



CORPORATION FOR PUBLIC BROADCASTING

901 E Street NW
 Washington, DC 20004-2006
 (202) 879-9600

Memorandum

TO: CPB Board of Directors

FROM: Paul E. Symczak *AS*

THROUGH: Donald Ledwig *D Ledwig*

DATE: February 8, 1991

SUBJECT: PBS Programming Contract

During the Board's Executive Session of November 13, 1989, it adopted a resolution instructing CPB Management to submit to the Board for its review and approval the proposed contract between CPB and PBS to implement the new public television national program financing plan proposed in CPB's January 1990 Report to Congress. Enclosed is the final draft of the contract and a draft resolution for your review. The contract and the resolution will be considered during a special telephonic executive session called by Marshall Turner for February 20, 1991, at 5:00 P.M. EST. Official notice of that meeting is also included in this package.

CPB Management recommends that the contract be accepted by the Board and the resolution indicating that acceptance be passed.

The proposed contract has been the subject of serious negotiations with PBS since the first draft was delivered to PBS by CPB in June 1990. Despite these many months of discussion, this final draft is not substantially different from the first one provided to PBS. The draft contract is essentially consistent with both the plan as described in CPB's Report to Congress (which you will find in this package as Attachment A to the contract) and the initial outline for the contract which was sent to the Board on May 8, 1990 by Fred DeMarco and discussed in Executive Session at the Board Meeting on May 14, 1990. However, there are some substantive changes which were the result of contract negotiations. We have provided an executive summary of the key provisions of the contract to assist you in your review.

If you have questions about the contract that you wish to discuss prior to the telephonic Board meeting, I will be pleased to address them.

The attached package includes:

1. Executive Summary - PBS Programming Contract - Key Provisions
2. Contract with full package of attachments
3. Draft Board Resolution
4. Notice of Special Telephonic Executive Session of the Board

EXECUTIVE SUMMARY - PBS PROGRAMMING CONTRACT - KEY PROVISIONS

- Purpose: The contract requires the creation of a program fund at PBS which is to have, at the beginning, approximately \$100 million aggregated from CPB, PBS and the stations. In order to compel PBS and the stations to guarantee the aggregation of sufficient funds to attain the \$100 million level, CPB is guaranteeing \$22.52 million each year that the contract is in effect. The total amount in the fund will increase as the federal appropriation increases, in part by increases in the CPB contribution and in part by increases in the contributions of the stations and PBS. PBS's Chief Program Executive ("CPE") will use the aggregated funds to finance the production, acquisition and related costs of public television programs for national distribution by PBS's National Program Service ("NPS"). Based on needs identified annually through the CPB-led national needs assessment process and other programming goals identified by CPB, and after consultation with the stations, CPB and others, PBS will develop a multiyear Program Plan that describes how each of these needs and programming goals will be addressed by NPS programs. This Program Plan will be approved by the National Program Policy Committee of the PBS Board ("NPPC"), on which CPB has two representatives. CPB will continue to maintain a program fund for the support and development of new programming and to meet other CPB program objectives.
- Accountability: Through access to PBS's database and periodic written program and financial reports, CPB will be able to monitor the way in which all funds amassed under the CPE's control are being spent.
- On-Air Credit: CPB will receive an on-air funding credit on \$105 million worth of NPS programs initially, and on an increasing amount of programming as the aggregated NPS funds grow, reflecting that CPB is a partner in this deal with the stations. In order to accommodate PBS's concern about clutter and PBS's need to credit all corporate underwriters adequately and within its underwriting guidelines, CPB has agreed to accept in most cases a joint credit in which CPB will be paired with station viewers. We have insisted, however, that CPB receive fair and equitable treatment that appropriately reflects the level of the joint CPB/Station contribution relative to the contributions of other funders of a particular program or program series.
- Ancillary Income: PBS will be permitted to retain CPB's share of ancillary income received by producers and PBS from all income-producing uses of NPS programs, so long as the current agreement remains in effect. PBS is required to apply CPB's share of this income to programming that supports the Program Plan.

- Term, Termination and Evaluation: The initial term of this agreement is three years, commencing October 1, 1990 and ending September 30, 1993. Commencing in 1991, CPB will conduct an annual evaluation of PBS's performance in meeting the program objectives identified by CPB and in performing the other obligations listed in the contract. This evaluation is to be concluded each year by August 30. Based on the evaluation, the contract can be extended without modification, extended with a reduced CPB contribution (if PBS was not successful in meeting all the program needs and CPB feels it must withhold funds to meet unmet needs itself), or terminated. Any extension of the contract would be for a one-year period. If the contract is terminated based on an evaluation of performance, the termination is not effective until two years after notice of termination is given to PBS. In addition to evaluation-based termination, CPB has the right to terminate with 3 or 6 months notice (depending on the circumstances) for material breach by PBS, and the right to terminate immediately for failure of the stations to transfer sufficient funds to PBS each year.