



April 21, 2023
VIA ELECTRONIC MAIL

Mr. Jeff Aiello
President & CEO
Valley PBS, KVPT-TV
1544 Van Ness Avenue
Fresno, CA 93721-1213

Dear Mr. Aiello,

RE: Audit of Community Service and Other Grants Awarded to Valley PBS, KVPT-TV (Report No. AST2114-2303).

The Corporation for Public Broadcasting (CPB) awarded \$2.66 million in grants to Valley Public Television, Inc., licensee of Valley PBS, KVPT-TV (Valley PBS). The grants include community service grants (CSGs), CARES Act stabilization funds, and American Rescue Plan Act stabilization funds. The audit report referenced above concluded that Valley PBS was not compliant with its CSG Certification of Eligibility, the Communications Act of 1934, 47 U.S.C. §396, et sec.

(Communications Act), CPB's Financial Reporting Guidelines (Guidelines) concerning non-federal financial support (NFFS), and the terms of its CSG. Namely, that Valley PBS materially overstated its NFFS, did not comply with certain Communications Act transparency requirements, and did not fully comply with CPB's diversity statement, annual harassment and bias prevention training, and discrete accounting requirements.

The specific findings and CPB's determinations for Valley PBS follow.

I. Recommendations 1, 2, 3 and 4: Overstated NFFS

The audit found that Valley PBS overstated NFFS resulting in CSG overpayments of \$214,339 as detailed below.

A. Ineligible Exchange Transactions

CPB's Guidelines identify the types of in-kind contributions, including exchange transactions, that are ineligible as NFFS.¹ Exchange transactions are a reciprocal transfer of cash goods and/or services, only those meeting certain criteria may be reported as NFFS.²

¹ CPB Guidelines, Part II. - NFFS, X. Other In-kind Contributions Excluded from NFFS (2020 and 2021). ² CPB Guidelines, Part II – NFFS, II. Contribution vs. Payment, B. Payment (2020 and 2021).

The audit found that in-kind services Valley PBS received from an online advertiser² were not NFFS-eligible in-kind contributions but exchange transactions, resulting in CSG overpayments of \$109,806. Specifically, the advertiser used the information collected from Valley PBS users to assist paying ad customers in targeting their ads. Therefore, the advertiser benefited from or monetized the data, making them reciprocal transfers of goods (i.e., exchange transactions) that cannot be reported as NFFS.³ Further evidence that the advertiser received value from the transactions was its practice of limiting the advertising based on a cost per click; however, the specific terms were not disclosed.

Valley PBS disagreed with the finding and explained that the advertising revenues were in-kind contributions, under an unwritten agreement with the advertiser. However, CPB's Guidelines require that in-kind contributions be documented, and that documentation must contain certain information, including the donor's valuation method.⁴ Valley PBS was unable to provide this documentation. Valley PBS also argued that CPB approved these amounts as NFFS-eligible in-kind contributions during AFR desk reviews in 2019 and 2020, based on similar documentation.⁶

Although desk reviews were conducted, they are limited in scope, and do not insulate stations from audit, especially when the audit uncovers conflicting evidence and documentation. Accordingly, we do not accept these arguments and we agree with the audit finding and require Valley PBS to return the CSG overpayments of \$109,806 to CPB.

The audit recommended that CPB require Valley PBS to review its prior two fiscal years (FY 2018 and FY 2019) for similar errors and remit any resulting CSG overpayments to CPB. Valley PBS proactively undertook this review. We have reviewed the station's documentation and confirmed the amounts misreported totaled \$80,117 in CSG overpayments, which it must return to CPB.

The audit also recommended that CPB require Valley PBS to identify the corrective actions and controls it will implement to ensure future compliance with all CPB NFFS reporting requirements, including documenting its in-kind agreements. We agree.

CPB adopted the CSG Non-compliance Policy to encourage grantees to comply with the applicable provisions governing their CSG and the Communications Act. Failure to comply with these requirements, which results in CSG overpayments subjects the recipient to a ten percent penalty of the amount of the overpayment, in addition to refunding the overpayment. Therefore, we are assessing a penalty of \$18,992 based on the overpayments.

² The entity was not named in the audit report.

³ CPB Guidelines, Part II – NFFS, II. Contribution vs. Payment, B. Payment (2020 and 2021).

