

CORPORATION FOR PUBLIC BROADCASTING

OFFICE OF INSPECTOR GENERAL

**EVALUATION OF CPB PROCUREMENT AND AGREEMENT CLOSEOUT
CORRECTIVE ACTIONS**

REPORT NO. ECO1607-1609

September 29, 2016

[This page intentionally left blank]



Report in Brief

Background

We performed this evaluation based on our annual audit plan objective to perform audits and evaluations that provide accountability and recommend improvement.

On March 29, 2013, OIG issued two reports addressing CPB's procurement processes. Report No. EPF1204-1302 addressed the award of CPB contracts and grants and Report No. ECO1208-1303 focused on the closeout of grants and contracts, including the timely deobligation of unused funds. Our objectives for this evaluation were to determine if CPB took corrective actions to: (a) competitively procure contract services or document sole source procurement decisions (including emergency procurements); (b) ensure that production grant acquisitions, to the extent practicable, were evaluated on the basis of competitive merit by a panel of outside experts; (c) document in the Concurrence Request System why a panel of outside experts was not used; and (d) closeout grants and contracts in a timely manner and deobligate any unused funds.

Send all inquiries to our office at (202) 879-9669 or email OIGemail@cpb.org or visit www.cpb.org/oig

[Listing of OIG Reports](#)

Evaluation of CPB Procurement and Agreement Closeout Corrective Actions, Report No. ECO1607-1609

What We Found

CPB has effectively implemented corrective actions based on our limited testing. Competitively-awarded contracts provided reasonable assurance that contracts were awarded to qualified entities at a reasonable cost; the justification for the sampled sole-sourced contract complied with CPB's "practicably available" criteria; external panels reviewed proposals for grants with media content as prescribed in the Communications Act; and CPB processed final payments and deobligations timely.

CPB has implemented its corrective actions but can further improve its procurement processes.

We also noted additional opportunities to further strengthen CPB's procurement processes. Those opportunities involve providing for a better separation of duties in assigning scores for competitive contract cost proposals and requiring that Project Officers better explain on the Concurrence Request Form how CPB determined that proposed costs were reasonable.

In responding to our draft report, CPB explained why it believes that its process for assigning scores for cost proposals under competitive contracts results in an objective and fair method of scoring and that it would be impractical to assign this responsibility to another employee. CPB also stated that it had asked Project Officers to provide more information on the comparable projects they used when evaluating the reasonableness of production grant costs.

What We Recommend

That CPB:

1. Transfer the responsibility for evaluating contract cost proposals and assigning scores to another official independent of the Office of Procurement Services.
2. Require that Project Officers, on the Concurrence Request Form, provide greater context for the work done to assess the reasonableness of proposed costs, e.g., cost comparisons to similar current projects; consideration of time differences between comparable projects and related cost increases; and whether comparable projects were competitively awarded or sole sourced.

CPB did not agree with the first recommendation but agreed with the second. Given CPB's limited resources, we accept its response to the first recommendation. We consider both recommendations resolved and are closing this report upon issuance.



Corporation
for Public
Broadcasting

Office of Inspector General

Date: September 29, 2016

To: William P. Tayman, Jr., Chief Financial Officer and Treasurer
Westwood Smithers, Jr., Senior Vice President and General Counsel
Jackie Livesay, Vice President, Compliance

From: Mary Mitchelson, Inspector General 

Subject: Evaluation of CPB Procurement and Agreement Closeout Corrective Actions,
Report No. ECO1607-1609

Enclosed please find our final report which includes CPB's response to OIG's draft report as Exhibit G. Based on CPB's response, we consider both recommendations resolved and are closing this report upon issuance.

We performed our evaluation in accordance with the *Quality Standards for Inspection and Evaluation* established by the Council of the Inspectors General on Integrity and Efficiency. Our scope and methodology is discussed in Exhibit F. 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.

TABLE OF CONTENTS

Executive Summary.....	1
Background.....	2
Results of Evaluation	3
CPB Implemented Its Corrective Actions	4
Findings and Recommendations.....	6
Separation of Duties for Competitive Contracts.....	6
Requiring Additional Information on Cost Reasonableness.....	7
Recommendations.....	8
Other Matters.....	9
Exhibits	
A – Sample of Agreements for Award Analysis.....	14
B – Final Payment/Deobligation Sample.....	15
C – Closeout Sample.....	16
D – Project Period and Execution Dates for Sampled Agreements.....	17
E – Determinations of Cost Reasonableness for Selected Grants.....	18
F – Scope and Methodology.....	20
G – CPB Response to Draft Report.....	22

EXECUTIVE SUMMARY

We have completed an evaluation of the Corporation for Public Broadcasting's (CPB) actions taken in response to two Office of Inspector General (OIG) reports issued on March 29, 2013.¹ Our objectives were to determine if CPB had implemented corrective actions to:

- competitively procure contract services or document sole-sourced procurement decisions (including emergency procurements);
- ensure that production grant acquisitions, to the extent practicable, are evaluated on the basis of comparative merit by a panel of outside experts, appointed by CPB, as prescribed in the Communications Act;
- document in the Concurrence Request System why a panel of outside experts was not used to evaluate a production acquisition; and
- close out grants and contracts in a timely manner as prescribed in CPB's grant and contract terms and deobligate any unused funds.

We found that CPB had implemented corrective actions as evidenced by the:

- two competitively-awarded contracts reviewed providing CPB with reasonable assurance that the contracts were awarded to qualified contractors for a reasonable cost;
- justification for the one sole-sourced contract reviewed complied with CPB's "practicably available" criteria;
- proposals for the six sampled grants with media content reviewed by panels of outside experts as called for in the Communications Act;
- timely review and acceptance of final deliverables and recommendations for final payment/deobligation where circumstances warranted such action; and
- taking of closeout actions, except for certain Contract Closeout Checklists, in a reasonable period of time.

