

**CORPORATION FOR PUBLIC BROADCASTING**  
**OFFICE OF INSPECTOR GENERAL**

**EXAMINATION OF COMMUNITY SERVICE GRANTS  
AWARDED TO NEW YORK PUBLIC RADIO,  
WNYC-FM, NEW YORK, NEW YORK  
FOR THE PERIOD JULY 1, 2010 – JUNE 30, 2012**

**REPORT NO. ASR1302-1307**

**September 27, 2013**

A handwritten signature in black ink, appearing to read "Mary Mitchelson", written over a horizontal line.

**Mary Mitchelson**  
**Inspector General**



Corporation  
for Public  
Broadcasting

Office of Inspector General

Date: September 27, 2013

To: Jackie J. Livesay, Vice President, Compliance

From: Mary Mitchelson, Inspector General 

Subject: Examination of Community Service Grants Awarded to New York Public Radio, WNYC-FM, New York, New York for the Period July 1, 2010 – June 30, 2012, Report No. ASR1302-1307

We have completed an examination of the Corporation for Public Broadcasting (CPB) Community Service Grants (CSG), for the period July 1, 2010 – June 30, 2012. The objectives of this examination were to determine whether New York Public Radio (NYPR): a) claimed Non-Federal Financial Support (NFFS) on its Annual Financial Reports (AFR) in accordance with CPB Financial Reporting Guidelines (Guidelines); b) expended CSG funds in accordance with grant agreement requirements; and c) complied with the Certification of Eligibility requirements and the statutory provisions of the Communications Act of 1934, as amended (the Act).

Our examination found that NYPR:

- over-stated NFFS by \$44,574 in FY 2011, which resulted in a CSG overpayment of \$2,736 in FY 2013; and
- did not fully comply with Communications Act requirements for making information available to the public by providing: 1) written statements explaining the reasons for closing a public meeting, and 2) other CPB non-CSG grant financial reports.

We recommend that CPB management require NYPR to refund CSG overpayments, file a corrected AFR for Fiscal Year (FY) 2011, and make available to the public the reasons for closing board/committee meetings and other CPB grant financial reports.

In response to these findings and recommendations NYPR officials agreed to take corrective actions. NYPR's written response to the draft report is presented in Exhibit E. Our findings and recommendations did not change based on NYPR's response to the draft report.

This report presents the conclusions of the OIG. The findings and recommendations presented in this report do not necessarily represent CPB's final position on these matters. CPB officials will make a final management decision on the recommendations in this report in accordance with established CPB audit resolution procedures.

We performed our examination in accordance with *Government Auditing Standards* for attestation engagements. Our scope and methodology is discussed in Exhibit D.

## **BACKGROUND**

NYPR's mission as stated on its website is "to make the mind more curious, the heart more tolerant and the spirit more joyful through excellent radio programming. NYPR station's WNYC 93.9 FM and 820 AM are New York's flagship public radio stations, broadcasting programs from NPR, American Public Media, Public Radio International and the BBC World Service, as well as a wide range of award-winning local programming."

According to its website, WNYC is the most listened-to radio station in Manhattan and the most listened-to public radio station in the country. Established in 1924 as a City of New York municipal radio station, the WNYC Foundation acquired the broadcast license from the city in March 1997 and is now run as New York Public Radio, a community station with a membership of more than 160,000 members. WNYC also operates WQXR, 105.9 FM, New York City's only all-classical music station.

In 2011 NYPR purchased the four New Jersey state-operated FM radio stations. These stations carry WNYC-FM programming as well as New Jersey local programming of interest to the state's residents.

### ***CPB Community Service Grant***

CSG award amounts are determined by the NFFS reported by a station on its AFR. The CSG calculation process starts with amounts appropriated for the radio CSG pool adjusted by the base grant, distance, and local grant amounts. The funds that remain are called the Incentive grant pool. The Incentive Rate of Return (IRR) is calculated by dividing the Incentive grant pool by the total amount of NFFS claimed by all radio stations in the system. The IRR is then multiplied by a station's reported NFFS to calculate the incentive award amount of the station's total CSG. There is a two-year lag between the reported NFFS and CPB's calculation of the fiscal year's CSG award amount. CPB used the NFFS that NYPR claimed on its FY 2011 AFR to determine the amount of the FY 2013 CSG awarded to the station. NYPR's annual CSG award for FY 2011 totaled \$3,253,518 and for FY 2012 totaled \$3,171,434, as itemized in Exhibit A. Each CSG grant can be spent over a two-year period.

