

Semi-Annual Audit Recovery Report

In the *Schools and Libraries Fifth Order*¹ the Federal Communications Commission (FCC or Commission) directed the Universal Service Administrative Company (USAC) to “submit a report to the Commission on a semi-annual basis summarizing the status of all outstanding audit findings. To the extent findings cannot be resolved within six months; USAC shall describe the status of its efforts, and provide a projected timeframe for completion.”² This report summarizes outstanding audit-related recoveries as of February 29, 2008, and consists of this three-page descriptive narrative and the attached spreadsheet.

Process for Seeking Recovery of Funds

The process of seeking recovery based on an audit finding is comprised of the following stages:

1. Within 30 days of the USAC Board of Directors deeming an audit report final, USAC issues a Notification of Commitment Adjustment Letter or Notification of Recovery of Improperly Disbursed Funds Letter (both referred to as Notification Letter in this document) to the applicant and/or service provider as appropriate.
2. If the applicant and/or service provider does not appeal the Notification Letter within 60 days, USAC issues the First Demand Payment Letter on the 61st day.
3. If the applicant and/or service provider does not respond to the First Demand Payment Letter, or does not make satisfactory arrangements to repay the funds within 30 days of the First Demand Payment Letter, a Second Demand Payment Letter is sent and the Red Light is turned on for that applicant and/or service provider.³ The Commission allows applicants and/or service providers to enter into payment plan arrangements with USAC to pay the recovery amount.⁴
4. If the applicant and/or service provider does not respond to the Second Demand Payment Letter, or does not make satisfactory arrangements to repay the funds within 60 days of the Second Demand Payment Letter, USAC will advise the Commission of that fact, and the debt will be transferred to the Commission under the provisions of the Debt Collection Improvement Act (*DCIA*).⁵
5. If an appeal is filed either with USAC or the Commission, the recovery process is held in abeyance pending resolution of the appeal.

¹ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808 (2004) (*Schools and Libraries Fifth Order*).

² *Id.* ¶ 77.

³ In the *Schools and Libraries Fifth Order*, the Commission amended its “rules to bring all E-rate beneficiaries and service providers within the ambit of the red light rule.” *Id.* ¶ 42.

⁴ *Id.* ¶ 42.

⁵ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996) (codified at 31 U.S.C. §§ 3701 *et seq.*)

Semi-Annual Audit Recovery Report

In the absence of an appeal or direction from the Commission to hold the process in abeyance, the time period from issuance of the Notification Letter to final collection by USAC or transfer of the debt to the Commission is five months.

Description of Audit Findings Outstanding for More Than Six Months

The recoveries based on audit findings that have been outstanding for more than six months fall into the following eight categories:

- At this time, there are 52 beneficiary audits with a recovery amount of \$14,502,364 older than six months. Notification Letters have not been issued because USAC is continuing to work with Commission staff to determine whether the rule violations warrant recovery of funds consistent with the *Schools and Libraries Fifth Order*. There are no other audit findings older than six months that have either not been cleared, or have resulted in the issuance of a Notification Letter to either the applicant and/or service provider, as appropriate and as further explained below.
- From January through April 2005, USAC issued Notification Letters relating to 5 beneficiary audits with a recovery amount of \$673,865 based on the guidelines set forth in the *Schools and Libraries Fifth Order*. In April 2005, USAC suspended issuing Notification Letters or Demand Payment Letters in certain situations based on direction from Commission staff. USAC has not yet issued Demand Payment Letters to these beneficiaries because USAC is working with Commission staff to determine whether these rule violations warrant the recovery of funds.
- For certain audit findings the recovery process has been ongoing for more than six months because the applicant and/or service provider appealed the recovery determination to USAC and/or the Commission. The recovery process was held in abeyance pending USAC and/or the Commission's decision on appeal. USAC and/or the Commission have since decided the appeal, and so the process of recovery has resumed.

The recovery process is in abeyance for 16 beneficiary audits with a recovery amount of \$28,567,762 because the applicant and/or service provider has appealed USAC's recovery determination to USAC. USAC has not completed the review of 4 of these appeals with an associated recovery of \$7,786,545 because USAC is working with Commission staff to determine whether these rule violations warrant the recovery of funds.

- The recovery process is being held in abeyance for 46 beneficiary audits with a recovery amount of \$16,807,642 because the applicant and/or service provider has appealed USAC's recovery determination to the Commission.