Because our conclusions are based on samples of agreements selected judgmentally, the results cannot be projected to the universe of grants and contracts used for this review.

While CPB had effectively implemented its corrective actions, additional actions would strengthen CPB's processes for awarding, managing, and closing out grants and contracts. We are recommending that CPB:

- Segregate duties for evaluating competitive procurement cost proposals.
- Require Project Officers to better document why proposed costs are reasonable by providing more context for approvers' use in evaluating proposals.

¹ Report No. EPF1204-1302 entitled Evaluation of CPB Procurement Awards for the Period October 1, 2009 - April 1, 2012 and Report No. ECO1208-1303 entitled Evaluation of Open Grants/Contracts with Expiration Dates of June 30, 2011 or Earlier.

We also identified four additional issues that, while not warranting formal recommendations, we present in the Other Matters section of this report for CPB's consideration.

In response to the draft report, CPB did not agree with the first recommendation but agreed with the second. Regarding the first recommendation, CPB explained why, in its opinion, there is no actual or apparent conflict involving the Vice President, Compliance assigning price scores to proposals for competitive contracts and then later reviewing proposed contracts for compliance with CPB's Procurement Policy. CPB believes that its process results in an objective and fair method of scoring and that it would be impractical to assign scoring contract cost proposals to another department because other departments would not be sufficiently neutral in selecting vendors or exercise overall procurement responsibilities for CPB.

Concerning the second recommendation, CPB has asked project officers to provide more information about the comparable projects used to assess cost reasonableness of production grant proposals.

This report presents the conclusions of the OIG and the findings do not necessarily represent CPB's final position on the issues. Based on CPB's response, we consider both recommendations closed. While we remained concerned that CPB's current process for assigning scores to competitive contract cost proposals does not provide an adequate segregation of duties, we accept CPB's response given its limited resources. CPB agreed with our second recommendation.

We conducted this assignment based on the OIG's Annual Plan objective to perform audits and evaluations of CPB operations that provide accountability and recommend improvement. We conducted our evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Inspection and Evaluation*. Our scope and methodology is discussed in Exhibit F.

BACKGROUND

CPB's mission is to ensure universal access, over-the-air and online, to high quality content and telecommunications services that are commercial free and free of charge. To accomplish this mission, CPB awards Community Service Grants to noncommercial public television and radio stations that help expand the quality and scope of programming. In addition, CPB awards discretionary grants and contracts. This report focuses solely on contracts and discretionary grants awarded, managed, or closed since January 1, 2015.

CPB's Procurement Policy, Contracts Policy, and Project Officer Handbook guide CPB personnel in awarding, managing and closing out contracts and grants. The Procurement Policy applies to the acquisition of goods and services, including consulting services, but not to grants for the production and distribution of programming. The Policy's goal is to ensure that CPB operates in a prudent and financially responsible manner by acquiring high quality goods and services at favorable costs through purchasing procedures that are transparent, impartial and objective, and to avoid impropriety or the appearance of impropriety by CPB employees.

The Contracts Policy provides general guidance for producing a quality business contract and describes the minimum documentation required for contract oversight. The Contracts Policy applies to production grants as well as to contracts.

The Project Officer Handbook provides operating guidance in procuring, managing and closing out grants and contracts. The Handbook states that a competitive acquisition is the preferred method for purchasing goods and services by contract.² Sole-sourced procurements for goods and services (i.e., contracts) can be approved if the contractor is the only provider “practicably available.” CPB has defined “practicably available” as a reasonable expectation that there is only one vendor or that open competition would not yield a different result.

For the grant and contract agreements sampled in this review, Project Officers sought approval for proposed discretionary grants and contracts by submitting a Concurrence Request Form in CPB’s Concurrence Request System. The Form includes the following information: identity of the grantee or contractor; recommended amount of CPB funding; the CPB department managing the agreement; the CPB Project Officer; a project description; a justification for a sole-sourced contract; how CPB knows the proposed costs are reasonable; if the project involves media content, the names and affiliations of the panel members who evaluated the proposal or the reason why a panel was not convened; a list of the agreements with the contractor/grantee within the last 36 months; and previous or current performance issues related to the grantee/contractor. Proposals receive multiple approvals, including the department head; the Vice President, Compliance (for contracts); the Office of Business Affairs; and the Chief Operating Officer or higher level official(s) depending on the dollar amount of the agreement.

In responding to the recommendations in the 2013 OIG reports, CPB indicated that it would procure a new grant/contract management and approval system to replace the Grants Information Financial Tracking System (GIFTS) and the Concurrence Request System. During fiscal year 2016, CPB began implementing its Grants Management System (GMS) in various departments. Full implementation is expected by the end of the fiscal year. At the time we began this evaluation, GIFTS was still being used to track grants and contracts from proposal to completion.

RESULTS OF EVALUATION

Based on our limited testing, CPB effectively implemented the corrective actions CPB agreed to in response to the 2013 OIG reports as discussed further below. For the agreements sampled, the award of competitive contracts gave CPB reasonable assurance that the awards were made to qualified entities at a reasonable cost; the justification for the sole-sourced contract complied with CPB’s “practicably available” criteria; all grant proposals involving media content were reviewed by external panels; and Project Officers were reviewing final deliverables and requesting final payments timely.

While corrective actions were effectively implemented, as discussed in the Findings and Recommendations section, we identified two issues requiring further CPB actions to improve internal processes. Those issues involve segregating duties for evaluating competitive

² In contrast, discretionary grants are often awarded based on proposals submitted by grantees.

procurement cost proposals and providing more context for how CPB determined that proposed costs for sole-sourced agreements were reasonable.

Finally, we identified four issues discussed in the Other Matters section of the report that are provided for CPB's consideration.

