



September 27, 2022

VIA ELECTRONIC MAIL

Ms. Dolores Sukhdeo
President & CEO
South Florida PBS, Inc.
3401 S. Congress Avenue
Boynton Beach, FL 33426

Dear Ms. Sukhdeo,

RE: Audit of Community Service and Other Grants Awarded to South Florida PBS, Inc. (SFPBS), Boynton Beach, Florida, from July 1, 2019, through June 30, 2021, (Report No. AST2204-2205)

The Corporation for Public Broadcasting (CPB) awarded \$4.08 million in grants, including community service grants (CSGs), CARES Act stabilization funds, and American Rescue Plan Act stabilization funds to SFPBS, licensee of WPBT-TV, over a two-year period.¹ The audit report referenced above concluded that SFPBS generally complied with its CSG Certification of Eligibility, the numerous provisions in 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 with several exceptions. Namely, that SFPBS overstated its NFFS, did not comply with certain Communications Act requirements, and did not fully comply with CPB's diversity statement and discrete accounting requirements.

The specific findings and CPB's determinations for SFPBS follow.

I. Recommendations 1, 2 and 3: Overstated NFFS

The audit found that SFPBS overstated NFFS resulting in potential² CSG overpayments of \$370,051 as detailed below.

A. Ineligible Contributions

1. Capital Campaign - TV Facilities

CPB's Guidelines prohibit television stations from reporting as NFFS, capital

¹ The audit period for the Communications Act and the General Provisions was expanded to include February 2022.

² The audit uses the term "potential" because CPB has not yet calculated SFPBS' FY 2023 CSG, which is based on its FY 2021.

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campaign revenues designated or restricted for facilities or equipment.³ The designation or restriction may be explicit or implied. When capital campaigns are not limited to raising funds for facilities/equipment projects, the station must maintain documentation showing how the funds are allocated between facilities/equipment and other projects. The audit found that the station misreported capital campaign revenues provided by two donors resulting in \$198,493 in potential CSG overpayments.

SFPBS disagreed with the findings, arguing that the gift agreement for a \$2.5 million donation gave it the discretion to redirect the funds as needed, making it an unrestricted gift which the station could report as NFFS.⁴ However, the audit report noted that the funds were raised as part of a capital campaign and that the gift agreement limited their use. We agree with the audit finding and SFPBS must return the resulting CSG overpayment to CPB.

This gift was provided to the station in two installments, and the audit reviewed the second installment. After reviewing the station's documentation, we note that the initial installment was also misreported as NFFS and the station must return the \$123,997 CSG overpayment to CPB.

As for the \$50,146 donation, SFPBS identified the gift as an unrestricted donation, and therefore, reported it as NFFS. While there was no gift agreement documenting the transaction, the audit reported that the donor provided the funds to cover costs associated with renovating WXEL's facility. We agree with the finding, recognizing that there were multiple references in the documentation which indicated that the station must use the donation for renovating its facility. Thus, SFPBS must return the resulting potential CSG overpayments to CPB.

The total CSG overpayments associated with the above gifts and the gift provided to the station that fell outside the audit period is \$322,490, which SFPBS must return to CPB.

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 a CSG overpayment 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 \$32,249 based on the overpayments below.

CSG	2021	2022	2023	Total
Overpayment	\$123,997	\$192,072	\$6,421 ⁵	\$322,490

The audit also recommended that CPB require SFPBS to identify the corrective actions it will implement to ensure its future compliance with CPB's NFFS and annual financial report (AFR) reporting requirements. Based on the representations in the station's April

³ FY 2020 Financial Reporting Guidelines (Section III, Line 18).

⁴ Correspondence dated April 19, 2022.

⁵ Using estimated IRR of 12.8 cents.

correspondence,⁶ CPB requires SFPBS provide additional documentation on the allocation methodology developed for capital campaign gifts.

Action: SFPBS must return the \$322,490 CSG overpayments, which CPB will recover through an adjustment to its upcoming CSG award,⁷ and it must provide the \$32,249 penalty and documentation on the allocation methodology for capital campaign gifts to CPB within 45 days of the date of this correspondence.

