

CORPORATION FOR PUBLIC BROADCASTING

OFFICE OF INSPECTOR GENERAL

**SUMMARY REPORT ON LICENSEE COMPLIANCE WITH
COMMUNICATIONS ACT AND CPB REQUIREMENTS**

REPORT NO. CVJ1509-1610

September 30, 2016

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Report in Brief

Background

The Corporation for Public Broadcasting (CPB) awards most of its appropriated funds each year in Community Service Grants (CSG) to public broadcasting licensees. CPB's Fiscal Year 2015 budget included \$338.4 million in CSGs for 477 licensees. In order to receive a CSG, CPB requires the station to annually certify its compliance with the requirements in five areas of the Communications Act (Act), as amended, – open meetings, open financial records, Community Advisory Board (CAB), equal employment opportunity (EEO) reporting, and donor lists and political activities.

In our audits of licensees, we have often found that they do not satisfy all of Congress's requirements, in spite of CPB's efforts to educate and encourage compliance.

We produced this summary of compliance findings from 2005 – 2015 to highlight the problem and to make recommendations that we believe will improve compliance and accountability throughout the system.

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Summary Report on Licensee Compliance with Communications Act and CPB Requirements, Report No. CVJ1509-1610

What We Found

Our audits of the five areas of compliance at 69 public broadcasting licensees from 2005 – 2015 found noncompliance with 64 of 286 (22%) Act requirements tested.

Specifically, we found licensees did not:

- give seven-day advance notice of public meetings;
- make financial information available to the public;
- hold CAB meetings; and
- make EEO employment statistics available to the public.

We found that 47 of the 69 licensees (68%) did not meet one or more of the above referenced requirements.

In response to our draft report, CPB expressed concern that our findings may be erroneously construed to reflect the performance of all public broadcasting stations. CPB also noted that compliance improved 25% between the two periods of our analysis, and it cited a number of initiatives that it believes are in the spirit of our recommendations and appropriate to address today's compliance issues.

While we agree that these findings should not be projected to the universe of licensees, we regard the rate of noncompliance found as significant. We also recognize that CPB initiatives have improved compliance for some requirements but believe additional CPB actions are warranted.

What We Recommend

To achieve greater compliance and the public accountability that Congress intended, we recommend that CPB:

- expand its transparency requirements so that stations post more information about their Act responsibilities on their websites; and
- conduct annual compliance reviews of stations by reviewing their on-line transparency information.

CPB management will make the final determination on our findings and recommendations. We consider our recommendations unresolved pending CPB's determination.

The 22% rate of noncompliance with the Act in the licensees we audited is significant, but our results cannot be projected across the universe of CSG recipients because we selected grantees for audit on a judgmental, not statistical, basis.



Corporation
for Public
Broadcasting

Office of Inspector General

Date: September 30, 2016

To: Ted Krichels, Senior Vice President, System Development and Media Strategy
Joseph Tovares, Senior Vice President and Chief Content Officer
Jackie Livesay, Vice President, Compliance

From: Mary Mitchelson, Inspector General 

Subject: Summary Report on Licensee Compliance with Communications Act and CPB Requirements, Report No. CVJ1509-1610

Enclosed please find our final report which includes CPB's response to our draft report as Exhibit B. CPB must make a final determination on the findings and recommendations in accordance with established audit resolution procedures.

We request that you provide us with a draft written response to our findings and recommendations within 90 days of the final report. We will review your proposed actions and provide our feedback before you issue a final management decision, which is due within 180 days of the final report. For corrective actions planned but not completed by the response date, please provide specific milestone dates so that we can track the implementation of corrective actions needed to close the audit recommendations.

We performed our evaluation in accordance with the *Quality Standards for Inspection and Evaluation* established by the Council of Inspectors General on Integrity and Efficiency. Our scope and methodology is discussed in Exhibit A. We will post this report to the Office of Inspector General's website as required by the Inspector General Act of 1978, as amended. Please refer any public inquiries about this report to our website or our office.