CPB Implemented Its Corrective Actions

In response to the recommendations in the 2013 OIG reports, CPB held a mandatory training session for all Project Officers in September 2014. That session focused on the need to effectively justify sole-sourced and emergency procurements. CPB also revised the Concurrence Request Form by requiring Project Officers to indicate the names and affiliations of experts outside of CPB who review proposals for grants with media content or to explain why a review panel was not convened. In fiscal year 2015, CPB also added an element to Project Officers' performance agreements involving the effective and efficient implementation of their duties. Finally, CPB contracted to develop GMS in September 2014. By November 2014, CPB had completed or initiated all actions it had agreed to take.

To determine whether CPB had effectively implemented agreed-to corrective actions, we selected three samples as discussed in the following sections. Because we judgmentally selected agreements, no projections can be made to CPB's universe of grants and contracts used for this evaluation.

The Award Sample

Our sample involved three contracts and nine grants awarded in calendar year 2015 or later. Our objective was to determine: if the contracts awarded competitively involved multiple bids and whether CPB had a sound basis for its selection; if justifications for sole-sourced contracts complied with CPB's "practicably available" criteria; and whether grants with media content were reviewed by a panel of outside experts to the extent practicable as required by the Communications Act. The timeframe we selected allowed sufficient time for CPB corrective actions to take effect. See Exhibit A for a list of the agreements judgmentally selected.

One of the three contracts selected was a sole-sourced contract and we concluded CPB's justification adequately supported that the vendor was the only one "practicably available" to perform this service. While CPB had not issued a Request for Proposal, it evaluated contractors through interviews and other activities and ultimately made a selection based on that work. For the two competitively-awarded contracts reviewed, CPB posted a Request for Proposal allowing interested parties 15 days to submit technical and cost information. In these two cases, CPB received multiple bids and evaluated each proposal's technical and cost components. We did not identify any concerns with CPB's selection after discussing the awards with the Project Officers and reviewing scores assigned and other documentation. However, we did identify an internal control weakness concerning the award of competitive contracts which is discussed on page 6.

We also found that CPB had complied with the Communications Act's requirement that proposals for production grants be reviewed by outside experts to the extent practicable. For each of the six media content grants reviewed, we found documentation of reviews by external

parties. During our review, we noted that all departments involved, except for Radio, had the external reviewer sign a Conflict of Interest Form (Form), and with the exception of one reviewer for one agreement, CPB had retained the signed Forms.

In signing the Form, the reviewer affirms that he/she has no: (1) financial or business relationship with the project, (2) familial, personal, or professional relationship with the project, or (3) other circumstance which might be considered by other parties to unfairly prejudice evaluation of the proposal. OIG believes requiring reviewers to sign Conflict of Interest forms is a sound practice which strengthens the integrity of the procurement process. See page 13 for additional discussion of this issue.

The Final Payment/Deobligation Sample

To determine whether Project Officers were recommending final payment and deobligation of any unspent funds in a timely manner, we selected seven agreements with funds remaining whose project period, according to GIFTS, had expired on December 31, 2015 or earlier, per Exhibit B. For each agreement, we contacted the Project Officer to determine: (1) whether CPB's final payment was in process; or (2) why final payment and any associated deobligation could not be made.

Final payments for three of the agreements were made during our fieldwork. In these three cases, CPB experienced delays in getting final financial reports or other documentation from the grantee even though grantees would not receive final payment until CPB accepted all deliverables. Two of the other agreements involved situations where either CPB was in the process of reviewing the final deliverables or the grantee had disputed the final payment amount CPB proposed and appealed CPB's decision for reconsideration. By the end of fieldwork, the issues for these two agreements had been resolved and both agreements were being processed for closure.

For the two remaining agreements sampled, the project period for one agreement was amended to allow additional time for receipt of the final financial report. Processing of the amendment took place after we inquired about this agreement. For the last agreement reviewed, an amendment extending the due date for deliverables had been processed but the Project Officer had not updated the agreement end date information in GIFTS.

GMS has a number of features, such as sending alerts for upcoming deliverables to Project Officers and grantees, which should assist the agreement final payment process. See the discussion of GMS on pages 12 and 13.

The Closeout Sample

We also selected seven agreements closed since January 1, 2015 to determine if final deliverables had been received and approved, final payment requested, and the Contract Closeout Checklist (Checklist) prepared in a timely manner, per Exhibit C.

CPB's Project Officer Handbook does not specify a timeframe for Project Officers to request final payment after final deliverables have been approved but does require Project Officers to complete a Checklist for each project. The Checklist contains the key steps in the closeout

process and indicates that closeout, including completion of the Checklist, should occur no later than 30 days after the final grant/contract payment. After signing and dating the Form, the Project Officer uploads it to GIFTS.

Since CPB guidance does not specify a timeframe for Project Officers to request final payment after reviewing final deliverables, we used 30 days as the benchmark for purposes of this review. In each of the seven cases reviewed, the Project Officer requested final payment be made within 30 days of accepting the final deliverable or shortly thereafter. However, in three of the seven cases, the Project Officer did not complete the Checklist within 30 days. In those cases, the Checklist was completed 56, 56, and 162 days after final payment. We also noted that the Project Officer for one contract had not stored the Checklist in GIFTS.

CPB executive staff told us that the Checklist will likely become obsolete after GMS is fully deployed because the actions captured on the Checklist will be system control points which, unless satisfied, will not allow the agreement to be closed. See the discussion of GMS on pages 12 and 13.

FINDINGS AND RECOMMENDATIONS

Our review of the sampled contracts and grants identified the following opportunities to strengthen CPB procurement processes.

Separation of Duties for Competitive Contracts

Internal controls help organizations accomplish their mission, provide integrity, and help to safeguard an organization's assets. In May 2013, the Committee of Sponsoring Organizations of the Treadway Commission updated its document entitled Internal Control – Integrated Framework. Control activities are one component of the Integrated Framework. Control activities are the actions established through policies and procedures that help ensure that management's directives to mitigate risks to the achievement of objectives are carried out. Segregation of duties is typically built into the selection and development of control activities. Where segregation of duties is not practical, management selects and develops alternate control activities. Segregation of duties disperses the responsibilities for a process by assigning critical parts to more than one person or department. Thus, no one person or department has complete control.