⁴ CPB Guidelines, Part II – NFFS, VII. NFFS: In-Kind Contributions, C. Documentation (2020 and 2021).⁶

Report No. AST2114-2303, Exhibit E – Valley PBS Response Letter to CPB Regarding Audit Findings.

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Action: Valley PBS must return \$189,923 in CSG overpayments, which CPB will recover through an adjustment to its FY 2024 CSG award. It must also provide to CPB within 45 days of the date of this correspondence the \$18,992 penalty and the corrective actions and controls Valley PBS will implement to ensure future compliance with documenting and reporting its in-kind agreements and receipt of the donations.

B. Ineligible Sources

CPB Guidelines specify the types of revenues that stations may not report as NFFS, which includes among others, revenues provided by any agency or instrumentality of the United States (i.e., the federal government), noting that federal funds rarely lose their federal character, even when they pass through an intermediary organization to a station, as well as revenues provided by public broadcasting entities.⁵

The audit found that Valley PBS included these types of revenues in NFFS, specifically those provided to the station by several school districts that were sourced from the U.S. Department of Education and sourced from CARES Act funds. It also disallowed revenues provided to Valley PBS by a public broadcasting entity. Combined, the misreporting resulted in CSG overpayments of \$74,267. Valley PBS disagreed with the findings arguing that it was not advised by the school districts about the source of the funds, nor were there the usual reporting requirements that would have alerted it to this fact.⁶ Nonetheless, it is the station's responsibility to make appropriate inquiries and we will uphold the finding.

The audit found that Valley PBS lacked adequate policies and procedures to identify the original sources of funds received from boards of education or state agencies to determine whether funds originated from federal agencies or other ineligible sources. Consequently, the report recommended that CPB require Valley PBS to identify the corrective actions and controls it will implement to ensure future compliance with all CPB NFFS reporting requirements, including verifying the funding sources associated with local productions and workshops. We agree.

Consistent with the CSG Non-compliance Policy, we are assessing the ten percent penalty on the amount of the CSG overpayments or \$7,427, in addition to requiring the station refund the overpayments to CPB.

Action: Valley PBS must return the \$74,267 CSG overpayments, which CPB will recover through an adjustment to its FY 2024 CSG award. It must also provide to CPB within 45 days of the date of this correspondence the \$7,427 penalty and the documentation identifying the corrective actions and controls it will implement to ensure future compliance with all CPB NFFS reporting requirements, including verifying the funding sources associated with local productions and workshops.

⁵ CPB Guidelines, Part II - NFFS, Section II.A.2 – Contribution Source (2020 and 2021).

⁶ See footnote 6.

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C. Overstated Membership Revenues

CPB Guidelines require that stations offset membership revenues by the fair market value of any high-end premiums (a.k.a. thank-you gifts) provided to the donor. The resulting amount may be reported as NFFS.⁷ Stations do not have to reduce membership contributions for premiums that are of an insubstantial value. When

determining the value of the high-end premium, stations are required to use IRS guidance.⁸

Instead of using the IRS guidance, the audit found that Valley PBS applied a different methodology¹¹ which it disallowed resulting in CSG overpayments. The audit also found that the station reduced its membership revenues for premiums that were of an insubstantial value, resulting in CSG underpayments. The net effect is CSG overpayments of \$23,168. Valley PBS did not disagree with these findings.

The audit recommended that Valley PBS return the resulting CSG overpayments and that CPB require Valley PBS to identify the corrective actions and controls it will implement to ensure future compliance with all CPB NFFS reporting requirements. We agree and in accordance with the CSG Non-compliance Policy, we are assessing a penalty of \$2,317, which is ten percent of the CSG overpayments.

Action: Valley PBS must return the \$23,168 CSG overpayments, which CPB will recover through an adjustment to its FY 2024 CSG award. It must also provide to CPB the \$2,317 penalty and documentation identifying the corrective actions and controls it will implement to ensure future compliance with the NFFS reporting requirements, to CPB within 45 days of the date of this correspondence.

D. Unsupported In-Kind Trades for Underwriting

CPB Guidelines allow stations to report as NFFS the fair market value of goods and/or services (something other than cash) contributed to the station by a donor in exchange for underwriting credits. Stations must obtain supporting documentation that must meet several criteria, including evidence that the fair market value of the contribution was determined using a method consistent with Generally Accepted Accounting Principles.⁹

The audit found five in-kind trades were ineligible because Valley PBS did not have the supporting documentation, resulting in CSG overpayments of \$5,868. Valley PBS attributed the errors to inexperienced staff and a lack of documented procedures.