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Summary

This report summarizes the results of our audits of 69 licensees'¹ compliance with the following Act and CPB interpreted requirements for: 1) open meetings; 2) open financial records; 3) Community Advisory Board (CAB); 4) equal employment opportunity (EEO) reporting; and 5) donor list and political activities. These audits were conducted during the period October 1, 2005 through September 30, 2015.

In these audits of the five responsibilities, we tested a total of 286 compliance requirements and found 64 instances (22%) of noncompliance with the requirements. While we consider this rate of noncompliance to be significant, our results cannot be projected across the universe of CSG recipients, because these licensees were judgmentally selected for audit on a risk basis. We did not randomly select licensees for audit on a statistical basis to enable our results to be projected system-wide.

We found that 47 of 69 licensees (68%) did not meet one or more of the following requirements to:

- give seven-day advance notice of meetings (14 of 49 licensees, 29%);
- make financial records available to the public (32 of 69 licensees, 46%);
- conduct CAB meetings (7 of 39 licensees, 18%); and
- make the CPB EEO information available to the public (11 of 68 licensees, 16%).

We also found that licensees tested for the fifth requirement regarding donor lists and political activities were fully compliant.

To achieve greater compliance and accountability, as well as bring stations into better alignment with Congress's vision for the public broadcasting system, we recommend that CPB:

- expand its transparency requirements so that stations post more information about their Act responsibilities on their websites; and
- conduct annual compliance reviews of stations by reviewing their on-line transparency information.

In response to the draft report, CPB expressed concern that our findings may be erroneously construed to reflect the performance of all public broadcasting stations. CPB also noted that compliance improved 25% between the two periods of our analysis, and it cited a number of initiatives, including changes to the 2017 CSG program, that it believes are in the spirit of our recommendations and appropriate to address today's compliance issues. CPB's response to the draft report is included in Exhibit B.

This report presents the conclusions of the OIG and the findings do not necessarily represent CPB's final position on the issues. While we have made recommendations we believe would be appropriate to resolve the findings, CPB's response to the draft report did not address our

¹ These 69 licensees have a total of 499 stations, which represents 34% of the 1,489 stations in the system during FY 2015.

specific recommendations. CPB's response concluded that its multiple initiatives are in the spirit of the OIG's recommendations and are appropriate to address current compliance issues. Based on CPB's response to the draft report, we consider our recommendations to be unresolved pending CPB's final determination. We urge CPB to adopt more transparent actions to facilitate its monitoring of compliance in addition to its planned actions regarding changes to the 2017 CSG program. CPB officials will make final determinations on our findings and recommendations in accordance with established CPB audit resolution procedures.

We conducted this evaluation in accordance with the Council of Inspectors General on Integrity and Efficiency's Quality Standards for Inspection and Evaluation. We present our scope and methodology in Exhibit A.

The Act's Requirements

In the Act, Congress mandated certain activities with regard to open meetings, open financial records, CABs, EEO information, and donor information and political activities. Congress further stated that no public telecommunications entity may receive funds under the Act unless the entity satisfies these conditions. The Act's legislative history indicates that Congress included these five requirements to address perceived problems.

Congressional Intent

The first four requirements – open meetings and financial records, establishing a CAB, and EEO reporting – were included in the Public Telecommunications Financing Act of 1978, P.L. 95-567, which amended the Communications Act. Congress had received extensive testimony that too often stations were closed to the public, not responsive to or representative of the public, and not accountable to taxpayers for the public funds they received. By adding the open meetings and financial records provisions, Congress intended to open station operations to public scrutiny. The CAB provision was designed to provide for greater public participation in station operations. Congress also was concerned with the relatively small number of minorities and women employed at public broadcasting stations. House Report 95-1178, p. 2.

Congress added the fifth provision, regarding donor information and political activities in 1999, after news articles reported that some stations had provided donor information to political organizations. Given the Congressional interest, OIG conducted a review to determine the extent of the problem. Following OIG's report, Congress enacted the donor provisions as part of that year's appropriations to protect the privacy of donors to public broadcasting.

The Act Requirements and CPB Guidance

The five Act requirements and related CPB implementing guidance are:

1) Open meetings:

- Stations shall hold open public meetings of the governing board, any committees of the board, and the CAB;
- Open meetings are preceded by reasonable notice;

- No person shall, as a condition of attendance, be required to register his/her name or provide other information;
- Closed meetings are permitted for reasons specified in the Act; and
- A written explanation for a closed meeting is made available to the public within a reasonable period of time.