CPB's Office of Procurement Services (OPS) and the Vice President, Compliance approve the procurement process for all contracts. Additionally, for competitively-awarded contracts, the Vice President, Compliance is directly involved in the evaluation of all cost proposals and assigns scores for each cost proposal. Those scores, along with the technical reviewer scores, are used in deciding which entity will be awarded the contract.

CPB officials emphasized that assigning scores for technical and cost were previously done by the same personnel and that the current process which separates the responsibility for evaluating technical and cost proposals represents a stronger control. In addition, they pointed out that the process for assigning scores for cost is largely based on formulas with little judgment involved. The officials said that they had researched various methods used by other organizations to

develop their formulas to evaluate cost proposals. Finally, CPB's small size presents a challenge in identifying another employee or department to assign cost scores independently of OPS.

As part of this evaluation, OIG reviewed two competitively-awarded contracts. In both cases, cost proposals were submitted to the Vice President, Compliance, who assigned scores. Those scores were included in the procurement package which the same Vice President subsequently approved in the Concurrence Request System. After the Vice President's approval, the procurement packages were routed to others in CPB's concurrence chain. While we recognize the large role formulas play in assigning cost scores, we noted that for one of the contracts the Vice President, Compliance consulted the Project Officer who established the weights for the various line items of cost reviewed. Thus, in this situation, some judgement was exercised in the evaluation of the cost proposals.

While we did not identify any circumstances suggesting that the integrity of the procurement process may have been compromised for the two agreements reviewed and recognize that procurement packages are also reviewed before and after the Vice President, the current process creates an appearance concern because the Vice President is reviewing and approving a procurement package, a portion of which the Vice President created. In our view, the dual responsibilities of the Vice President, Compliance to approve the overall procurement process while evaluating the cost proposals does not provide adequate separation of duties to be a good internal control.

To remedy this situation, CPB should consider transferring the responsibility for evaluating cost proposals and assigning scores to another official or Department to provide adequate segregation of duties.

Requiring Additional Information on Cost Reasonableness

The Project Officer Handbook states that Project Officers are responsible for ensuring that CPB's cost in acquiring a product or service is reasonable. This is especially true for sole-sourced projects where competition in pricing is not present. Project Officers must do comparisons of like projects to show that the costs are reasonable. The preparer of the Concurrence Request Form is to describe how CPB determined that the costs were reasonable.

In reviewing the answers on the Concurrence Request Form for the nine grants included in our award sample (all awarded after January 1, 2015), we noted six instances where the answer would have been enhanced with additional information, particularly the substantial time difference between the proposed agreement and the agreements used for comparison and whether the comparable agreements were awarded competitively. For the items sampled, the Concurrence Request Forms did not consistently provide information to enable CPB reviewers to reach fully-informed decisions on whether proposed costs were reasonable.

CPB officials pointed out that determining whether proposed costs are reasonable can be challenging. Production projects can vary greatly and identifying a recent project that is comparable to the proposed project may not always be possible. OIG recognizes these challenges but believes that CPB reviewers will benefit if Project Officers consistently provide

greater context for their decisions that costs proposed were reasonable. One example follows with a complete analysis in Exhibit E.

Grant 15492
Purpose: New music format for radio – research and development
Amount: \$483,500
Answer to Cost Reasonableness Question: Personnel costs for on-air staff in the budget are existing personnel rates at the grantee. Research costs are comparable to previous CPB audience research projects that include Grant 13395 and 10277.
OIG Analysis: The answer does not indicate what percentage of costs involve personnel costs for on-air staff nor does it indicate that the grants used for comparison were signed by CPB in May 2010 and February 2007, respectively. CPB’s Contract Request Search Tool did not contain documents indicating that the previous agreements were competitively awarded. In our view, indicating the dates of comparable information and whether such agreements were competitively awarded would help CPB reviewers make a more fully-informed decision whether to approve proposed agreements

Recommendations

We recommend that CPB:

1. Transfer the responsibility for evaluating contract cost proposals and assigning scores to another official independent of OPS.
2. Require that Project Officers, on the Concurrence Request Form/in GMS, provide greater context for the work done to assess the reasonableness of proposed costs, e.g., cost comparisons to similar current projects; consideration of time differences between comparable projects and related cost increases; and whether comparable projects were competitively awarded or sole sourced.

CPB Response

In response to our first recommendation, CPB does not believe there is an actual or apparent conflict in its process for assigning scores to contract cost proposals. CPB pointed out that the scores are assigned by the Vice President, Compliance, who is independent of those who assign scores for technical content and the process employs a standard formula not requiring subjective judgments by the Vice President. CPB believes the process results in an objective and fair method of scoring and it would be impractical to assign this responsibility to another department

because other departments would not be sufficiently neutral in selecting vendors or exercise overall procurement responsibilities for CPB.

Concerning our second recommendation, CPB has asked its project officers to provide more information about the comparable projects used to assess cost reasonableness of production grant proposals. CPB explained that assessing cost reasonableness is challenging given the unique nature of production and content related projects (productions) and the inherent limitations in comparing the costs of different productions.

OIG Review and Comment

While CPB did not agree with our first recommendation, it agreed with the second. Based on CPB's response, we consider both recommendations closed.

