

persons convicted or held civilly liable after immediate suspension, absent extraordinary circumstances. These automatic actions in the clear circumstances where legal proceedings have concluded with due process are an appropriate and prudent means of maintaining the integrity of the schools and libraries support mechanism.

53. We recognize that where a service provider is debarred, an applicant relying on that service provider for discounted services may need to change service providers for that funding year in order to continue to receive the benefits of the support mechanism. Under existing USAC procedures, after an application has been approved and before the last day for invoicing, an applicant may change its service provider. Consistent with these procedures, therefore, applicants whose service providers have been debarred after an application has been approved may change service providers for that funding year.

54. The Enforcement Bureau shall undertake suspension and debarment proceedings under this section. The Wireline Competition Bureau shall make any necessary changes to FCC forms, including a notification that a person convicted of or held civilly liable for the conduct specified shall be suspended and debarred absent extraordinary circumstances. We also direct the Wireline Competition Bureau to oversee the implementation and coordination of debarment procedures and policies with the Administrator, including, but not limited to, the publication and maintenance of a list on the Administrator's web site of persons suspended or debarred from the program. We direct the Wireline Competition Bureau to ensure that the Administrator implements procedures to ensure that any person who has been suspended or debarred not benefit from the schools and libraries support mechanism for the specified period of time.

55. These rules constitute an important step in continuing to ensure program integrity. We are committed to considering other deliberate and appropriate measures in order to provide for compliance with statutory requirements and our rules, thereby ensuring that the benefits of this universal service support mechanism are available to the largest number of schools and libraries on an equitable basis. In the companion FNPRM, we seek further comment on whether to debar persons in other circumstances and related issues.

#### *G. Utilization of Unused Funds*

56. *Discussion.* We decline, at this time, to adopt additional measures to reduce unused funds. The *First Order*, 67 FR 41862, June 20, 2002, adopted a framework for the treatment of unused funds from the schools and libraries universal service support mechanism. In that Order, we determined that it was in the public interest to take immediate action to stabilize the contribution factor, and that beginning no later than the second quarter of 2003, any unused funds from the schools and libraries support mechanism shall, consistent with the public interest, be carried forward for disbursement in subsequent funding years of the schools and libraries support mechanism.

57. As noted, the Administrator has taken certain measures that will also address the issue of unused funds from the schools and libraries program. We find that these changes will help improve the disbursement of program funds. In addition, we continue to explore procedural and programmatic changes to the schools and libraries support mechanism that may help reduce the amount of funds that are not disbursed. We find that such actions will help us to most effectively implement the goals of section 254 of the Act.

58. Commenters noted that during the application process, applicants have difficulty predicting needs, usage, and non-contracted rates. Therefore, applicants may apply for more funding than is actually needed. Commenters also cited certain factors beyond the program's control that contribute to unclaimed funds. Indeed, the Administrator and the Commission are aware of these issues. In an effort to reduce the amount of unused funds, starting with Funding Year 2001, the Administrator is issuing funding commitments slightly in excess of the \$2.25 billion funding cap. The Administrator reports that as of October 28, 2002, it had committed approximately \$2.257 billion for Funding Year 2001. Specifically, the Administrator is basing overcommitments on past levels of unused funds, allowing a margin for error.

59. Commenters also state that some committed funds go unused because of late funding commitment decisions. We agree with commenters that receiving funding commitment decisions earlier in the process would help reduce the amount of unused funds. The Administrator has continued to improve its processing. An increasing percentage of applicants now receive funding

decisions earlier in the funding cycle. In addition, the Administrator has created a new website where the public, applicants and providers, can view funding commitment data the day after it is released, rather than having to wait for the delivery of funding letters. We believe that each of these changes will help prevent the likelihood of waste by improving the disbursement of program funds.

60. In addition, several commenters noted that there is no incentive for applicants to turn committed funds back to USAC when an applicant realizes that it will not use the full committed amount. Some commenters also stated that the Form 500, which applicants may use to notify the Administrator that committed funds are no longer required, is an ineffective tool for commitment cancellation. The form is still a relatively new addition to the program. At this time, we do not believe that it is appropriate or necessary to change the Form 500. As with all aspects of the program, should the Administrator have recommendations about how to improve the Form 500 or related processes, the Administrator will bring these issues to our attention. We trust that as applicants become more familiar with the form and are better able to judge their funding supply through data newly provided on the Administrator's website, applicants will inform the Administrator when they will not fully use committed funds.

#### *H. Conforming Rule Changes*

61. *Discussion.* We adopt minor changes to our rules to conform our definitions of eligible schools to the current definitions of and citations for "elementary school" and "secondary school" following the passage of the No Child Left Behind Act. First, we amend the definition of elementary school at § 54.500(b) by adding, after "residential school," the phrase "including a public elementary charter school," and the definition of secondary school at § 54.500(j) by adding, after "residential school," the phrase "including a public secondary charter school."

62. In so doing, we are not expanding the scope of either definition because public elementary and secondary charter schools were already eligible under the original definitions. Under these definitions, the Commission looked to applicable State law to determine which entities qualified as public elementary and secondary schools. Thus, where applicable State laws provided for public elementary and secondary charter schools, such schools were eligible for discounts under the old definition. The regulatory