

17. Because it is not our intention to debar persons that inadvertently make mistakes, even if repeated, with respect to program rules, we propose debarring only those willful or repeated offenders whose actions threaten to undermine program integrity and result in waste, fraud, or abuse. We believe that this standard adequately balances the need to strictly enforce our rules with our desire not to debar applicants whose mistakes do not undermine program integrity. We seek comment on these tentative conclusions.

18. *Determination of violation resulting in debarment.* We seek comment on how the Commission should determine when a person whose willful or repeated violation of Commission rules (or the Administrator's procedures) threatens to undermine program integrity and result in waste, fraud, or abuse. We also seek comment on whether only the violations of certain rules or procedures should be considered, and if so, which ones. We seek comment on the appropriate period of debarment and whether such period should be fixed or discretionary.

19. We also seek comment on the process whereby the Commission would determine that willful or repeated violations of our rules (or of the Administrator's procedures) have occurred. Ordinarily, SLD determines in the first instance whether an applicant has complied with program requirements in the course of reviewing requests for discounts. If SLD concludes that an application is not consistent with the Commission's rules, it issues a decision, and the applicant may seek Commission review of SLD's decision to deny discounts. We seek comment on how to implement debarment in the absence of a formal SLD decision denying a request for discounts. We propose that if SLD suspects that a person has willfully or repeatedly committed acts that threaten to undermine program integrity and result in waste, fraud, or abuse, either in the course of application review or subsequently, it may refer the matter to the Commission, which would then begin an investigation that may culminate in notice of proposed debarment to the person. We seek comment on this approach.

20. *Notification procedures for debarment.* We also seek comment on what procedures would ensure adequate notice to persons subject to debarment proceedings for willful or repeated violations, while still providing for expeditious Commission determinations in order to adequately protect the program. As informed by the federal agency rules, we propose that the

Commission shall give notice of proposed debarment on the ground of willful or repeated violations to the person by: (1) Giving the reasons for the proposed debarment in terms sufficient to put the person on notice of the conduct or transaction(s) upon which it is based and the cause relied upon; (2) explaining the applicable debarment procedures; (3) describing the potential effect of debarment. The person would be afforded an opportunity to respond and submit information and argument within 30 days after the notice is published. The Commission would then make a decision on the basis of all the information in the administrative record, including any submission made by the respondent, and provide notice to the respondent. We seek comment on these procedures.

21. *Other grounds for debarment.* We also seek comment on whether we should adopt a rule debarring persons who, in the course of their participation in the schools and libraries support mechanism, commit any other act indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the person. We also seek comment on whether to exercise discretion to debar persons who commit any other act indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of the person, even if unrelated to schools and libraries support mechanism, and invite comment on specific examples of conduct that would warrant debarment. We seek comment on how, if the Commission adopts either provision, the Commission should implement debarment.

22. *Imputation for debarment.* We recognize that there may be circumstances in which debarment of one entity—whether under rules we adopt today or under any additional rules we may adopt in the future—may not adequately protect the integrity of the program. For example, there may be circumstances where one person is found liable for certain actions, but other individuals have also engaged in misconduct that threatens the integrity of the program. We seek comment on rules for imputation of conduct from one person to another, based upon the Federal agency rules governing imputation of conduct. Under our proposed rules, the conduct of a person may be imputed to another person when the conduct occurs in connection with the former's performance of duties for or on behalf of the latter, or with the latter's knowledge, approval, or acquiescence. One example of evidence

of such knowledge, approval, or acquiescence could be the latter's acceptance of the benefits derived from the conduct. The conduct may be imputed to any officer, director, shareholder, partner, employee, or other individual associated with the person who participated in, knew of, or had reason to know of the person's conduct. In addition, the conduct of one person may be imputed to other persons in a joint venture or similar arrangement if the conduct occurred for or on behalf of the joint venture or similar arrangement, or with the knowledge, approval, or acquiescence of those persons. One example of evidence of such knowledge, approval, or acquiescence could be the latter's acceptance of the benefits derived from the conduct. We seek comment on the administrative process for making a finding that the conduct of one person should be imputed to another. We seek comment on these proposed rules.

23. *Effect of debarment.* We seek comment on what effect, if any, suspension or debarment of a person should have with regard to the person's participation in other activities associated with the Commission. For example, should suspension or debarment of a service provider from the schools and libraries support mechanism preclude participation in providing certain services to the Commission, such as Internet access or telephone service? Similarly, should suspension or debarment from the schools and libraries support mechanism also result in suspension or debarment from other universal service support mechanisms?

24. *Changing service providers post-debarment.* We seek comment on whether our rules should permit applicants whose service provider has been debarred to change their service provider before their application for discounted services has been approved or after the last date for invoices. SLD's current operating procedures permit applicants whose service providers have been debarred to change service providers only after SLD has issued a funding commitment decision letter, and no later than the last date to submit an invoice. The existing procedure allowing SPIN changes within this window balances fairness to applicants and flexibility in the program with goals of program efficiency, including the importance of certainty and finality so that the Administrator can properly allocate limited funds among a large pool of applicants. If applicants were permitted to change service providers after they had applied for discounts but before SLD had made a funding