Regarding recommendation 1, OIG agrees that the current process for assigning scores to contract cost proposals has an important safeguard in that scores are assigned by the Vice President who is independent of those evaluating proposals for technical content. We also recognize that assigning scores is based on a formula with little need for subjective judgment. However, as noted above, the Vice President reviews all projects for compliance with CPB's Procurement Policy. For competitive contracts, the procurement package includes the cost scores the Vice President created. While we did not identify any circumstances suggesting the integrity of the procurement process may have been compromised for the contracts we reviewed, we continue to maintain that there is an appearance concern because the current process does not provide an adequate segregation of duties. Ideally, CPB should assign the responsibility for assigning scores for contract cost proposals to other than the Vice President. However, given its limited resources, we accept CPB's decision.

CPB's response to our second recommendation stated that project officers have been asked to provide additional information on cost reasonableness determinations for production grants. One of the grants cited in this report, Grant 15527, did not involve a production. See the discussion on page 18. CPB should ensure that all grant and contract proposals contain sufficient information on cost reasonableness determinations.

OTHER MATTERS

During this evaluation, we identified four other matters that, while not warranting a recommendation for corrective action, should be communicated to CPB management for its consideration.

Placing Additional Focus on Deciding Whether an Agreement Will Be a Grant or Contract

Two of the grants we reviewed involved a type of work - research - which CPB typically procures through a contract. In both cases, the research is to be conducted by a consultant, not a public telecommunications organization.

The Project Officer Handbook states that a grant is an arrangement used to award discretionary funding for program production or related activities for many education projects and for certain projects related to interconnection, for the acquisition or use of digital technology by station and system organizations, or for general support of station or public media organizations. On the other hand, a purchase or contract is an arrangement used to acquire goods or professional services that are connected with CPB projects but do not fall within the categories listed under grants. Examples include engineering and technical support services, general research, and financial or legal services. The Handbook requires that sole-sourced contracts contain a justification. Further, Section 3.3.5 of CPB's Contract Policy states that the Board of Directors is to receive regular notification of contracts and/or projects (i.e., production grants) that exceed \$250,000. Finally, grants do not need to receive the approval of CPB's Procurement Official (the Vice President, Compliance) during the Concurrence Review process.

Grant #15350 – grant with consultant to conduct research

The Concurrence Request Form indicated that this grant did not involve media content. Under this grant for \$368,693, a private entity (not a producer of programming or public media organization) will develop audience analyses and gather data on the diversity of public television viewers. The consultant was to conduct a full-scale analysis and develop customized profiles of ten major market public television stations and then expand the sample to 26 primary stations. Although identified as a grant, the Concurrence Request Form essentially presented a rationale for why the consultant was the only organization "practicably available," including that the entity has a long history of monitoring local public television broadcast schedules and enjoys an exclusive arrangement for the software to be used in the analysis. A key deliverable involved the consultant meeting with the stations, CPB, and the Public Broadcasting Service to review research results and analyses. CPB was to use summaries of the analyses for use in spectrum strategies and external communications about diversity and public television.

We sought the input of the Vice President, Business Affairs, concerning the identification of this agreement as a grant. The Vice President stated that such decisions ultimately rest with the attorney in his office. He described the subject agreement as a "borderline" situation between a grant and contract stating that the scope of work seemed to infer that additional work might be desired. Given the "somewhat uncertain" nature of the work, the Office of Business Affairs (OBA) concluded that a grant would be the more appropriate choice.

In our view, the type of work called for in this agreement – research performed by a private entity – is the type of work that would be procured via a contract per CPB's definitions. In addition, we noted that the Concurrence Request Form referred to a prior agreement with the same vendor. That agreement for \$25,000 was a sole-sourced consulting contract to gather and post-verify a comprehensive list of locally produced television programs created by qualified public television station grantees for calendar year 2010. That information was to be used by CPB in preparation for congressional hearings with additional distribution to key stakeholders within the public broadcasting system to follow.

Had Grant #15350 been identified as a contract, CPB would have had to take the steps necessary for a competitive procurement or justify a sole-sourced contract. Had it issued a Request for Proposal, other vendors might have been identified. In addition, if CPB had decided to issue a

sole-sourced contract, CPB's Procurement Official would have had to approve this agreement during the Concurrence Review process. Finally, CPB management would also have to inform the Board of Directors because the agreement's dollar value exceeded \$250,000.

Grant #15492 – grant with Chicago Public Media to hire a consultant to conduct research

This grant for \$483,500 is to support ongoing development of a new radio format that appeals to diverse, next generation audiences. In 2013, CPB awarded a \$250,000 grant to the same grantee to develop a new radio format. Under Grant #15492, the grantee will engage a researcher to conduct comprehensive audience and market research to determine best practices for finalizing the format in the subject market. The researcher will also: (1) identify the most effective promotional and engagement strategies to drive awareness with new listeners; (2) perform a wider market analysis to identify opportunities to expand the format beyond the subject market; and (3) test the feasibility of the format in two of the potential markets identified in the market analysis. The grantee will use the research to refine the format and develop a replicable model for use in other urban markets.

This grant has at least two components – one addressing the development and marketing of the format in the subject market and the other component involving research in the subject market and other markets. Again, the research component appears to be the type of work which lends itself to being performed by a consultant under a direct contract by CPB. Had CPB treated the research component separately and identified that work as a contract, CPB would have had to compete the contract or justify a sole-sourced contract. Had it issued a Request for Proposal, other vendors might have been identified and CPB might have obtained a better price for the research work. In addition, even if CPB decided to issue a sole-sourced contract, CPB's Procurement Official would have had to approve this agreement during the Concurrence Review process. Alternatively, requiring the grantee to follow its own procurement policies to hire a consultant would have achieved CPB's goals of prudently expending CPB's funds.

OIG recognizes that the decision to identify an agreement as a contract or grant is not always clear cut, especially where the project has multiple components that are being viewed as a "package." We are providing our observations on these agreements to assist CPB in its consideration of the most appropriate funding mechanism for future agreements.