⁷ CPB Guidelines, Part III – AFR and FSR Line Item Instructions, Schedule A – Direct Revenue, Line 10 – Memberships and subscriptions (net of write-offs), Line 10.1 NFFS Exclusion – Fair Market Value of high-end premiums that are not of insubstantial value. (2020 and 2021).

⁸ See footnote 9.¹¹

See footnote 9.

⁹ CPB Guidelines, Part II – NFFS, VII. NFFS: In-Kind Contributions (2020 and 2021).

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The audit recommended that the station return the overpayments to CPB and that CPB require Valley PBS to identify the corrective actions and controls it will implement to ensure future compliance with all CPB NFFS reporting requirements, including documenting its in-kind trade agreements. We agree.

In accordance with CPB's CSG Non-compliance Policy, we are assessing a penalty of \$587 which is ten percent of the CSG overpayments.

Action: Valley PBS must return the \$5,868 CSG overpayments, which CPB will recover through an adjustment to its FY 2024 CSG award. In addition, Valley PBS must provide CPB with the \$587 penalty and the documentation identifying the corrective actions and controls it will implement to ensure future compliance with all CPB NFFS reporting requirements, including documenting its in-kind trade

agreements, to CPB within 45 days from the date of this correspondence.

E. Ineligible Presenting Fees

CPB Guidelines do not allow stations to report presenting station fees as NFFS.¹⁰

The audit found that Valley PBS claimed presenting stations fees as NFFS, resulting in CSG overpayments of \$1,230. Additionally, it noted that the station erroneously reported presenting stations fees as NFFS in FY 2022, which was outside the audit period.

Valley PBS and we agree with the audit finding and Valley PBS must return the resulting CSG overpayments of \$1,230 to CPB. The station also agreed to revise its NFFS for FY 2022 to exclude any presenting station fees.

As the misreporting resulted in CSG overpayments, we are assessing a ten percent penalty of the overpayments or \$123, consistent with CPB's CSG Non-compliance Policy.

Additionally, the audit found Valley PBS lacked controls to periodically review production expenditures for exclusion of presenting fees when reporting eligible NFFS revenues and recommended that CPB require the station to identify the corrective actions and controls it will implement to ensure future compliance. While Valley PBS acknowledged that it is now able to track presenting fees, it did not explain how it would accomplish this. Accordingly, we request that the station explain the steps undertaken.

As for the presenting station fees included in Valley PBS' FY 2022 NFFS, CPB will verify the same when submitted.

¹⁰ CPB Guidelines, Part II – NFFS, V – NFFS: Excluded Revenues, F. Presenting Station Fees (2020 and 2021).¹⁴ General Provisions and Eligibility Criteria, Section 6.B.4 Documents for Public Inspection: Website Posting Required.

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Action: Valley PBS must return the \$1,230 CSG overpayments, which CPB will recover through an adjustment to its FY 2024 CSG award. In addition, Valley PBS must provide to CPB the \$123 penalty and the documentation identifying the corrective actions and controls it will implement to ensure future compliance with all CPB NFFS reporting requirements, including the procedure for excluding presenting station fees, within 45 days of the date of this correspondence. Lastly, Valley PBS must exclude presenting station fees from its FY 2022 AFR when it is submitted to CPB.

II. Recommendation 5: Communications Act and CPB Transparency Noncompliance

A. Annual Financial Report – Public Access

The Communications Act requires stations to make available to the public their annual financial and audit reports and other financial information they are required to provide to CPB. CPB also requires that each CSG recipient post its most recent audited financial statements and its most recent AFR on its station website.¹⁴

Although Valley PBS' FY 2021 audited financial statement was completed in April of 2022, the audit found that it was not available on the station's website until the station became aware of its noncompliance and contracted website support. The audit recommended that CPB require Valley PBS identify the corrective actions and internal controls it will implement to ensure continued compliance. We agree.

Under CPB's Non-compliance Policy, failure to comply with a category of requirements in the Communications Act, subjects a station to a penalty of \$5,000 per each incident. Since Valley PBS promptly corrected its non-compliance and posted its audited financial statement during the audit, we will reduce this penalty to \$2,500.