NYPR's FY 2011 and 2012 AFRs reported total revenues of \$53,116,692 in FY 2011 and total revenues of \$54,608,157 in FY 2012, per Exhibit B. NYPR reported NFFS of \$42,735,869 in FY 2011 and \$44,039,788 in FY 2012, as presented in Exhibit C.

## **RESULTS OF REVIEW**

We examined NYPR management's assertions of compliance with CPB's CSG grant agreement terms, Certification of Eligibility requirements, Act requirements, NFFS financial reporting guidelines, and the expenditure of funds for the two years ending June 30, 2011 and June 30, 2012. NYPR management is responsible for compliance with these requirements. Our responsibility is to express an opinion on management's assertions about its compliance based on our examination.

Our examination was conducted in accordance with the *Government Auditing Standards* for attestation engagements and, accordingly, included examining, on a test basis, evidence about NYPR's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion. Our examination does not provide a legal determination on NYPR's compliance with specified requirements.

Our examination found that NYPR:

- over-stated NFFS by \$44,574 in FY 2011, which resulted in a CSG overpayment of \$2,736 in FY 2013; and
- did not fully comply with Communications Act requirements for making information available to the public by providing: a) written statements explaining the reasons for closing a public meeting, and b) other non-CSG CPB grant financial reports.

In our opinion, except for the noncompliance issues described above, NYPR has complied with the aforementioned requirements for the two years ending June 30, 2011 and June 30, 2012.

## **FINDINGS AND RECOMMENDATIONS**

### **AFR Over-Stated NFFS for In-Kind Contribution Services**

CPB Financial Reporting Guidelines, Section 2.5.2 Special Criteria for In-kind Contributions Included as NFFS, states, "In addition to the source, form, purpose and recipient criteria, and the requirement of recognition in the audited financial statements, there are three specific criteria an in-kind contribution must satisfy to be eligible as NFFS: 1) it must meet CPB's valuation requirement; 2) it must meet CPB's

documentation requirements; and 3) the station would typically need to purchase the contributed goods or services had they not been donated.

Our review of NFFS reported on Schedule C of the AFR identified in-kind professional fee revenues of \$22,388 for legal services and in-kind other services of \$22,186 for local advertising. However, these transactions were actually expenses erroneously reported as revenues on the AFR.

NYPR officials advised us that this was a result of a mistake in preparing the AFR from the source Trade spreadsheet that tracks all trades and in-kind activity used to report barter income and expense on the audited financial statements. Although the station's AFR Schedule C agrees in total to revenue recognized in the audited financial statements, the AFR preparer misclassified amounts reported on AFR Schedule C lines 1.A for legal services and 3.C for local advertising that should not have been reported as NFFS revenue.

These misstatements totaling \$44,574 resulted in excess CSG payments of \$2,736 under the FY 2013 grant.

### ***Recommendations***

- 1) We recommend that CPB officials require NYPR to:
  - a) repay CPB \$2,736 in FY 2013 CSG over-payments; and
  - b) submit a revised AFR to adjust FY 2011 NFFS revenues.

### ***Management Response***

NYPR's response agreed with this finding and our recommendations.

### ***OIG Review and Comment***

Based on NYPR's response we consider recommendation 1a and 1b resolved but open pending NYPR's repayment of \$2,736 and submitting a revised AFR for FY 2011.

## **Compliance with the Communications Act**

Our examination found that the NYPR did not fully comply with Communication Act requirements for making documents available to the public related to documenting the basis for closing public meetings and making other CPB grant financial reports available for review. While NYPR had operating procedures in place to address these requirements that they followed, we found that neither policy fully met CPB's guidelines.

### ***Open Meeting Requirements for Closed Meetings***

Our review of NYPR's closed meetings of the Board of Directors and related committee meetings found that NYPR did not prepare a document that explained the reasons for closing a public meeting. Further, NYPR's policy did not specifically address when it would prepare a document that explained why a meeting was closed.

