



Universal Service Administrative Company

Kristy L. Carroll
Associate General Counsel
kcarroll@universalservice.org

September 30, 2005

Ms. Marlene H. Dortch
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

RE: ***In the Matter of Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02-6
Semi-Annual Audit Report***

Dear Ms. Dortch:

In the *Fifth Report and Order*¹ the Federal Communications Commission (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

Pursuant to the Commission’s direction, USAC is submitting its semi-annual report with this transmittal letter. This report summarizes outstanding audit related recoveries as of August 31, 2005.

We would be pleased to answer any questions you may have about this information.

Sincerely,

A handwritten signature in black ink that reads "Kristy L. Carroll". The signature is written in a cursive style.

Kristy L. Carroll
Associate General Counsel

¹ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, FCC 04-190 (2004) (*Fifth Report and Order*).

² *Id.* ¶ 77.

Semi-Annual Audit Report

In the *Fifth Report and Order*¹ the Federal Communications Commission (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 is USAC’s second semi-annual report. This report summarizes outstanding audit-related recoveries as of August 31, 2005, and consists of this three-page descriptive narrative as well as the spreadsheet attached.

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 (*generally* Notification Letter) 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 Repayment 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 make 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 advises the Commission of that fact, and the debt is transferred to the Commission under the provisions of the Debt Collection Act, as amended.⁵

¹ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, FCC 04-190 (2004) (*Fifth Report and Order*).

² *Id.* ¶ 77.

³ See 47 C.F.R. § 1.1910. In the *Fifth Report and Order*, the Commission amended its “rules to bring all E-rate beneficiaries and service providers within the ambit of the red light rule.” *Fifth Report and Order* ¶ 42.

⁴ *Fifth Report and Order* ¶ 42.

⁵ 31 U.S.C. §§ 3701 *et seq.*

Semi-Annual Audit Report

5. If an appeal is filed either with USAC or the Commission, the recovery process is held in abeyance pending resolution of the appeal.

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

Description of Recoveries Outstanding for more than Six Months

The recoveries based on audit findings detailed in the attached spreadsheet that have been outstanding for more than six months fall into the following seven categories:

- There is one audit finding with a recovery amount of \$357,349 for which a Notification Letter has not been issued. The letter has not been issued because USAC is awaiting guidance from the Commission as to the party from whom recovery should be sought for this particular finding. 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 further explained below.
- From January through April 2005, USAC issued Notification Letters for 70 Funding Request Numbers (FRNs) with a recovery amount of \$1,296,378 based on the guidelines set forth in the Commission's *Fourth Report and Order*⁶ and *Fifth Report and Order*. In April 2005, USAC suspended issuing further Notification Letters for situations in which USAC does not have specific Commission guidance with respect to whether the rule violation warrants recovery, or where there is no specific Commission guidance with respect to the party from whom recovery should be sought. USAC took this action based on direction from the Commission. Consequently, USAC is holding further action with respect to certain Notification Letters in abeyance until further direction is received from the Commission.
- USAC is in the process of seeking recovery based on the audit findings. The 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 Commission's decision on appeal. USAC and/or the Commission have decided the appeal, and so the process of recovery has resumed.

⁶ See *Schools and Libraries Universal Service Support Mechanism*, Order on Reconsideration and Fourth Report and Order, CC Docket Nos. 96-45, 97-21, 02-6, FCC 04-181 (2004)(*Fourth Report and Order*.)

Semi-Annual Audit Report

- The recovery process is being held in abeyance for 157 FRNs with a recovery amount of \$8,729,758 because the applicant and/or service provider has appealed USAC's recovery determination to USAC.
- The recovery process is being held in abeyance for 323 FRNs with a recovery amount of \$4,929,678.54 because the applicant and/or service provider has appealed USAC's recovery determination to the Commission.
- 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 will be transferred to the Commission under the Debt Collection Act, as amended. Barring any events that would preclude USAC from transferring the debt, USAC will transfer 64 FRNs, with a recovery amount of \$1,294,246, on October 3, 2005.⁷
- The applicant has stated they will repay the funds, but is going through their internal approval process prior to remitting funds to USAC.⁸ Additionally, USAC has received a request for a payment plan which has not yet been approved. There is one funding request that falls into this category with an associated recovery of \$62,206.

