

and third quarters of the calendar year. Once added, the funding year would continue to operate normally, with the benefit of any additional unused funds. We believe that this will ensure minimal disruption of the administration of the schools and libraries program.

8. We also propose that after unused funds are identified and carried forward in the second quarter of the calendar year, USAC will begin to re-calculate unused funds, beginning with unused funds as of the third quarter of the calendar year. Such funds would be carried forward to the next full funding year. As a result, we believe that the described rolling methodology will provide certainty regarding when unused funds will be carried forward for use in the schools and libraries program. In addition, the proposed rules would ensure that schools and libraries have reasonable notice from the quarterly estimates of the approximate amount of funds that we expect to become available in the second quarter of the calendar year. In general, schools and libraries submit applications for funding between November and January, preceding the start of the funding year. Under our proposal, applicants would have the benefit of three quarterly estimates of unused funds before the filing window closes, and would be able to structure their applications appropriately. We seek comment regarding this proposal.

9. Further, we propose that USAC begin estimating unused funds from the schools and libraries mechanism in 2003, and that unused funds would be carried forward in accordance with the public interest for use in Funding Year 2004 of the schools and libraries program. In the *First Order*, the Commission determined that it would begin to carry forward unused funds from the schools and libraries program no later than second quarter 2003. We seek comment regarding this proposal.

C. Technology Plan

10. To ensure that purchased services are used in a cost-effective manner, the Commission requires applicants to base their requests for services on an approved technology plan. Section 54.504(b)(vii) states that in its FCC Form 470 the applicant must certify that its technology plan has been approved by its state, the Administrator, or an independent entity approved by the Commission.

11. We propose modifying our existing rules governing the timing of the certification regarding the approval of the applicant's technology plan so that applicants can indicate that their

technology plan will be approved by an authorized body by the time that services supported by the universal service mechanism for schools and libraries begin. We believe that the rule change will improve program operation by recognizing that it may be difficult for an applicant to obtain approval of a technology plan well in advance of the commencement of a funding year. We seek comment on the costs and benefits of our proposal.

D. Computerized Eligible Services List

12. In the Order, we have directed the Administrator to develop a pilot for an online computerized list for internal connections. While we gain operational experience through this pilot program, we seek further comment on the feasibility of an online eligible services list with brand name products in the telecommunications services and Internet access categories. We are concerned, as were many commenters, about the difficulties in describing and amassing information regarding brand name products in these categories. We seek comment on whether this list should be a "safe harbor." We seek comment on whether such a list raises any legal issues. We seek comment on what effect such a list would have on our statutory mandate to evaluate requests for discounts on a competitively neutral basis. For example, how would we create a safe harbor telecommunications services provider list? Would such a list vary by location, state, or region? If a geographic area only had one telecommunications carrier, would it foster or impede competition to place that carrier on the list? We further seek comment on these and other issues raised by the establishment of an online eligible services list.

E. Other Measures To Prevent Waste, Fraud, and Abuse

13. In the Order, we have established rules to debar persons convicted or held civilly liable with respect to the schools and libraries support mechanism from participating in the program. We also believe, however, that there may be circumstances not culminating in a criminal conviction or civil judgment that may warrant debarment. We accordingly seek to further develop the record on debarment in situations where evidence of misconduct is less clear-cut. We also seek further comment on other measures to limit waste, fraud, and abuse.

14. *Adoption of Governmentwide Regulations.* A NPRM, 67 FR 3266, January 23, 2002, is pending that proposes, among other things, to allow

independent regulatory agencies to elect to participate in governmentwide debarment rules. We seek comment on whether we should adopt the governmentwide nonprocurement debarment regulations, which inform the rules we adopt today. The current governmentwide rules do not apply to independent agencies. However, the proposed governmentwide rules explicitly allow for adoption by independent agencies. We seek comment on whether, if these governmentwide rules are adopted, we should elect to participate in the governmentwide debarment rules for purposes of the schools and libraries universal service support mechanism, or whether, given the unique nature of the program, adoption of the proposed governmentwide rules would be inappropriate or less effective than other rules we adopt.

15. *Debarring willful or repeated violators.* A rule allowing for debarment of willful or repeated violators of our rules could be an important tool for ensuring the integrity of the program, because there may be situations in which persons may not be convicted or held civilly liable, yet their continued program participation may still constitute a threat to the integrity of the program. Moreover, some applicants or service providers may reach settlement with prosecuting authorities in a given case without admission of liability, that otherwise would have resulted in a conviction or civil judgment. Accordingly, we tentatively conclude that the Commission should have the flexibility to debar a person whose willful or repeated violation of Commission rules threatens to undermine program integrity and result in waste, fraud, or abuse. Debarring those who have violated program rules in this manner not only ensures accountability within the program, but allows for additional funding for more deserving persons.

16. The "willful or repeated" standard is based upon existing Commission forfeiture authority under section 503(b). Consistent with section 312(f) of the Act, we propose to define "willful" as "the conscious and deliberate commission or omission of any act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States." We propose to define "repeated" as "the commission or omission of any act more than once or, if such commission or omission is continuous, for more than one day." We seek comment on the proposed definitions.