Section 396(k)(4) of the Act, 47 U.S.C. § 396(k)(4) and CPB guidelines Section II. 4, of the Open Meetings requirements for "Explanation of Closed Meetings" apply. The statute provides exceptions to the open meeting requirement. Closed sessions can be conducted to consider matters relating to "...individual employees, proprietary information, litigation, and other matters requiring the confidential advice of counsel, commercial or financial information obtained from a person on a privileged or confidential basis, or the purchase of property or services whenever the premature exposure of such purchase would compromise the business interests of any such organization." Further, the statute also provides that "the organization shall ... (within a reasonable period of time) make available to the public a written statement containing an explanation of the reasons for closing the meeting."

Further, CPB guidelines reiterate that if a session is closed to the public pursuant to these statutory exceptions, a written statement containing an explanation of the reasons for closing the meeting must be made publicly available within a reasonable period of time. The explanation for the closing of a meeting preferably should use the words of the statute. CPB guidelines require that each closed meeting of the Board of Directors, respective committees, and the Community Advisory Board (CAB) need to prepare a document explaining the reason for the closed meeting.

Station officials explained that their practice was to document the basis for closing the meeting in the meeting's minutes. When they receive a request for why the meeting was closed they would prepare a document citing the reasons specified in the meeting's minutes as the basis for closing meeting. They also said that they had not received a request for information on closed meetings in years. We reviewed the closed meeting minutes following the implementation of its policy and found that the basis for closing the meeting was documented in the minutes.

### ***Making Other Financial Reports Available to the Public***

Our examination of financial records made available to the public during our field visit found that only two of seven CPB (non-CSG) grants with financial activity during FY 2012 were available for public inspection. NYPR's open financial policy required the station to make only open CPB grant financial reports available for public inspection and the five reports that were not available were closed during the fiscal year. NYPR's open financial records policy did not adequately address CPB requirements, because the station did not provide the public with all financial reports submitted to CPB with respect to the periods covered by the current AFR and audited financial statements already included in the file maintained for public inspection. Without this additional information,

the public would have an incomplete picture of the extent of CPB's financial investment during the respective periods.

Section 396(k)(5) of the Act, states:

Funds may not be distributed pursuant to this subsection to any public telecommunications entity that does not maintain for public examination copies of the annual financial and audit reports, or other information regarding finances submitted to the Corporation pursuant to subsection (l)(3)(B).

Further, CPB guidelines Section III C. requires stations to make the following types of records available for public inspection:

Other information regarding finances submitted to CPB related to any funding agreement with CPB that requires a financial report.

NYPR officials also indicated that they had spoken with CPB officials regarding the practice of providing financial information for only open CPB grants and had submitted its policy to CPB in response to a previous OIG survey in 2011.

Our discussions with CPB officials acknowledged that at least current CSG AFRs should be maintained in the files because CSGs are two-year funds, but stated CPB provided no further guidance regarding making available other CPB grant financial information. Further, we found no evidence that CPB approved the policy submitted in response to the previous OIG survey. We think it is reasonable to require that all CPB grant financial reporting information be available for public inspection consistent with the time periods covered by the financial statement audit report and the AFRs already being made available to the public.

\* \* \* \* \*

The station's lack of compliance with these requirements deprived the public of the required information envisioned by the Act and CPB guidelines. This information provides transparency, as well as informs the public about financial activities and how the board and committees operate.

### ***Recommendations***

- 2) We recommend that CPB officials require NYPR to revise its current open meetings and open financial reports policies to:
  - a) prepare a written statement documenting the reasons for closing a public meeting within a reasonable time after the closed meeting was held to explain why the meeting was closed;
  - b) maintain all CPB grant financial reports for open and closed grants that had activities during any periods covered in the financial statement audit report and

- AFRs it makes available to the public; and
- c) submit revised policies to CPB for its review and approval.

### ***Management Response***

NYPR's response to recommendation 2a stated that it will alter its open meetings policy to require that a separate document be created for each closed meeting that explains the basis for closing the meeting. Further, this document will be kept in its files to meet the requirement of making the explanation "publicly available." NYPR's response to recommendation 2b stated that it will alter its open financial records policy to require that all financial reports submitted to CPB with respect to the periods covered by the current AFR and audited financial statements must be included in the file maintained for public inspection.