Action: Valley PBS must provide the documentation identifying the corrective actions and controls it will implement to ensure future compliance with Communications Act public access requirements and the \$2,500 penalty to CPB, within 45 days of the date of this correspondence.

B. Employment Statistics - Public Reporting Requirements

The Communications Act requires stations to make available to the public their Employment Statistical Report at their central offices and at every location with six or more employees.¹¹

The audit found that although the station provided the required employment statistical information to CPB in Section 6 of its annual Station Activity Survey (SAS), it did not post this information on its website, nor did it provide the data to the auditors when requested. The audit also found that the information in the 2020 report was not correct concerning the

¹¹ General Provisions and Eligibility Criteria, Section 2.E, Employment Statistical Report.

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number of job vacancies filled and the sources used for referring and filling vacancies. As a result, the audit recommended that CPB require Valley PBS identify the corrective actions and internal controls it will implement to ensure continued compliance.

Valley PBS explained that the employment information was not provided to the auditors because of inexperienced staff and it was not familiar with the access requirement.

We agree with the audit finding and require Valley PBS to provide to CPB, documentation of the corrective actions and internal controls it will implement to ensure future compliance. Pursuant to CPB's Non-compliance Policy, for Valley PBS' failure to comply with this category of requirements in the Communications Act, we will assess a \$5,000 penalty.

Action: Valley PBS must provide the documentation identifying the corrective actions and controls it will implement to ensure future compliance with Communications Act employment statistics public reporting requirements and the \$5,000 penalty to CPB, within 45 days of the date of this correspondence.

C. Diversity Statement

The Communications Act requires CPB to support diverse non-commercial, educational content for unserved and underserved audiences. CPB's goal, therefore, is to support stations in providing a wide variety of educational, informational, and cultural content that addresses the following elements of diversity: gender, age, race, ethnicity, culture, religion, national origin, and economic status. Towards this end, the CSG General Provisions and Eligibility Criteria (General Provisions) for the applicable years, requires grantees to annually review their diversity goals and any revisions thereto with their governing board or licensee and make the report available on its website or at its central office.

The audit found that Valley PBS was not in compliance with these requirements as it had not updated its diversity statement since September 2018, and it had not annually reviewed its diversity goals with its board of directors and licensee official. Although the station annually revised its recruiting and diversity goals for its workforce, management, and boards, these goals were not included in its diversity statement. Consequently, the audit report recommended that CPB require Valley PBS identify the corrective actions and internal controls it will implement to ensure continued compliance.

Valley PBS attributed the noncompliance to turnover of station officials, and unfilled board vacancies. To address these issue, the station explained that it is in process of appointing new board members, reconstituting the board's diversity committee, and developing an updated diversity statement. In September of 2022, the station posted on its station website its revised diversity statement, after reviewing the same with its board.

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CPB agrees with the audit finding and requires Valley PBS provide documentation detailing the process and procedures in place to ensure it annually reviews its diversity statement and that the statement addresses all the requirements in the General Provisions.

CPB's Non-compliance Policy provides for a penalty of \$1,000 for each General Provisions requirement that a station does not meet. However, because Valley PBS promptly updated its diversity statement after reviewing it with its board and posted the document on the station website in the fall of 2022, we will assess a reduced penalty of \$500.

Action: Valley PBS must provide to CPB the \$500 non-compliance penalty and the documentation identifying the corrective action and internal controls it will implement to ensure compliance to the diversity statement requirement, within 45 days of the date of this correspondence.

D. Annual Harassment and Bias Prevention Training

To ensure that CPB-supported public media stations train their personnel to recognize, avoid, and report workplace discrimination, including harassment, CPB requires annual harassment and bias prevention training for all officers, employees, and interns of each station as a condition of their CSG eligibility. Grantees may complete this requirement through an interactive online harassment and bias prevention training service, available free of charge through CPB, or by completing a comparable training program of the station's choice.

The audit found that Valley PBS did not provide the required training to all staff in FYs 2021 and 2022. In response, Valley PBS attributed its non-compliance in part to significant staff turnover and hiring, and because the CPB training program was not consistently available during the audit period. Further, the station indicated that CPB was unable to provide the station with its 2020 staff training attendance records.

