/default/files/fcc_usac_ebbp_mou_02.03.2021.pdf) (providing that USAC's expenses for the administration of the EBB Program as outlined in the Memorandum of Understanding (Emergency Broadband Benefit MOU) shall not exceed \$48 million.).

<sup>293</sup> Consolidated Appropriations Act, div. N, tit. IX, § 904(i)(2); see also *Public Notice* at 12-13.

<sup>294</sup> Emergency Broadband Benefit Program MOU at 2.

<sup>295</sup> See *Lifeline and Link Up Reform and Modernization et al.*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6734-37, paras. 179-187 (2012).

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EBB Program and to facilitate efficient processing of reimbursement claims, we adopt the proposal in the *Public Notice* to use USAC's Lifeline Claims System to reimburse providers for the provision of covered devices, services and associated equipment to eligible households.<sup>296</sup> The Lifeline Claims System is the online filing system hosted by USAC that service providers use to submit claims for reimbursement for service they provide to Lifeline customers.<sup>297</sup> In the Lifeline program, providers are required to submit a reimbursement request through the Lifeline Claims System based on the number of subscribers enrolled in the NLAD on a specific date each month, called a snapshot date. Providers are instructed to review the snapshot report from NLAD for all of the provider's households in NLAD as of that date, validate the households for which they wish to seek reimbursement, or indicate a reason for not claiming reimbursement for other households on the report, and review, correct, and certify the requested reimbursement amount. We will employ the same process for reimbursing providers in the EBB Program. We direct USAC to make the Lifeline Claims System available to EBB Program providers, once they are approved to participate in the program, subject to USAC system access requirements.

89. Commenters generally support the Bureau's proposal to use the Lifeline Claims System for managing reimbursements, stating that the use of an existing USAC platform will avoid unnecessary delays that would result from developing a new reimbursement platform for use in the EBB Program.<sup>298</sup> Some noted the importance of issuing reimbursements quickly, particularly for smaller providers that may find it financially difficult to wait months for reimbursement.<sup>299</sup> The Information Technology and Innovation Foundation (ITIF) contends that using the Lifeline Claims System for managing reimbursements will "expedite[] financial recovery by providers to ensure stability while also leveraging a tested, already established system with Lifeline."<sup>300</sup> Other commenters, such as the National Consumer Law Center and the United Church of Christ OC, Inc. (NCLC and UCC) noted that using the Lifeline Claims System will provide integrity to the program by helping to ensure that the funds are directed to providers and consumers for eligible services and connected devices.<sup>301</sup>

90. *Uniform snapshot date.* The disbursement of EBB Program claims will be based on the number of Program subscribers enrolled with a provider in the NLAD as of the first of each month. The first of the month will serve as the uniform snapshot date.<sup>302</sup> When establishing the uniform snapshot date for Lifeline, the Commission found that the practice would 1) reduce the risk that the program would reimburse multiple providers for serving the same customer in a month; 2) assist with the adoption of uniform audit procedures; and 3) aid in the calculation of support based on the number of subscribers that a service provider has listed in NLAD.<sup>303</sup> Commenters also recognize the value of establishing a uniform snapshot date for use in the EBB Program.<sup>304</sup> For example, T-Mobile states that applying the uniform snapshot date will simplify the enrollment and reimbursement process in the EBB Program as it currently

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<sup>296</sup> *Public Notice* at 8-9 (citing *Wireline Competition Bureau Provides Guidance on the Lifeline Reimbursement Payment Process Based on NLAD Data*, Public Notice, 33 FCC Rcd 128 (WCB 2018)).

<sup>297</sup> See USAC, Lifeline Claims System, <https://www.usac.org/lifeline/reimbursement/lifeline-claims-system> (last visited Feb. 11, 2021).

<sup>298</sup> TracFone Comments at 5.; see also WISPA Comments at 12.; NaLA Comments at 15.

<sup>299</sup> See 98 Small Broadband Providers Comments at 1.

<sup>300</sup> ITIF Comments at 3.

<sup>301</sup> NCLC and UCC Comments at 10.

<sup>302</sup> See 47 CFR § 54.407(a).

<sup>303</sup> *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818, 7898, para. 242 (2015).

<sup>304</sup> See TracFone Comments at 5; NaLA Comments at 15.

does for Lifeline.<sup>305</sup> We agree that the uniform snapshot date brings efficiencies to the reimbursement process by restricting support to those eligible subscribers that are enrolled in NLAD on the first of each month and removing any uncertainty that would come with a requirement for providers to claim subscribers on a pro-rata basis in the event households receive service for less than the full month. On the other hand, employing a method that allows for partial claims would be cumbersome to administer and would make it difficult for USAC to track disbursements from the Emergency Broadband Connectivity Fund. We find it most efficient to require providers to claim subscribers that are enrolled in NLAD as of the first of the month regardless of how many days in the month the provider was providing service to the subscriber.

91. *Program-wide use of NLAD for reimbursements.* We also establish that NLAD will be used as a tool for reimbursement calculations and duplicate checks in all states, territories and the District of Columbia, regardless of a state's NLAD opt-out status for purposes of the Lifeline Program.<sup>306</sup> Uniformity in the ways providers interact with the Lifeline Claims System and other USAC systems is essential in ensuring that this program operates efficiently, which is a priority given the emergency and temporary nature of the Program. Asking USAC to develop and administer different reimbursement processes for different states would delay the implementation of this emergency program and potentially burden state administrators. Moreover, we recognize the need for non-ETC providers to quickly become familiar with the reimbursement process to ensure that claims are made correctly and to reduce the need for revisions. Having multiple reimbursement processes would further complicate the program and lead to confusion among providers who are not familiar with existing Lifeline processes, particularly in opt-out states. This uniform approach and program-wide reliance on the NLAD for the generation of the snapshot report is important in facilitating the swift processing of reimbursement claims.