47 U.S.C. § 396(k)(4).

The Act also states that meetings must involve a quorum and the conduct of public broadcasting business. *Id.*, § 397(5). CPB interpreted the Act's requirements in its 2004 Certification Requirements for Community Service Grant Recipients (Certification Requirements), which it revised in 2015. Both its 2004 and 2015 versions interpret reasonable notice to require seven days advance notice and quarterly on-air announcements for three consecutive days explaining the station's open meetings policy and how to obtain information on upcoming open meetings. CPB's FY 2015 Certification Requirements recommend that closed meeting explanations be posted on the stations' websites within ten days of each closed meeting.

2) Open financial records:

- Annual financial and audit reports or other financial information submitted to CPB are available for public review.

Id., § 396(k)(5).

CPB's 2004 and 2015 Certification Requirements state that this requirement means that the audited financial statements for the current year, the station's Annual Financial Report (AFR) (or, for a smaller station, its Financial Summary Report (FSR)) and any other financial information the station is required to submit to CPB during the current year must be made available to the public.

3) The CAB:

- Stations, except for stations owned and operated by a state, a political or special purpose subdivision of a state, or a public agency, must have a CAB;
- Meetings are held regularly and attended by CAB members;
- The CAB's composition is reasonably representative of the diverse needs and interests of the community;
- The CAB reviews the station's programming goals, service, and significant policy decisions;
- The CAB advises the station's governing body on whether the station's programming and policies are meeting the specialized educational and cultural needs of the communities served and makes recommendations it considers appropriate to meet such needs; and
- Its role is solely advisory.

Id., § 396(k)(8).

CPB's 2004 Certification Requirements state that the CAB operates independently of the station's governing body and may not include members of the station's staff or governing body

in anything other than an *ex officio* capacity. CPB eliminated this independence condition in the May 2015 version of its guidance.

4) EEO information:

- Stations must comply with the Federal Communications Commission's (FCC) EEO regulations;
- If it has more than five full-time employees, a station must submit to CPB a report identifying by race and sex the number of employees in eight job categories as well as information on whether job openings for the current year were filled in accordance with EEO regulations; and
- These reports are to be available at the station's central office and at every location where more than five full-time employees are regularly assigned to work.

Id., § 396(k)(11).

CPB's 2004 and 2015 Certification Requirements state that the requirement for reporting can be satisfied by making available the Employment section (Section 1) from the CPB Station Activity Survey (SAS).

5) Donor information/political activities:

- Donor names or other personally identifiable information may not be provided to any federal, state, or local candidate, political party, or political committee; and
- Donor names and other personally identifiable information cannot be provided to any nonaffiliated third party unless the donor is:
 - advised that his/her information may be disclosed;
 - given the opportunity before disclosure to direct that his/her information not be disclosed; and
 - provided with an explanation of how he/she may exercise the nondisclosure option.

Id., § 396(k)(12).

CPB's 2004 and 2015 Certification Requirements state that stations must safeguard membership and donor information from unauthorized access and use.

In June 2016, CPB issued revised guidance entitled *Communications Act Compliance*. This guidance modified portions of the 2015 Certification Requirements. CPB eliminated the quarterly announcement requirement for open meetings, allowed stations to make closed meeting explanations available at either their primary office or be posted on their website, and required that stations post their AFR(s) or FSR(s) in addition to their audited financial statements.

CPB's Grant Application Process Is Designed to Achieve Compliance

Annually, CPB awards over \$300 million in CSGs to licensees. CPB's Radio and Television *CSG General Provisions and Eligibility Criteria* (General Provisions), a document that CPB revises yearly to instruct stations on the rules of the CSG program, require a station to annually

certify its compliance by submitting a Certificate of Eligibility. In this Certificate, a station certifies that it is currently meeting the Act's five requirements, as well as others, and that it will inform CPB in writing should it fail to maintain any of the listed criteria. Two different individuals must attest to the accuracy of the station's Certificate – an authorized official of the licensee and the chief executive officer in charge of operations at the station. In signing the CSG Legal Agreement, the grantee represents and warrants that it recognizes that providing false information may subject it to penalties under the False Claims Act, 31 U.S.C. §§ 3729-33. This self-certification, which the station submits directly into CPB's Integrated Station Information System during the annual grant application process, is a key mechanism for ensuring that a recipient complies with the Act and CPB's grant terms for CSGs.