CPB makes its training available annually from May or June through September and stations receive extensive information about the training and its availability. Regarding 2020 attendance records, CPB advised Valley PBS and other stations on multiple occasions that they must maintain these records because that information would not be available once CPB transitioned to a new online training provider in 2021.

Accordingly, we are not persuaded by Valley PBS' arguments and consistent with the audit's recommendation. We require that the station provide CPB with documentation identifying the corrective actions and internal controls it will implement to provide harassment and bias prevention training for all officers, employees, and interns.

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In accordance with CPB's Non-compliance Policy, we are assessing a penalty of \$1,000 for Valley PBS' lack of compliance with the training requirements.

Action: Valley PBS must provide to CPB the \$1,000 non-compliance penalty and the corrective actions and internal controls Valley PBS will implement to annually provide harassment and bias prevention training to all officers, employees, and interns, within 45 days of the date of this correspondence.

E. Discrete Accounting

CPB's General Provisions require stations use unique accounting codes to identify CSG revenues and expenditures.¹² Specifically, the station's accounting systems must be able to generate a report showing CSG revenues and how those funds were expended, using unique accounting codes. Those accounts must not include non-CSG revenues or expenses.

The audit found that while Valley PBS maintained discrete accounting for CSG revenues, it failed to do the same for CSG expenses. Consequently, the audit was unable to confirm how CSG funds were used and whether they were expended during the proper spending periods. The audit recommended that CPB require the station to identify what controls or procedures will be implemented to ensure that the service

provider establishes discrete account codes to track CSG expenditures.

In response, Valley PBS engaged a financial services provider to help it maintain the required financial records and unique accounting codes for CSG revenues and expenditures.

CPB agrees with the audit finding and requires Valley PBS to provide CPB with documentation on how it will ensure compliance going forward. In accordance with the CSG Non-compliance Policy, the station is subject to a penalty of \$1,000 for not maintaining separate account codes for CSG expenditures. However, since the station maintained a separate account code for CSG revenues and secured an outside firm to assist with its accounting, we are assessing a reduced penalty of \$500.

Action: Valley PBS must provide CPB with the \$500 non-compliance penalty and documentation identifying corrective actions and internal controls implemented to ensure a separate account has been established by its financial service provider to track CSG expenditures within 45 days of the date of this correspondence.

Valley PBS must return to CPB the CSG overpayments of \$294,457 (\$214,339 per the audit findings plus \$80,117 in the prior year CSG overpayments), which CPB will collect through an adjustment to the station's 2024 CSG award. We will alert the station when we make those adjustments. Within 45 days of the date of this correspondence, please forward a check in the amount of \$38,946 for the non-compliance penalties, payable to CPB, to the attention of Nick Stromann, Vice President, Controller, Corporation for

¹² General Provisions and Eligibility Criteria; Part I, Section 3. Recordkeeping Requirements, D. Discrete Accounting Requirement.

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Public Broadcasting, 401 Ninth Street N.W., Washington, D.C. 20004-2129; and send the required documentation to Tim Bawcombe, Director of TV CSG Policy and Review, at tbawcombe@cpb.org. This documentation must be provided on station letterhead and signed by the head of grantee and licensee official.

If you wish CPB to consider additional information relating to this matter, please provide the same in writing within 30 days of the date of this correspondence. Otherwise, CPB will consider these determinations final and Valley PBS must comply with the actions set forth above. CPB reserves the right to take any other action it deems appropriate until these issues are resolved to CPB's satisfaction.

Kind regards,

Jackie J. Livesay

Jackie J. Livesay
Deputy General Counsel & Vice President, Compliance

CC: VIA ELECTRONIC MAIL

Jody Graves, Chair, Board of Directors, Valley PBS, KVPT-TV
Michael Levy, Executive Vice President & Chief Operating Officer, CPB
J. Westwood Smithers, Jr., Senior Vice President & General Counsel, CPB
William P. Tayman, Jr., Chief Financial Officer & Treasurer, CPB
Kimberly Howell, Inspector General, CPB
William J. Richardson, III, Senior Director & Deputy Inspector General, CPB
Kathy Merritt, Senior Vice President, Journalism & CSG Services, CPB
Katherine Arno, Vice President, Community Service Grants and Station Initiatives, CPB
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Pat Saks, Director, Business & Administration, CPB