92. *Certification requirements.* To submit their reimbursement claims for broadband Internet access service provided to eligible households, we require participating providers to review their snapshot report and validate the eligible households for which they are requesting reimbursement. The provider shall confirm that the reimbursement amount matches the amount of the monthly service or connected device for which the participating provider is permitted to seek reimbursement and make any corrections to the amount as necessary. We also require providers to review the snapshot report and to confirm that households receiving a fully subsidized service have used the service during the relevant period. If a household has not used their service during the relevant period, then the provider shall not submit a reimbursement claim for service provided to that household until the service is used and the non-usage is cured. To add more accountability and to help ensure that only service that subscribers are using is funded through the Program, we require that providers certify that their EBB Program service claims for reimbursement meet the usage requirements. To ensure that the Program is supporting broadband service that is actually being used, we will not permit providers to seek reimbursement for a service month in which a household did not meet the usage requirements, even if the household meets the usage requirements in subsequent months.

93. Additionally, we require providers to make the certifications, including those set forth in the Consolidated Appropriations Act when submitting a reimbursement claim. The Consolidated Appropriations Act requires that in order to receive reimbursement from the Emergency Broadband Connectivity Fund, the providers shall make several certifications regarding the accuracy of their claims,

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<sup>305</sup> T-Mobile USA, Inc. Comments at 15 (T-Mobile Comments).

<sup>306</sup> The Lifeline NLAD opt-out states are California, Oregon, and Texas. The California Public Utilities Commission, the state administrator that oversees the verification of California subscribers in the Lifeline program urges the Commission to require that providers share data with states regarding the rates charged, devices distributed and households served, but does not request that NLAD opt-out states use their own duplicate and eligibility determination processes for the administration of the EBB Program. See California Public Utilities Commission Comments at 3-4.

compliance with the requirements of the program and various consumer protection-related provisions.<sup>307</sup> Specifically, the Consolidated Appropriations Act requires that providers certify that the amount for which they are seeking reimbursement from the Emergency Broadband Connectivity Fund is not more than the standard rate,<sup>308</sup> and that each eligible household for which the provider is seeking reimbursement for providing Internet service has not or will not be charged (1) for that offering if the standard rate for that offering is less than or equal to the amount of the EBB Program benefit for that household; or (2) more for that offering than the difference between the standard rate for that offering and the amount of the EBB Program benefit for that household.<sup>309</sup> The provider is also required to certify that each eligible household for which it is seeking reimbursement will not be required to pay an early termination fee, was not after December 27, 2020, subject to a mandatory waiting period for the covered broadband Internet service, and will otherwise be subject to the provider's generally applicable terms and conditions as they are applied to other customers.<sup>310</sup> Moreover, providers are required to certify that each household for which they are seeking a reimbursement for a connected device has been charged more than \$10 and less than \$50 for the connected device.<sup>311</sup> Finally, for providers that are claiming households that they determined to be eligible to enroll in the EBB Program through the alternative verification process, providers must provide a description of that verification process and certify that the process was designed to avoid waste, fraud, and abuse and has been approved by the Commission as required by section III(B) of this Order.<sup>312</sup>

94. The *Public Notice* proposed that these certifications accompany each reimbursement claim, in addition to an annual certification submitted by participating providers. Commenters did not object to this certification, although some asked for additional certifications<sup>313</sup> while others requested that the Commission not require certifications beyond those listed in the Consolidated Appropriations Act.<sup>314</sup> We find that certifications, along with the possibility of audits, are a vital tool for managing waste, fraud, and abuse. While the certifications required by the Consolidated Appropriations Act address many of the Program requirements, we find that additional certifications are necessary to ensure compliance with Commission's requirements that we find essential to help guard against waste, fraud, and abuse in the EBB Program. Accordingly, we direct USAC to make any adjustments necessary to the Lifeline Claims System to ensure that providers are prompted to certify that their reimbursement claims meet the usage requirements and to certify the statements included in section 904(b)(6) of the Consolidated Appropriations Act. We further direct USAC, in coordination with the Bureau, to develop an annual certification for all participating providers and a process for its submission. As discussed below, we also adopt additional certifications to accompany reimbursement claims for connected devices distributed through the Program.

95. As well-established in the record, the Emergency Broadband Connectivity Fund has limited funding and we must make every effort to ensure that we maximize the use of these funds to serve

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<sup>307</sup> See Consolidated Appropriations Act, div. N, tit. IX, § 904 (b)(6).

<sup>308</sup> *Id.* § 904(b)(6)(A).

<sup>309</sup> *Id.* §§ 904(b)(6)(B)(i)(I)-(II).

<sup>310</sup> *Id.* §§ 904(b)(6)(B)(ii)-(iv).

<sup>311</sup> *Id.* § 904(b)(6)(C).

<sup>312</sup> *Id.* § 904(b)(6)(D).

<sup>313</sup> NCLC and UCC Comments at 11 (requesting that the Commission include a certification that the provider has notified participating households of how to file a complaint with the Commission complaint hotline.). We decline to add certifications that the providers have notified consumers of the process for filing a complaint, but we do direct EBB Program subscribers that are unable to resolve EBB Program-specific issues with their provider to file a complaint with the FCC at <https://consumercomplaints.fcc.gov/hc/en-us> or call 1-888-225-5322.

<sup>314</sup> T-Mobile Comments at 16-17.