OIG Audits Found Significant Noncompliance

Assessing a station's compliance with the five Act requirements is an objective in almost all of our station audits. Since 1999, we have accumulated the results of our station audits related to compliance with Act requirements. Beginning in 2005, we shared our cumulative audit statistics in presentations at the annual conference of the public media business community. Our goal has been to inform the attendees of our audit results to ensure they understand their responsibilities under the Act and how to document their compliance with these requirements.

As we previously described, each of the Act's five requirements involves multiple components that a CSG recipient must address. While noncompliance with any aspect of the requirements may be the basis of a finding, to simplify our presentation in this report, we discuss only instances where the stations did not: give seven-day advance notice of open public meetings; make financial information available to the public; hold CAB meetings; and/or make CPB EEO information available to the public. We did not include findings related to stations that did not make quarterly on-air announcements or did not make available their rationale for closing meetings, as well as instances where stations held CAB meetings, but the CAB members were not independent or did not provide the governing boards with programming advice. Our findings also reflect the fact that we gave a station credit if it was compliant at the time of our fieldwork,² even if it could not provide documentation that it was compliant during our audit period, usually the prior FY.

We grouped our audit findings into two time periods, from October 2005 through September 2013 (FYs 2006 through 2013) and from October 2013 through September 2015 (FYs 2014 and 2015), to assess whether various CPB initiatives to address noncompliance over the years have had an impact on improving station compliance. In the fall of 2004, CPB took steps to better inform stations of their responsibilities under the Act through webinars and presentations at annual professional association meetings. Subsequently, in FY 2012 CPB introduced transparency requirements into the Television General Provisions, and then added similar transparency requirements to the Radio General Provisions in FY 2014. These provisions direct stations to post certain information about public meetings and financial information on their websites.

We tested a total of 286 compliance requirements covering the five Act responsibilities, and found 64 instances (22%) of noncompliance with the requirements as depicted in the following

² This audit procedure went into effect for all audits initiated after February 2010.

table. The base numbers in this chart vary by requirement because our audit scope did not always examine all five requirements or the auditee was an institutional station where a CAB was not required.

Summary of Noncompliance by Requirement

Compliance Requirements	Oct 2005-Sept 2013		Oct 2013-Sept 2015		Total	
	Noncompliance	Percentage	Noncompliance	Percentage	Noncompliance	Percentage
Advance notice of meetings ³	10/38	26%	4/11	36%	14/49	29%
Financial information	27/55	49%	5/14	36%	32/69	46%
CAB meetings	5/30	17%	2/9	22%	7/39	18%
EEO information	11/54	20%	0/14	0%	11/68	16%
Donor information	0/47	0%	0/14	0%	0/61	0%
Total	53/224	24%	11/62	18%	64/286	22%

While this analysis shows improved compliance for financial and EEO information available to the public, as well as the overall rate of noncompliance for all five requirements; the level of overall noncompliance with all five requirements on average remains significant at 22%.

Advance Notice of Public Meetings

Further analysis of the 14 licensees that were noncompliant with the 7-day advance notice of public meeting requirement found that 7 licensees did not give adequate advance notice of their Board of Directors meetings; 2 licensees did not give adequate advance notice of both their Board of Directors and CAB meetings; 2 licensees did not give adequate advance notice of their CAB meetings; and 3 licensees did not give adequate advance notice of Board committee meetings.

Additional observations on these 14 licensees found:

- seven licensees announced their meetings (e.g., posting notice at the station, making announcements on-air, and/or announced in the licensee’s magazine), but their methods used for announcing meetings were not as prescribed in CPB’s 2004 or 2015 Certification Requirements;
- three licensees’ held meetings that were not: announced, open to the public, or identified by station officials as closed meetings under the statute;
- two licensees announced meetings, but for less than the CPB prescribed seven days advance notice; and
- two licensees did not provide any advance notice.