2. Ineligible Source - Contributions from Public Broadcasting Entities

The Guidelines prohibit stations from reporting revenues provided by public broadcasting entities as NFFS.⁸ The audit found that SFPBS reported revenues it received from two public broadcasting entities as NFFS, resulting in \$3,242 in CSG overpayments. Station officials and we agree with this finding and SFPBS must return the overpayments to CPB. In addition, and consistent with CPB's CSG Non-compliance Policy, we will assess a penalty of ten percent of the resulting CSG overpayments or \$324.

Action: SFPBS must return \$3,242 in CSG overpayments, which CPB will recover through an adjustment to its upcoming CSG award, and it must provide the \$324 penalty to CPB within 45 days of the date of this correspondence.

B. Ineligible Payments/Exchange Transactions

CPB Guidelines provide that stations may report contributions from donors⁹ and underwriting credits as NFFS, excluding payments made for presenting station and production services and other revenues.¹⁰ As for underwriting credits, they are distinguished from advertising as set forth in the Federal Communications Commission regulations and the Communications Act.¹¹

The audit found that SFPBS misreported several payments and underwriting as NFFS, resulting in potential CSG overpayments of \$144,694. The misreporting was primarily related to production or presenting station fees for the third season of a children's series. SFPBS disagreed with this portion of the finding, arguing the funds were a gift from a major donor. However, the audit report indicated that the supporting agreement includes language demonstrating that the funds were provided in exchange for production services, presenting station services, and more. Further, the funds were provided by an ineligible source, an additional reason for disallowing the revenues. We agree with this finding and the station must return the resulting \$144,694 CSG overpayment.

⁶ Audit report, Exhibit G (April correspondence).

⁷ Contingent on the timing of the CSG calculations.

⁸ Guidelines FY 2020 - Part II, Section II (A) – Contribution.

⁹ Guidelines FY 2020 - Part II, Section II – Contribution vs. Payment.

¹⁰ Guidelines FY 2020 - Part II, Section V. NFFS – Excluded Revenues, F and L.

¹¹ Guidelines FY 2020 - Part II, Section VI - NFFS: Underwriting Revenues.

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Seasons one and two of the series were also produced and distributed in 2018 and 2019, which was outside the audit scope. We require SFPBS to review any related “gifts” for similar misreporting and provide CPB with any resulting CSG overpayments.¹² In addition, SFPBS must provide CPB with documentation attesting to the same, signed by its station general manager and licensee official.

Additionally, SFPBS received the following funds that were disallowed as NFFS:

- funds provided to the station to develop content and provide other resources, expertise, and sponsorship to the donor. The audit determined that the funds did not qualify as NFFS because they were a payment for services rendered by the station and because they were from an ineligible source. The station recognized the overstatement. We agree with the finding and the station must return the resulting potential \$16,326 CSG overpayment to CPB.
- funds provided to the station to produce and distribute an underwriting segment for an organization’s product which was distributed on cable television. The audit found that the funds did not qualify as underwriting for several reasons, they were a payment for services rendered by the station, they were provided by an ineligible source, and they were provided for an ineligible purpose. The station recognized the overstatement. We agree with the finding and the station must return the resulting \$4,674 CSG overpayment to CPB.
- funds provided to the station by a for-profit business in exchange for studio and facilities time. The audit found the fees did not qualify as membership contributions because they were a payment for services rendered by the station, and they were provided by an ineligible source. The station recognized the overstatement. We agree with the finding and the station must return the resulting \$2,622 CSG overpayment to CPB.

In accordance with CPB’s CSG Non-compliance Policy as explained above, we are assessing a penalty of ten percent on the CSG overpayments or \$16,832 and requiring the return of the overpayments. The audit recommended that CPB require SFPBS to identify the corrective actions it will implement to ensure its future compliance with CPB’s NFFS and AFR reporting requirements. CPB agrees and requires SFPBS provide additional documentation on its procedure for mapping revenue accounts from the general ledger to the AFR.

Action: SFPBS must return \$168,316 in CSG overpayments, which CPB will recover through an adjustment to its upcoming CSG award. Within 45 days of the date of this correspondence, the station must provide CPB with the \$16,832 penalty, the documentation on its procedure for mapping revenue accounts from the general ledger to the AFR, and the attestation for any misreported gifts related to seasons one and two of the children’s series, returning any CSG overpayment to CPB.