⁷ The transfer to the Commission occurs on the first business day of each month, assuming there are debts to be transferred.

⁸ *Fifth Report and Order* ¶ 42.

Universal Service Administrative Company
Schools and Libraries Support Mechanism

Semi-Annual Audit Recovery Report
Data as of 8/31/05

Fund Year	1998	1999	2000	2001	2002	Grand Total
Total Number of Audits Performed	21	37	139	11	22	230
Total Audited Amount	\$133,865,651.35	\$275,016,531.75	\$726,274,024.20	\$8,901,249.94	\$1,774,291.15	\$1,139,680,988.39
Amount Sought for Recovery	\$619,962.89	\$9,722,355.41	\$18,935,719.24	\$8,515,794.78	\$131,060.59	\$37,924,892.91
\$ Recovered To Date	\$457,927.00	\$309,084.97	\$2,080,165.77	\$2,203,239.87	\$3,031.50	\$5,053,449.11
\$ Sent to OMD for Recovery	\$6,300.00	\$629,555.98	\$478,186.01	\$58,483.20		\$1,172,525.19
Balance Remaining	\$155,735.89	\$8,783,714.46	\$16,377,367.46	\$6,254,071.71	\$128,029.09	\$31,698,918.61
STAGES OF RECOVERY						
\$ CAL Pending	\$0.00	\$0.00	\$357,349.00	\$6,150,760.00	\$0.00	\$6,508,109.00
# of Billed Entities			1	1		2
\$ CAL Issued	\$0.00	\$1,446,939.59	\$1,428,714.75	\$8,186.40	\$5,436.00	\$2,889,276.74
# of Billed Entities		4	20	1	1	26
\$ 1st Letter	\$25,897.00	\$13,784.97	\$1,942,635.38	\$0.00	\$0.00	\$1,982,317.35
# of Billed Entities	1	2	4			7
\$ 2nd Letter	\$0.00	\$328,590.00	\$547,267.18	\$0.00	\$0.00	\$875,857.18
# of Billed Entities		1	4			5
\$ Hold - Other	\$0.00	\$3,131,091.70	\$0.00	\$0.00	\$0.00	\$3,131,091.70
# of Billed Entities		1				1
\$ Hold- Policy	\$0.00	\$1,235.64	\$1,277,752.38	\$5,279.63	\$12,111.04	\$1,296,378.69
# of Billed Entities		1	20	1	3	25
\$ Hold- PPL	\$0.00	\$0.00	\$62,205.57	\$0.00	\$0.00	\$62,205.57
# of Billed Entities			1			1
\$ USAC Appeal Pending	\$18,790.00	\$971,454.86	\$7,598,356.76	\$32,697.00	\$108,459.45	\$8,729,758.07
# of Billed Entities	1	2	11	1	1	16
\$ Placed on Red Light	\$19,828.00	\$745,587.05	\$528,830.72	\$0.00	\$0.00	\$1,294,245.77
# of Billed Entities	1	2	2			5
\$ FCC Appeal Pending	\$73,530.49	\$2,162,721.05	\$2,634,255.72	\$57,148.68	\$2,022.60	\$4,929,678.54
# of Billed Entities	2	13	14	2	1	32
Total of Stages of Recovery	\$138,045.49	\$8,801,404.86	\$16,377,367.46	\$6,254,071.71	\$128,029.09	\$31,698,918.61

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 217.

Under "Stages of Recovery" a particular recovery is shown only in its latest stage. For example, a recovery will not be shown in the "CAL Issued" stage even though it has been through that stage as long as it has progressed to the subsequent stage. In addition, where recovery is sought from both the service provider and the applicant the recovery