³ This data represents only those instances where a station did not provide seven-day advance notice of a public meeting. We eliminated three instances where the station officials said they provided advance notice but did not retain documentation of their notice.

Financial Information

Regarding financial information, our analysis found that 32 of 69 licensees (46%) did not make CPB required financial information available to the public, as itemized in the following table.

Financial Information not Available to the Public

Type of Financial Records	Noncompliance	Percentage
AFR only	11/69	16%
AFR & financial statement audit	7/69	10%
AFR, other CPB financial grant reports, & financial statement audit	4/69	6%
AFR & other CPB financial grant reports	3/69	4%
Other CPB financial grant reports	7/69	10%
Total	32/69	46%

We noted that 25 of 69 (36%) licensees audited did not make their AFRs available.

Community Advisory Boards

Our audits found that 7 of 39 (18%) community licensees did not hold CAB meetings during our audit period, although they were required to by the Act. Of those seven, three licensees had appointed CAB members but meetings were never held or there was no documentation that meetings were ever held. The other four licensees did not have an operating CAB during our fieldwork (e.g., CAB had not been established, CAB had been disbanded, or additional members needed to be appointed to have a quorum to hold a meeting). In two instances, station officials contended they satisfied their CAB responsibilities by meeting with listeners or other advisory groups.

EEO Information

Our audits found that 11 of 68 (16%) licensees did not make the CPB EEO information available for public inspection. Further analysis found that 10 licensees had the FCC EEO information available, but not the CPB EEO information. One licensee did not make the CPB EEO information available at each location with at least six employees.

Donor Information

We did not identify any instances of noncompliance with sharing donor information at the 61 licensees where we tested for this requirement.

Analysis of Noncompliance by Licensee

For further perspective, our analysis found that of the 69 licensees audited, 47 (68%) were noncompliant with at least one of the five compliance requirements. We also looked at how many licensees were noncompliant with more than one of the five requirements audited. As the following table shows, 14 licensees (20% of the total audited) were noncompliant with more than

one requirement, and 33 licensees (48% of the total audited) were noncompliant with only one requirement. We noted that the rate of multiple instances of noncompliance decreased between the two periods reviewed from 22% to 14%, and the rate of one instance of noncompliance increased from 47% to 50%.

Instances of Noncompliance per Licensee

Instances of Noncompliance	Licensees Audited Oct 2005 – Sept 2013	Licensees Audited Oct 2013 - Sept 2015	Total	Percent
0	17	5	22	32%
1	26	7	33	48%
2	9	2	11	16%
3	3	0	3	4%
Total	55	14	69	100%
Total Licensees Noncompliant	38	9	47	
Percentage Noncompliant	69%	64%	68%	
Total Licensees Noncompliant with Multiple Requirements	12	2	14	
Percentage Noncompliant	22%	14%	20%	
Total Licensees Noncompliant with Only One Requirement	26	7	33	
Percentage Noncompliant	47%	50%	48%	

Summary of Noncompliance Findings

We consider the rate of noncompliance with one or more requirements to be significant at 68% (47 of 69) of the licensees audited. Further, 14 (20%) had multiple noncompliance issues. We cannot project our results to the universe of licensees receiving CSGs, because we selected the licensees for audit on a judgmental risk basis, not randomly on a statistical basis. Risk factors that we considered include such things as the size, type, or newness of the CPB grants a station received; whether they had ever been audited by OIG; as well as, complaints received from the public or special requests from CPB.

To determine whether our overall results were skewed by the 18 licensees we audited based on a complaint or a special request from CPB, we analyzed our results data omitting those 18 licensees. The rate of noncompliance of the remaining 51 licensees was 71% (36 out of 51), slightly more than the 68% rate for all 69 licensees audited. Based on this comparison, our results were not skewed by the complaints or special requests audits included in our totals.

The rate of noncompliance we found suggests that a station’s annual certification of compliance is not by itself an effective mechanism to achieve accountability without periodic CPB verification. The only independent verification of compliance that routinely occurs is an audit by OIG. Due to our limited resources, we cannot audit many licensees a year. Of the 477 licensees receiving CSGs in FY 2015, more than half have never been audited by OIG, leaving a significant gap in coverage.