¹² Any CSG overpayments will be recovered through an adjustment to the station’s upcoming CSG award.

II. Recommendations 4, 5 and 6: Act Noncompliance

A. Open Meetings – Advance Notice

The Communications Act requires that stations provide advance notice of their open governing body meetings, including their open committee and CAB meetings. CPB finds stations compliant if they provide at least seven-days' advance notice.¹³ The audit found that SFPBS did not provide the required notice for 51 of 56 meetings reviewed. It recommended that CPB require SFPBS to fully comply with Act requirements and document corrective actions and controls to ensure future compliance.

In response to the audit, SFPBS explained the failure occurred in part because it was consolidating two facilities and because of operational disruptions related to the COVID-19 pandemic. The station acknowledged its shortcomings but did not explain what controls it has put in place to ensure compliance going forward and we request the same.

In accordance with CPB's CSG Non-compliance Policy, stations are subject to a penalty of \$5,000 for failure to comply with a category in the Communications Act that a grantee does not comply with. SFPBS was not in full compliance with the open meetings requirements of the Act and is subject to a penalty of \$5,000. In addition, CPB requires SFPBS provide documentation detailing the process and procedures in place to ensure required notice is given for its open governing body meetings.

Action: SFPBS must provide the \$5,000 penalty and documentation detailing processes and procedures related to the advance notice compliance for their open governing body meetings to CPB, within 45 days of the date of this correspondence.

B. Reasons for Closed Meetings

The Communications Act requires stations document the reason(s) for closed meetings and make the reason(s) available to the public within a reasonable time after the closed meeting. Further, CPB requires that the written statement be made available for inspection, either at the station's central office or posted on its station website, within 10 days after each closed meeting.¹⁴ The audit found SFPBS did not make the reasons for the closed meetings available to the public within the required time for any of the three closed meetings or executive sessions reviewed. It recommended that CPB require SFPBS to fully comply with Act requirements and document corrective actions and controls to ensure future compliance.

¹³ CPB's Communications Act Compliance requirements, 1. Open Meetings, E. Notice of Open Meetings (June 2021).

¹⁴ CPB's Communications Act Compliance requirements, 2. Closed Meetings, C. Closed Meeting Documentation (June 2021).

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SFPBS acknowledged its deficiencies and confirmed it will evaluate its procedures to ensure its future compliance with the Act and CPB closed meetings requirements in its April correspondence. CPB requires SFPBS provide documentation detailing the process and procedures in place to ensure SFPBS will document the reason(s) for closed meetings and make the reason(s) available to the public within a reasonable time after the closed meeting.

Because the closed meeting requirements are within the open meetings category in the Act, the penalty for open meetings incorporates this noncompliance.

Action: SFPBS must provide documentation to CPB within 45 days of the date of this correspondence detailing the process and procedures in place to ensure it will document the reason(s) for closed meetings and make the reason(s) available to the public within a reasonable time after the closed meeting.

C. 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 AFR on its station website.¹⁵

The audit found that SFPBS had posted its FY 2018 AFR and had not updated it to reflect FY 2020. It recommended that CPB require SFPBS to fully comply with Act requirements and document corrective actions and controls to ensure future compliance.

The station promptly corrected this issue at the beginning of the audit fieldwork, updated its website to include its FY 2021 AFR when it became available, and indicated the error was an oversight, in part due to its office consolidation.

While this non-compliance subjects SFPBS to a penalty of \$5,000 pursuant to CPB's Non-compliance Policy, given it promptly corrected the issue and subsequently updated it when the 2021 AFR became available, CPB will reduce the penalty to \$2,500. Considering these steps, we are satisfied that SFPBS understands the requirements and will be compliant going forward, and we require no further documentation.

Action: SFPBS must provide the \$2,500 penalty to CPB, within 45 days of the date of this correspondence.

¹⁵ CPB's Communications Act Compliance requirements, 3. E. The Public's Access to Financial Information (June 2021).

D. CAB Responsibilities

The Communications Act requires stations, other than those owned by a state, a political or special purpose subdivision of a state, or a public agency to have a CAB.¹⁶ Accordingly, SFPBS must maintain a CAB and the audit found that it has separate CABs for WPBT and WXEL, which meet with station management to share their feedback. The audit's review of board minutes did not indicate that such feedback was provided to the stations' governing body and the audit recommended that CPB require SFPBS to fully comply with this requirement and document corrective actions and controls to ensure future compliance.