### ***OIG Review and Comment***

Based on NYPR's response we consider recommendations 2a and 2b resolved but open pending its revisions of its open meetings and open financial records policies. NYPR's response did not address recommendation 2c and remains unresolved and open pending CPB's management decision resolving this recommendation.

**EXHIBIT A****CPB Payments to WNYC-FM  
July 1, 2010 – June 30, 2012**

<b>Date</b>	<b>Grants:</b>	<b>Amounts</b>
	<b>FY 2011</b>	
11/16/2010	Community Service Grant – Restricted	\$426,211
11/16/2010	Community Service Grant – Unrestricted	\$1,200,548
2/18/2011	Community Service Grant – Restricted	\$426,211
2/18/2011	Community Service Grant – Unrestricted	\$1,200,548
	<b>Sub-Total</b>	<b>\$3,253,518</b>
	<b>FY 2012</b>	
1/12/2012	Community Service Grant – Restricted	\$413,872
1/12/2012	Community Service Grant – Unrestricted	\$1,171,845
3/02/2012	Community Service Grant – Restricted	\$413,872
3/02/2012	Community Service Grant – Unrestricted	\$1,171,845
	<b>Sub-Total</b>	<b>\$3,171,434</b>
	<b>Total Payments</b>	<b>\$6,424,952</b>

**EXHIBIT B**

**Annual Financial Report  
For the Period Ending June 30, 2011 and June 30, 2012**

Line	Description	FY 2011	FY 2012
	<b>Schedule A:</b>		
	<b>Source of Income:</b>		
1.	Amounts provided directly by federal agencies	\$283,467	\$753,798
2.A.	CPB – Unrestricted CSG	2,407,603	2,344,102
2.B.	CPB – Digital Projects Grants	-98,533	0
2.C.	CPB – Restricted CSG	845,915	827,744
2.E.	CPB – all other funds	1,228,710	1,193,174
2.G.	NPR – all payments except pass-through payments	412,104	203,404
2.H.	Public broadcasting stations – all payments	148,042	143,490
2.I.	Other PBE funds	3,098,913	2,403,111
3.	Local boards and departments of education or other local government or agency sources	82,670	93,700
4.	State boards and departments of education or other state government or agency sources	113,544	277,419
8.	Foundations and nonprofit associations	10,412,007	9,870,519
9.	Business and industry	6,331,947	7,303,245
10.	Memberships and subscriptions	17,729,320	18,282,017
12.	Subsidiaries and other activities unrelated to public broadcasting	1,260,074	966,101
	<b>Form of Revenue:</b>		
14.	Special fundraising activities	654,909	859,410
15.	Passive income	68,582	95,479
16.	Gains and losses on investments, charitable trusts and gift annuities and sale of other assets	48,051	372,001
17.	Endowment revenue	108,696	2,346
18.	Capital fund contributions	3,501,637	2,708,772
19.	Gifts and bequests from major individual donors	3,933,449	4,595,185
20.	Other direct revenue	545,585	1,313,140
21.	<b>Total Revenue</b>	<b>\$53,116,692</b>	<b>\$54,608,157</b>