Previous OIG Recommendations and CPB Initiatives

In past audits, we recommended various actions to improve compliance. In six audits dating from September 2009, we recommended penalizing the station for noncompliance with Act requirements. In a survey report of 29 licensees in March 2011, we recommended expanding the scope of the independent public accountants' (IPA) attestation work on the CPB AFRs to include examining Act compliance. While CPB adopted a penalty policy in FY 2012 and revised it in January 2016, CPB elected not to expand IPAs' independent annual attestation work to include tests of licensees' compliance with the Act's requirements. CPB stated it was concerned that our recommendation would be too costly for licensees.

Over the years, CPB has taken a number of actions to improve licensees' compliance, some in response to our specific recommendations. CPB's actions include:

- Providing annual communications to stations on their responsibilities under the Act;
- Conducting training through webinars and professional association meetings;
- Establishing transparency requirements in the FY 2012 Television CSG agreements and the FY 2014 Radio CSG agreements addressing public meeting notices and open financial information;
- Establishing a grantee noncompliance policy in September 2012 that includes penalties, forfeiture of all or part of a recipient's funding, temporary suspension, or disqualification from the CSG program;
- Revising that policy in January 2016 to explain how it would assess penalties for each instance of noncompliance with Act and CSG general provision requirements and posting that policy on CPB's website;
- Imposing penalties, beginning in April 2013, on stations for violating the Act requirements. At the time of our fieldwork CPB had imposed penalties on five licensees ranging from \$5,000 to \$15,000 for Act noncompliance;
- Revising CPB's guidance, *Certification Requirements*, in May 2015;
- Issuing CPB Compliance Alerts to CSG recipients highlighting compliance findings from recent OIG audits (the first alert was issued in October 2015); and
- Posting on its website, beginning in November 2015, CPB management decision letters resolving OIG audit reports, which at times include penalties assessed by CPB for noncompliance.

We believe the most recent actions that make penalty assessment information more transparent should improve compliance with the Act. Licensees can now know how and when CPB assesses penalties for noncompliance. Knowing that their peers have been penalized should make licensees more attentive to their own compliance. Not only should these actions have a deterrent effect, but they also demonstrate CPB's commitment to accountability and compliance.

While CPB's past initiatives have improved licensees' understanding and compliance for some requirements (i.e., financial and EEO information), we believe more improvement is needed. We recommend CPB take additional steps to further improve accountability.

Opportunities to Achieve Greater Accountability through Increased Transparency

We believe that CPB should expand its recent transparency efforts by requiring that more of the information Congress wants to be available to the public be posted on the stations' websites. More website posting would take advantage of modern technology to meet Congress's intent and also facilitate compliance reviews by CPB, thus affording more station accountability to the public and donors.

CPB's *FY 2016 Television and Radio CSG General Provisions and Eligibility Criteria* currently direct a station to post on its website lists of station senior management, board, and CAB members; the date, time, and place of all open meetings; its audited financial statements; instructions for obtaining its AFR; its IRS Form 990 or comparable compensation information; its annual Local Content and Services report; and its diversity statement. CPB should expand this list to include the station's AFR or FSR;⁴ meeting minutes to determine whether a quorum was present, whether deliberations on public broadcasting took place, and when meetings were closed; and the programming advice the station receives from its CAB. To address all five statutory requirements, CPB should also consider having stations post its CPB Employment Statistical Report (presented in Section 1 of the SAS) and its policy on sharing donor information.⁵

To address any confidentiality concerns stations may raise, CPB could permit stations to redact sensitive information. Further, if there are public broadcasting stations that lack the skills or technology to maintain an up-to-date website, CPB could provide system support grants to help them make their websites a better source of information for the public.