Agreements Signed After the Effective Date

All 12 grants and contracts in our award sample involved a project start date that preceded the date CPB signed the agreement. CPB's Contracts Policy, dated June 17, 2005, governs contracts and production grants. Section 2.3 of that Policy states that "Although urgency and other factors may occasionally justify beginning of work prior to contract execution, CPB's interests are normally better served where work is not performed prior to contract execution." If the contractor/grantee begins work without a contract/agreement, Section 2.3.1 applies. That Section directs the Project Officer to "immediately notify the Office of Business Affairs (OBA) in writing as soon as possible after he/she becomes aware of such work. In addition a copy of the notification is to be provided to CPB's Chief Operating Officer whenever a contractor will be working more than 60 days without a contract or CPB's contribution to the total anticipated project costs exceed \$250,000. In instances where CPB funds reflect 100 percent of project

costs, prospective funding recipients should be strongly discouraged from beginning work prior to the execution of an operative and approved contract or production grant agreement.”

Nine of the 12 agreements sampled were contracts or production grants governed by CPB’s Contracts Policy. As shown in Exhibit D, the elapsed days from the start of the project period to when CPB signed the agreement ranged from two to 159 days. The averaged elapsed time for all 12 agreements sampled was 73 days and five agreements involved two months or more. We reviewed the OBA file for the four agreements with the greatest elapsed days and did not find documentation that the Project Officer had notified OBA per Section 2.3.1 of the Contract Policy.

CPB officials indicated that signing agreements by the project start date can be a challenge. In some cases CPB has decided to fund a proposal where the producer has already started work. The officials also stated that, while an entry is made in CPB’s accounting system before the agreement is signed, fiscal controls prevent funds going to the grantee/contractor before the agreement is signed. We confirmed that payments were not made for two of the agreements with the greatest elapsed days.

OIG recognizes that CPB has controls that prevent payments from being made before contracts are executed. However, because all of the sampled agreements were signed after the project start date, CPB’s practices were not reflective of its 2005 Contracts Policy. We suggest that CPB reevaluate its current policy and consider adding a provision to its agreements that the recipient is at risk for costs incurred without a signed agreement.

Benefits of Implementing GMS as Soon as Practical

In responding to OIG’s 2013 reports, CPB indicated that it would procure a new system. CPB contracted in September 2014 for a new system and had deployed GMS to some CPB departments at the time of our fieldwork. CPB advised us that full deployment is expected by the end of fiscal year 2016.

During our fieldwork, OIG attended a demonstration of GMS and had discussions with CPB officials regarding system operations. While we did not review the work of the departments using GMS in analyzing our sample items, the system appears to offer promise for assisting CPB in awarding, managing, and closing out agreements. Promising features include an electronic workflow for CPB and grantees/contractors, which should reduce the elapsed time for executing agreements; the immediate storage of pertinent procurement documentation; alerts for Project Officers and grantees/contractors for upcoming deliverables; and the elimination of certain documentation, such as the Contract Closeout Checklist, which was made unnecessary by system controls.

Fully implementing GMS as soon as practical will provide systemic controls across all departments, which should strengthen CPB procurement processes. During final deployment and beyond, we urge that CPB ensure:

- adequate justifications for sole-sourced and emergency contracts are documented and available for review by all officials who sign-off on grant/contract approvals; and
- Project Officers and department executives use system reports to monitor the receipt and acceptance of deliverables, payments, and closeout actions.

Implementing Best Practices for Reviewers of Grant Proposals with Media Content

Although not required by CPB policy, all departments managing agreements with media content sampled in this evaluation, except for Radio, requested that expert panel reviewers sign a Conflict of Interest form. In signing the form, the reviewer is affirming that he/she does not have: (1) a financial or business relationship with the project; (2) a familial, personal, or professional relationship with the project; or (3) any other circumstance which might be considered by other parties to unfairly prejudice evaluation of the proposal. OIG believes that requiring reviewers to sign Conflict of Interest forms is a sound practice that strengthens the integrity of the procurement process.

We urge CPB to have all outside experts who review production grant proposals sign a Conflict of Interest form and retain those forms in GMS.

CPB's Response and OIG Comment

CPB's comments on the Other Matters presented in this report can be found on the third page of Exhibit G. While we did not make recommendations on these matters, we note that CPB indicated that all departments will transition to GMS by the end of the current fiscal year and it has standardized the use of Conflict of Interest forms for external reviewers of production proposals.

Regarding the distinction between grants and contracts, our observation was directed at the use of consultants which CPB has typically procured via a contract.

Finally, our observation on agreements being signed after the effective date was more directed to the 25 percent of the agreements reviewed which were signed 5 – 6 months after the project period started.

Exhibit A

Sample of Agreements for Award Analysis

Agreement #	CPB Department	Grantee/ Contractor	Amount	Type	Purpose of Agreement
15527	TV System and Station Development	Community Television Foundation of South Florida	\$750,000	Sole-sourced grant - no media content	Implementation of station consolidation
15553	Radio and Journalism	Connecticut Public Broadcasting	\$625,538	Competitive grant with media content	Regional journalism collaborative
15536	Education	Blue Land Media	\$100,000	Competitively-awarded contract	CPB audio visual services
15350	TV Programming	TRAC Media	\$368,693	Sole-sourced grant - no media content	Station viewership analysis
15427	TV Programming	Independent Television Service	\$2,468,468	Sole-sourced grant with media content	Production of TED Specials
15461	TV Programming	American Film Institute	\$100,000	Sole-sourced grant - no media content	Underwrite costs of documentary film festival
15504	Diversity	The Kindling Group	\$1,203,645	Sole-sourced grant with media content	Veterans Coming Home productions
15496	Education	Jet Propulsion LLC	\$3,000,000	Sole-sourced grant with media content	Production of educational content for children
15414	Media	Cognizant Technology Solutions	\$884,480	Competitively-awarded contract	Interconnection analysis for television and radio
15491	Executive	Heminge & Condell	\$10,000	Sole-sourced contract	Preparation for and facilitation of meetings on the Future of Public Media
15534	Diversity	Center for New American Media	\$440,000	Sole-sourced grant with media content	Television production – regional political programming
15492	Radio and Journalism	Chicago Public Media	\$450,000	Sole-sourced grant with media content	Continued development, marketing and research for new radio format
Total			\$10,400,824		