**EXHIBIT B (cont'd)**

**Annual Financial Report  
For the Period Ending June 30, 2011 and June 30, 2012**

<b>Line</b>	<b>Description</b>	<b>FY 2011</b>	<b>FY 2012</b>
	<b><i>Adjustments to Revenue:</i></b>		
22.	Federal revenue from line 1	\$283,467	\$753,798
23.	Public broadcasting revenue from line 2	8,042,754	7,115,025
25.	Other revenue on line 21 not meeting the source, form, purpose, or recipient criteria to be included in NFFS	2,059,254	2,382,757
26.	Other automatic subtractions from total revenue:		
26.D.	Realized gains/losses on investments(other than endowment funds)	2,800	116,035
26.E.	Unrealized investment and actuarial gains/losses (other than endowment funds)	45,251	255,966
26.F.	Realized and unrealized net investments gains/losses on endowment funds	8,671	2,346
27.	<b><i>Total Direct Non-Federal Financial Support</i></b>	<b>\$42,674,495</b>	<b>\$43,982,230</b>
	<b><i>Schedule C:</i></b>		
1.	PROFESSIONAL SERVICES		
	A. Legal	\$22,388	\$9,760
2.	GENERAL OPERATIONAL SERVICES		
	A. Annual rental value of space	0	9,350
3.	OTHER SERVICES		
	C. Local advertising	38,986	38,448
4.	Total in-kind contributions – services and other assets eligible as NFFS	\$61,374	\$57,558
5.	IN-KIND CONTRIBUTIONS INELIGIBLE AS NFFS		
	C. Federal and public broadcasting sources	\$28,500	\$95,500
	D. Fundraising related activities	504,936	541,315
	K. State PB agency allocations other than those allowed	0	39,000
6.	<b><i>Total in-kind contributions – services and other assets</i></b>	<b>\$594,810</b>	<b>\$733,373</b>

**EXHIBIT B (cont'd)**

**Annual Financial Report  
For the Period Ending June 30, 2011 and June 30, 2012**

Line	Description	FY 2011	FY 2012
	<b>Schedule E:</b>		
	<b>Expenses: (operating and non-operating)</b>		
	<b>Program Services:</b>		
1.	Programming and production	\$30,468,906	\$34,609,200
2.	Broadcasting and engineering	4,338,576	4,771,994
3.	Program information and promotion	2,542,498	2,976,501
	<b>Support Services:</b>		
4.	Management and general	4,373,055	4,923,812
5.	Fund raising and membership development	7,521,590	7,336,336
6.	Underwriting and grant solicitation	3,802,065	3,921,788
7.	Depreciation and amortization	0	0
8.	<b>Total Expenses</b>	<b>\$53,046,690</b>	<b>\$58,539,631</b>
	<b>Investment In Capital Assets:</b>		
g.	Total capital assets purchased or donated	\$1,198,971	\$1,240,581
g.a.	Land and buildings	150,931	323,484
g.b.	Equipment	561,334	486,806
g.c.	All other	486,706	430,291
<b>10.</b>	<b>Total expenses and investment in capital assets</b>	<b>\$54,245,661</b>	<b>\$59,780,212</b>

**EXHIBIT C**

**Summary of Non-Federal Financial Support  
For the Periods Ending June 30, 2011 and June 30, 2012  
Certified by Head of Grantee and Independent Accountant's Report**

<b>Line</b>	<b>Description</b>	<b>FY 2011</b>	<b>FY 2012</b>
	<b><i>Summary of Non-Federal Financial Support:</i></b>		
1	Direct Revenue (Schedule A)	\$42,674,495	\$43,982,230
2	Indirect Administrative (Schedule B)	0	0
3	In-Kind Contributions		
	a. Services and Other Assets (Schedule C)	61,374	57,558
	b. Property and equipment (Schedule D)	0	0
	<b><i>Total Non-Federal Financial Support</i></b>	<b>\$42,735,869</b>	<b>\$44,039,788</b>

## **Scope and Methodology**

We performed an examination to determine NYPR's adherence to the requirements of the CPB Financial Reporting Guidelines, provisions of the Communications Act, and CPB grant provisions and certification requirements. The scope of the examination included reviews and tests of the data reported by the station on its AFR and reconciled to audited financial statements for the years ending June 30, 2011 and June 30, 2012.

The scope of the audit included tests of the data reported on the AFRs for the fiscal years ending June 30, 2011 and June 30, 2012. We tested the allowability of FY 2011 \$42,735,869 and FY 2012 \$44,039,788 of NFFS claimed on NYPR's AFR by performing financial reconciliations and comparisons to underlying accounting records (general ledger) and the audited financial statements. We reviewed the allowability of expenses that were charged to the CPB grants. Specifically, we reviewed 81 percent of the \$3,253,518 in CSG funds expended during FY 2011 and 49 percent of the \$3,171,434 in CSG funds expended during FY 2012, to determine if the expenditures were allowable in accordance with the terms of the grant.