We believe that more website postings would be consistent with Congress's intent to open station operations to public scrutiny. While the 1978 amendment to the Act calls for stations to make information "available to the public," in more contemporary statutes Congress has called for extensive on-line availability of information on publicly funded activities. See, e.g., the Digital Accountability and Transparency Act of 2014, 31 U.S.C. § 6101 note, requiring agencies to post data regarding federal agency expenditures, including contracts, loans, and grants and to enable the public to easily search such information; and the American Recovery and Reinvestment Act of 2009, 26 U.S.C. § 1 note, enacted to preserve and create jobs and afford unprecedented transparency to the public by enabling them to track expenditures of the Act on Recovery.gov.

⁴ The FY 2015/2016 TV CSG Review Panel recommended simplifying CPB's transparency requirements and that station personnel attend CPB sponsored training. CPB management recommended adding the grantee's AFR or FSR to the list of items to be posted to the station's website in the FY 2017 CSG agreements. These recommendations were approved by the CPB Board of Directors. Subsequently, in its June 2016 Communications Act Compliance document referred to on page 4, CPB required stations to post their AFR(s) or FSR(s).

⁵ In an audit of 10 radio licensees in FY 2015, we found that some of them had already exceeded current transparency requirements by also posting on their websites their AFRs, meeting minutes, operating policies, and CPB EEO information.

Further, the Federal Communications Commission (FCC), stating that it is relying on current technology, changed its rules for television stations in August of 2012. It now requires that almost all of the FCC public file information be posted online on the FCC's website. In the FCC's view, doing so enables the public to find station information more easily and at any time convenient to them. Further, FCC maintains that stations should, at least in the long term, experience a reduced compliance burden.

More extensive website postings would also give CPB an effective means to assess stations' compliance with the Act. CPB could easily monitor station compliance by annually reviewing a sample of station websites. CPB could select a statistical sample of licensees so that it could project the results across the population of licensees receiving CSGs. CPB could also compare its annual reviews to show improvements. Such an initiative also could provide feedback to station officials about their compliance and help both CPB and station officials address any complaints received about a station's compliance with Act requirements.

For these reasons, we believe the following recommendations would promote better compliance with the Act across the public broadcasting community and help provide the public accountability that Congress intended.

Recommendations

We recommend that CPB:

- 1) Expand its transparency requirements to address the issues highlighted in this report by having a station receiving a CSG post the following additional information on its website:
 - a. meeting minutes (for the governing board, committees, and CAB);
 - b. explanations for closing public meetings;
 - c. CAB advice given to the governing board on whether the station's programming is meeting the community's educational and cultural needs;
 - d. CPB's Employment Statistical Report (Section 1 of the SAS); and
 - e. its policy for restricting the exchange of donor information with political parties.
- 2) Annually conduct an assessment of stations' compliance with the Act requirements by reviewing the transparency information posted to stations' websites.

CPB Response

In response to our draft report, CPB expressed concern that our findings may be erroneously construed to reflect the performance of all public broadcasting stations. CPB also noted that compliance improved 25% between the two periods of our analysis, and it cited a number of initiatives that it believes are in the spirit of our recommendations and appropriate to address today's compliance issues.

OIG Review and Comment

In this report we clearly state that, because we judgmentally selected the licensees to audit, our results cannot be projected to the universe of public broadcasting licensees. Accordingly, our report should not be interpreted as identifying a noncompliance rate for the entire system.

We also agree that CPB's past initiatives have improved licensees' compliance for the financial and EEO information reporting requirements. However, as shown in the table on page 6, while the overall noncompliance rate diminished from 24% to 18% between the two time periods presented, this 25% improvement cited by CPB was largely due to stations making EEO information available in the later period. The rate of noncompliance for advance notice of open meetings and CAB meetings increased in the later period and the noncompliance rate for financial information remained high at 36%. While some improvement occurred, the audit findings for the later period indicate a significant rate of noncompliance for three requirements.

CPB's past and current initiatives should improve compliance, but we believe more needs to be done. Our recommendations, which involve stations posting more information to their websites and CPB using that information to assess station compliance, are best practices and a cost effective way to monitor compliance beyond stations' annual certifications.