Exhibit B**Final Payment/Deobligation Sample**

Grant/contract #	CPB Department	Contract End Date per GIFTS	Unexpended balance
14875	Education	10/31/15	\$75,000
15359	Radio and Journalism	12/31/15	203,059
15319	TV Programming	06/30/15	150,000
14865	TV Programming	09/30/15	205,648
14813	TV Programming	11/30/15	137,500
14874	Media	08/31/15	70,000
14856	Communications	09/12/15	31,320
Total			\$872,527

Exhibit C

Closeout Sample

Agreement #/Department	Amount	Final Deliverables Due	Final Payment Made	Date of Contract Closeout Checklist
15372 - Diversity	\$400,000	1/31/16	3/24/16	5/19/16
15377 - Television	\$366,878	12/31/15	2/11/16	4/8/16
15047 - Education	\$288,750	11/30/15	12/22/15	1/4/16
15310- Radio and Journalism	\$1,000,000	10/31/15	12/9/15	5/19/16
15316 - Budget	\$110,745	01/2015	2/2/15	2/3/15
14464 - Education	\$3,924,694	11/30/15	1/7/16	1/27/16
15461 - Television	\$100,000	10/31/15	12/3/15	12/17/15
Total	\$6,191,067			

Exhibit D

Project Period and Execution Dates for Sampled Agreements

Contract/Grant Number	Type of Agreement	Date Project Period Began	Date Agreement Signed by Contractor/Grantee	Date Agreement Signed by CPB	Elapsed Days from Project Start to Execution
15536	Contract	1/1/16	1/11/16	1/19/16	18
15491	Contract	9/1/15	12/6/15	12/14/15	104
15414	Contract	6/1/15	6/2/15	6/3/15	2
15553	Grant - media content	1/1/16	1/25/16	2/8/16	38
15427	Grant - media content	4/1/15	6/29/15	8/31/15	152
15504	Grant - media content	10/15/15	11/10/15	11/19/15	34
15496	Grant - media content	7/1/15	11/23/15	12/7/15	159
15492	Grant - media content	12/1/15	12/9/15	1/15/16	45
15534	Grant - media content	10/1/15	1/12/16	1/27/16	118
15527	Grant without media content	3/1/16	2/23/16	3/4/16	3
15350	Grant without media content	1/1/15	1/6/15	1/12/15	11
15461	Grant without media content	1/1/15	6/12/15	7/9/15	189

Determinations of Cost Reasonableness for Selected Grants

OIG reviewed the Concurrence Request Form information for the nine grants selected in our award sample and identified concerns with six agreements.

Grant 15527
Purpose: Implementation of station consolidation
Amount: \$750,000
Answer to Cost Reasonableness Question: The grantees have provided estimated costs for work based on projections from firms that may be selected to perform the work outlined in the proposal. We anticipate that the work outlined will be intensive and will require a significant level of effort from the outside firms. Travel and meeting expenses are estimated using current market rates and will be reimbursed at cost.
OIG Analysis: Except for the last sentence, the answer does not address how CPB determined that the costs were reasonable, including whether proposed costs were compared to other station consolidation efforts. In addition, the last sentence does not indicate what portion of the total costs involves travel and meetings.
Grant 15553
Purpose: Regional journalism collaboration (RJC)– New England
Amount: \$625,538
Answer to Cost Reasonableness Question: The project’s costs were deemed reasonable given the number of reporters involved, projected monthly output of content (local and national), and the level of commitment by the station partners as demonstrated by their combined contribution to the RJC. CPB support represents 48.7 % of the total budget with the station partners covering the balance of expenses.
OIG Analysis: The statement does not answer the question of how CPB determined that the costs were reasonable. If CPB compared the proposed labor rates and hours to other like projects, that is not stated. Further, the funding contributed by station partners does not answer whether the proposed costs are reasonable.
Grant 15492
Purpose: New music format for radio – research and development
Amount: \$450,000
Answer to Cost Reasonableness Question: Personnel costs for on-air staff in the budget are existing personnel rates at the grantee. Research costs are comparable to previous CPB audience research projects that include Grant 13395 and 10277.
OIG Analysis: The answer does not indicate what percentage of costs involve personnel costs for on-air staff nor does it indicate that the grants used for comparison were signed by CPB in May 2010 and February 2007, respectively. CPB’s Contract Request Search Tool did not contain documents indicating that the agreements were competitively awarded. In our view, indicating the dates of comparable information and whether such agreements were competitively awarded would help CPB reviewers to make a more fully-informed decision whether to approve proposed agreements.

Exhibit E (continued)

Grant 15496
Purpose: 40-episode television series and transmedia property for children focused on space, earth science and technology
Amount: \$3,000,000
Answer to Question on Cost Reasonableness: Project costs were compared to other recent children’s programming projects.
OIG Analysis: Documentation indicates that CPB compared nine budget line items to 11 other grants but did not indicate that six of the grants were at least three years old and none of the 11 grants were awarded competitively.
Grant 15504
Purpose: multi-episode digital docuseries
Amount: \$1,203,645
Answer to Cost Reasonableness Question: The engagement line items were reviewed in relationship to other engagement budgets, as were the production line items reviewed against production budgets to ensure that project costs were reasonable.
OIG Analysis: The answer does not indicate the dates of the comparable projects or whether they were competitively awarded. If CPB compared proposed labor rates and estimates of hours to be worked to comparable projects, the Project Officer should have referred to that work.
Grant 15534
Purpose: production and distribution of multi-platform non-fiction content
Amount: \$440,000
Answer to Cost Reasonableness Question: Staff analyzed the budget and the appropriateness of estimated costs taking into account the costs of similar productions.
OIG Analysis: The answer does not indicate the dates of the similar productions nor indicate whether those productions were competitively awarded. If CPB compared proposed labor rates and estimates of hours to be worked to comparable projects, the Project Officer should have referred to that work.