Semi-Annual Audit Recovery Report

- The applicant and/or service provider has not paid the funds to USAC and has not made satisfactory arrangements for payment of the funds. Consequently, the debt has been transferred to the Commission under the *DCIA*. To date USAC has transferred \$2,483,699 to the Commission pursuant to the *DCIA*.
- Consistent with direction received from the Commission, USAC has recalled debt previously transferred to the Commission under the *DCIA* and is in the process of restarting the recovery process related to 4 beneficiaries totaling \$1,456,019. This amount is included under the row titled \$Notification Letter (CAL) Pending on the attached spreadsheet.
- The audit performed consistent with the Commission's *Puerto Rico Department of Education Order*⁶ covering Funding Years 1998 through 2000 has been approved by USAC's Board of Directors and provided to Commission staff. In that order, the Commission stated that it – rather than USAC – would review the results of that audit to determine what recovery action would be appropriate.⁷ Consequently, although the audit has been deemed final for more than six months, recovery amounts that may eventually be associated with the results of that audit are not included on the attached spreadsheet.

⁶ *Federal-State Joint Board on Universal Service, Petition of the Puerto Rico Department of Education to Release Funds Associated with the Schools and Libraries Universal Service Support Mechanism for Years 2001 and 2002*, CC Docket No. 02-06, Order, 18 FCC Rcd 25417 (2003)(*Puerto Rico Department of Education Order*).

⁷ See *id.* ¶¶ 2, 25.

Universal Service Administrative Company
Schools and Libraries Support Mechanism

Semi-Annual Audit Recovery Report
Data as of February 29, 2008

Fund Year	1998	1999	2000	2001	2002	2003	2004	2005	Grand Total
Total Number of Audits Performed	24	47	175	19	117	81	76	1	540
Total Audited Amount	170,279,326	\$252,752,569	632,817,916	\$63,704,899	\$390,140,782	306,462,810	\$66,081,886	\$761,809	\$1,883,001,997
TOTAL STAGES OF RECOVERY	\$900,325	\$9,694,376	\$21,558,211	\$24,613,746	\$22,045,503	\$4,604,502	\$6,118,758		\$89,535,421
\$ Recovered To Date	\$782,976	\$5,397,176	\$4,318,379	\$2,203,240	\$2,514,146	\$345,230	\$396,768		\$15,957,915
\$ Sent to OMD for Recovery	\$6,300	\$883,099	\$1,310,338	\$58,483	\$225,479	\$0	\$0		\$2,483,699
\$ Remand- Approved on Appeal	\$0	\$895,212	\$39,397	\$40,099	\$108,459	\$0	\$0		\$1,083,167
\$ USAC Appeals - Approved	0	0	0	0	\$1,250,107	\$11,969	\$0		\$1,262,076
Balance Remaining	\$111,049	\$2,518,889	\$15,890,097	\$22,311,924	\$17,947,312	\$4,247,303	\$5,721,990	\$0	\$68,748,564
STAGES OF RECOVERY									
\$ DeMinimis - No Recovery			\$1,045			\$261	\$89		\$1,395
# of Billed Entities			4			2	2		
\$ Notification Letter (CAL) Pending			\$4,231,642			\$570,458			\$4,802,100
# of Billed Entities			11			1			
\$ Notification Letter (CAL) Issued						\$517,109			\$517,109
# of Billed Entities						1			
\$ 2nd Demand Letter Issued			\$6,793		\$413,748	\$188,053	\$60,296		\$668,890
# of Billed Entities			2		1	2	1		
\$ Hold - Policy Issues		\$803,647	\$1,979,071	\$3,990,261	\$7,634,344	\$2,063,733	\$912,610		\$17,383,666
# of Billed Entities		2	8	4	32	9	11		
\$ USAC Appeals Pending			\$7,089,682	\$18,258,449	\$681,551	\$122,417	\$2,415,663		\$28,567,762
# of Billed Entities			4	4	2	2	4		
\$ FCC Appeals Pending	\$111,049	\$1,715,242	\$2,581,864	\$63,213	\$9,217,669	\$785,273	\$2,333,332		\$16,807,642
# of Billed Entities	3	12	17	3	7	3	1		
Total of Stages of Recovery	\$111,049	\$2,518,889	\$15,890,097	\$22,311,923	\$17,947,312	\$4,247,304	\$5,721,990	\$0	\$68,748,564

The total number of audits performed includes audits that covered more than one year. These audits are reflected in each year's totals. The actual number of audits performed was 497. Under "Stages of Recovery" a particular recovery is shown only in its latest stage. For example, a recovery will not be shown in the "Notification Letter Issued" stage even though it has been through that stage as long as it has progressed to the subsequent stage.