CPB's most recent changes for the 2017 CSG program include a revised Certificate of Eligibility in which a station must provide a greater level of detail when certifying its compliance with the Act's requirements. With the exception of explanations for closed meetings, the changes CPB will require for 2017 CSGs do not involve stations placing additional information on their websites. CPB's actions, while constructive, still rely on station self-certifications without a mechanism to independently assess compliance. Our future audits remain the primary mechanism to verify station compliance, and we will not begin to audit 2017 compliance for almost two years. Our recommendations, in contrast, were designed to give CPB the ability to immediately monitor station compliance in 2017 by reviewing station website postings.

Congress began adding the compliance requirements 10 years after the establishment of CPB, specifically in response to concerns that public broadcasting stations were not operating as transparently as Congress wanted. Today's solution for transparency is to post more information online. CPB should follow the lead of the FCC and require that public broadcasting stations post compliance information on line to enable the public to find it more easily and at any time convenient to them.

For these reasons, we have not changed our recommendations. We urge CPB to adopt our recommendations to increase transparency and provide CPB with an additional method to monitor compliance.

Scope and Methodology

This report is a summary of issued OIG reports on licensees' compliance with the Act's requirements for the period October 1, 2005 through September 30, 2015. We verified reported exceptions to individual reports and/or working papers to ensure accuracy.

As part of this project we reviewed the Act's legislative history; CPB's 2004 and 2015 guidance regarding certification requirements for CSG recipients; CPB's transparency requirements included in CPB's general provisions and eligibility criteria for CSG recipients; and CPB's policy for grantee noncompliance. We obtained information on CPB's initiatives to address noncompliance from November 2004 through September 2016, including the penalties CPB assessed for violating compliance requirements. We also attended a September 2016 webinar CPB conducted for station personnel to improve compliance. The webinar focused on the additional information stations need to provide when certifying compliance for Fiscal Year 2017 CSGs.

We assessed the effectiveness of CPB's various initiatives, including those involving transparency and penalty assessments, to improve compliance with requirements. Our recommendations were developed to build on and leverage CPB's transparency and penalty assessment tools to achieve greater compliance across the public broadcasting community.

We conducted this evaluation in accordance with the Council of Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.



September 14, 2016

VIA ELECTRONIC MAIL

Ms. Mary Mitchelson
Inspector General
Corporation for Public Broadcasting
401 Ninth Street NW
Washington, D.C. 20004

Dear Ms. Mitchelson,

RE: Summary Report on Licensee Compliance with Communications Act and CPB Requirements

We appreciate the opportunity to comment on your report referenced above which summarizes previous audit findings that certain public broadcasting station licensees failed to comply with Communications Act and CPB requirements relating to their grants.

This report provides a compilation of past findings from audits of 69 licensees conducted by the Office of Inspector General (OIG) between October 1, 2005 and September 30, 2015. Based on its summary of those findings, the report concludes significant non-compliance by the stations audited and offers two recommendations for improvement.

The report's purpose, as stated on page five, was to "assess whether various CPB initiatives to address non-compliance over the years have had an impact on improving station compliance." The report's data actually shows that station compliance improved by 25%, yet we are concerned that its summary of non-compliance findings may be erroneously construed to reflect the performance of all public broadcasting stations. As the report discloses, "... *these licensees were judgmentally selected for audit on a risk basis. We did not randomly select licensees for audit on a statistical basis ...*" Moreover, 29 of the audits conducted in 2011 were selected from stations that CPB identified, at the OIG's request, as likely be out of compliance with the Act. The report, therefore, is not statistically relevant to system-wide compliance, and it could better emphasize that limitation to avoid misinterpretations.

Since 2013 CPB has revised its administrative grant requirements and has provided stations with tools to improve their compliance with the Communications Act. We created a Compliance Hotline, developed a Compliance Checklist and began issuing periodic Compliance Alerts to stations. We believe that these improvements, together with changes now being implemented for the 2017 Community Service Grant program, are in the spirit of the report's recommendations and are appropriate to address today's compliance issues.

Best,



Jackie J. Livesay

Assistant General Counsel & Vice President, Compliance

CC: VIA ELECTRONIC MAIL

William J. Richardson, Deputy Inspector General, CPB

J. Westwood Smithers, Jr., Senior Vice President & General Counsel, CPB

William P. Tayman, Jr., Chief Financial Officer & Treasurer, CPB