SFPBS did not dispute the findings and indicated that it is developing a more formal process for this reporting requirement in its April correspondence. CPB agrees with this finding and requires SFPBS provide documentation detailing the process and procedures in place to ensure the station CABs provide feedback to its governing body. In accordance with CPB's Non-compliance Policy, we will assess a penalty of \$5,000.

Action: SFPBS must provide the \$5,000 penalty for the CAB non-compliance issues and the required documentation detailing the process and procedures to ensure that the station CABs provide feedback to the stations' governing body to CPB, within 45 days of the date of this correspondence.

III. Recommendations 7 and 8: General Provisions and Eligibility Noncompliance

A. 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, CPB's General Provisions require grantees to annually review their diversity goals and properly maintain their diversity statement.¹⁷

The audit found SFPBS had not annually reviewed its diversity statement and that the statement did not address all the requirements in the General Provisions. Consequently, the audit recommends that CPB require SFPBS to fully comply with these requirements and to document the corrective actions and controls it will implement to ensure its future compliance with the same.

As the audit was in process, SFPBS organized a working group which will address these issues with a board committee, including adopting a process to review the statement annually, as noted in its April correspondence.

¹⁶ CPB's Communications Act Compliance requirements, 4. Community Advisory Board, E.4 CAB's Responsibilities (June 2021).

¹⁷ CPB FY 2021 Television CSG General Provisions, Part I, Section 5 Diversity Statement.

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CPB requires SFPBS 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 requires a copy of the redrafted diversity statement and notice of the expected date for the SFPBS board committee to review the statement.

CPB's Non-compliance Policy provides for a penalty of \$1,000 for each requirement in the General Provisions that grantee does not comply with. Given that SFPBS promptly created the working group and developed a plan to address the issue and recognizing that the process will likely take multiple months to review with its board, we will reduce the penalty to \$500.

Action: SFPBS must provide \$500 in penalties for these non-compliance issues and the required 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 to CPB, within 45 days of the date of this correspondence.

B. Discrete Accounting

CPB's General Provisions require grantees use unique accounting codes to identify CSG revenues and expenditures.¹⁸ The audit found that while SFPBS discretely accounted for CSG revenues, it failed to do the same for CSG expenses. Nonetheless the audit confirmed that the expenditures were consistent with the General Provisions, recognizing that the station had to produce supplemental information to allow the audit to verify the same. Further, the station did not track its spending of one of these grants, as its terms required.

CPB and the station agree with this finding and SFPBS indicated that it had adopted specific accounting codes to its general ledger in its April correspondence. Therefore, we are satisfied that it understands the requirements, has implemented corrective actions and controls, and will be compliant going forward. We require no further documentation, and considering the station's prompt action, in accordance with the CSG Non-compliance Policy, we are assessing a reduced penalty of \$500.

Action: SFPBS must provide the \$500 penalty to CPB for this non-compliance issue within 45 days of the date of this correspondence.

CPB will recover the CSG overpayments of \$494,048 (\$357,187 for FY2022 and \$12,864¹⁹ for FY2023 CSGs and \$123,997 for FY2021 CSG) and any CSG overpayments related to seasons one and two of the children's series through an adjustment to its upcoming CSG award, and 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 \$62,905 for the non-compliance penalties, payable to CPB, to the attention of Nick Stromann,

¹⁸ CPB FY 2021 Television CGS General Provisions; Part I, Section 3. Recordkeeping Requirements, D. Discrete Accounting Requirement.

¹⁹ Estimated amount because the IRR for FY2023 has not yet been determined.

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Vice President, Controller, Corporation for 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.

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 letter. Otherwise, CPB will consider these determinations final and SFPBS 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

Michael Zinner, Chair, Board of Trustees, SFPBS
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
Nick Stromann, Vice President, Controller, CPB
Tim Bawcombe, Director, Television CSG Policy & Review, CPB
Forrest Lillibridge, Director, Grants Administration, CPB
Pat Saks, Director, Business & Administration, CPB