We reviewed supporting documentation for underwriting agreements, grant agreements, vendor invoices, and other documentation supporting revenues and expenditures tested. We also reviewed records and documents supporting the station's compliance with the Act requirements to provide advance notice of public meetings, make financial and EEO information available to the public, operate a CAB, and provide documents supporting compliance with donor lists and political activities prohibitions. Our procedures included interviewing station officials and its independent public accountant.

We gained an understanding of internal controls over the preparation of AFRs, cash receipts, and cash disbursements. We also gained an understanding of NYPR's policies and procedures for compliance with certification of eligibility requirements, Communications Act, and CPB grant agreement terms for allowable costs. We used this information to assess risks and plan the nature and extent of our testing to conclude on our objectives. We also tested the effectiveness of controls over payment authorizations.

Our fieldwork was conducted from February 2013 through August 2013. Our examination was performed in accordance with the *Government Auditing Standards, July 2007 Revision*, for attestation examinations.

LAURA R. WALKER

PRESIDENT & CEO

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September 20, 2013

160 VARICK STREET · NEW YORK NY 10013

William J. Richardson III  
Deputy Inspector General  
Corporation for Public Broadcasting  
410 Ninth Street, NW  
Washington, DC 20004-2129

VIA FEDERAL EXPRESS

Re: WRITTEN COMMENTS OF NEW YORK PUBLIC RADIO TO DRAFT REPORT NO. ASR1302-XXXX ( EXAMINATION OF NEW YORK PUBLIC RADIO, WNYC-FM, NEW YORK, NEW YORK FOR THE PERIOD JULY 1, 2010 – JUNE 30, 2012)

Dear Deputy Inspector General Richardson:

On behalf of New York Public Radio, I respectfully submit the comments below to the above-referenced draft CPB report (the "Report").

Comments on "Background"

1. The current language states, "NYPR station's WNYC 93.9 FM, 105.9 FM, and 820 AM are New York's flagship public radio stations..." Please note that the call letters for frequency 105.9 FM are WQXR, not WNYC. The call letters for AM 820 are WNYC.

Comments on "Findings and Recommendations"

2. *AFR Over-Stated NFFS for In-Kind Contribution Services.* We agree with the findings.
3. *Compliance with the Communications Act*
  - a) Open Meeting Requirements for Closed Meetings. As explained in the Report, current NYPR policy is to include in the minutes for each meeting which was closed (or for which a portion of the meeting was closed), a written statement contemporaneously documenting the basis for closing the meeting (or portion thereof). This written statement would then be duplicated in NYPR's response to any request asking why the meeting was closed. Based on the Report,

WNYC: WNYC.ORG · 93.9 FM · AM 820

WQXR: 105.9 FM · WQXR.ORG

THE GREENE SPACE: THEGREENESPACE.ORG

NEW YORK  
PUBLIC  
RADIO

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NYPR now understands CPB's interpretation of the relevant rules to require that this written statement must appear in a separate document, specifically prepared for this and no other purpose, and kept in the organization's files, and that duplicating the written statement from the minutes for any member of the public who inquires as to the basis for closing the meeting is insufficient to meet the requirement of making the explanation "publicly available."

NYPR will accordingly alter its open meetings policy to require an additional, separate document to be created for each closed meeting, which contains the language from the minutes explaining the basis for the closed meeting.

- b) Making Other Financial Reports Available to the Public. As explained in the Report, NYPR's current policy is based on its understanding that CPB's position with respect to the publicly available financial information for CPB grants other than the CSG was that only financial reports for open grants must be included in the file maintained for public inspection. Based on the Report, NYPR now understands CPB's interpretation to be that financial reports for grants that were open at any time during (i) the period of time covered by the current AFR required to be made publicly available, and (ii) the period of time covered by the current audited financial statements, are required to be made publicly available.

NYPR will accordingly alter its open financial records policy to require that all financial reports submitted to CPB with respect to the period covered by then current AFR and audited financials must be included in the file maintained for public inspection.

Please let us know if you wish to discuss this further before the formal exit conference.

Sincerely,



Cc: William L. Gillette, CPB ([wgillette@cpb.org](mailto:wgillette@cpb.org))  
William J. Richardson ([brichardson@cpb.org](mailto:brichardson@cpb.org))  
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