Scope and Methodology

We performed an evaluation to determine if CPB had implemented corrective actions to address findings in two 2013 OIG reports addressing the award and closeout of contracts and discretionary grants.³ Our objectives were to determine if CPB had implemented corrective actions to:

- competitively procure contract services or document sole-sourced procurement decisions (including emergency procurements);
- ensure that production grant acquisitions, to the extent practicable, are evaluated on the basis of comparative merit by a panel of outside experts, appointed by CPB, as prescribed in the Communications Act;
- document in the Concurrence Request System why a panel of outside experts was not used to evaluate a production acquisition; and
- close out grants and contracts in a timely manner as prescribed in CPB's grant and contract terms and deobligate any unused funds.

To accomplish our objectives, we conducted interviews and reviewed documents concerning actions taken in response to the OIG reports; reviewed policy and guidance documents, including the Procurement Policy, Contracts Policy, and Project Officer Handbook; selected grants and contracts for analysis; and interviewed and/or requested information from CPB personnel, including Project Officers for the selected agreements. We also viewed a demonstration of GMS and met with IT management to gain an understanding of the system's content and capabilities.

We judgmentally selected three samples to address our objectives. All sampled items had award dates, project end dates, or closeout dates of January 1, 2015 or later. Selecting samples of transactions from this time period allowed sufficient time for CPB's corrective actions to take effect. We reviewed a total of 26 agreements in the three samples involving eight CPB departments. Because we judgmentally selected agreements, no projection can be made to the applicable universe.

We selected 12 agreements in our first sample to determine whether: (1) CPB had received multiple bids for competitive contracts and whether it had a sound basis for the entity selected; (2) the sole-sourced justification complied with CPB's "practicably available" criteria; and (3) panels of outside experts had reviewed grant proposals involving media content. For the competitively-awarded contracts, we did not, however, conduct an in-depth review of whether CPB accurately evaluated technical and cost proposals.

We selected seven agreements in our second sample to determine whether CPB was deobligating any unused funds. We selected projects whose project period had expired on December 31, 2015 or earlier but remained open with outstanding balances. In each case, we asked the Project Officer why final payment and any deobligation could not be made.

³ Report No. EPF1204-1302 entitled Evaluation of CPB Procurement Awards for the Period October 1, 2009 - April 1, 2012 and Report No. ECO1208-1303 entitled Evaluation of Open Grants/Contracts with Expiration Dates of June 30, 2011 or Earlier.

We selected a third sample of seven agreements closed since January 1, 2015, to determine whether closeout activities, including requesting final payment and completing the Contract Closeout Checklist, were occurring timely.

We conducted fieldwork from April 27 through August 10, 2016. We performed our evaluation in accordance with the 2012 Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.



September 26, 2016

VIA ELECTRONIC MAIL

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

RE: Evaluation of CPB Corrective Actions, Report 1607, August 24, 2016

Dear Ms. Mitchelson,

We are pleased that your report on Evaluation of CPB Corrective Actions concluded that “CPB had effectively implemented the corrective actions CPB took in response to the 2013 OIG reports” and that you did not “identify any circumstances suggesting that the integrity of the procurement process may have compromised”. Our objective has consistently been to follow prudent and financially responsible business processes, including purchasing procedures that are transparent, impartial and competitive. We believe the report confirms that.

Separation of Duties

While the review did not identify any situations in which our procurement process was compromised, it does suggest that the role of our Vice President, Compliance, may create the appearance of a conflict. We believe a closer examination of her role in the procurement process will dispel that concern. The Vice President, Compliance, monitors compliance by all CPB departments with our Procurement Policy. She reviews each project subject to that policy to ensure that the appropriate procedures were followed, and discusses every procurement that appears non-compliant, as well as every sole source and emergency procurement, with CPB’s Senior Vice President & General Counsel and the Chief Financial Officer & Treasurer. If there

are any issues, they are then resolved, typically with input from the project officer and the department head. Because our organization is relatively small, this cooperative approach has proven to work very efficiently and effectively.

The Vice President has a secondary role in the procurement process, which is to calculate the scores for vendor cost proposals. CPB's policy requires that cost proposals be scored separately and submitted directly to the Vice President, rather than the project officer, to eliminate the possibility of price influencing the opinions of review panel members who score the vendor's qualitative and subjective technical proposals. Each RFP identifies the criteria to be evaluated and its scoring weight, including the cost.

When scoring an applicant's cost proposal, the Vice President uses a standard formula, comparing the cost proposal under consideration to the lowest price proposal. She simply applies the formula and records the result, documenting the information in an Excel spreadsheet that appears in our grants management system and is available at any time for review or audit. This approach was developed to ensure that the process is objective, transparent and separate from the review panel's qualitative evaluation. Unlike the review panel, the Vice President exercises no subjective evaluation of vendor proposals. We believe that this method has resulted in what we wanted to achieve, an objective and fair method of scoring.

The audit report references one instance in which the Vice President appeared to make a judgement call, although a close look at the procurement indicates otherwise. The project at issue involved an RFP for video recording services. The applicants were asked to price one and two person video recording crews, using two different types of cameras, which resulted in mathematically calculated scores for each alternative. It was the project officer who determined how to allocate the qualitative weights for each type of crew and camera, based on the CPB's past production needs and the levels he expected would be needed during the contract term. In fact, the Vice President had no knowledge of CPB's past camera use and did not have the skills to predict what would be required.

We do not, therefore, believe there is any actual or apparent conflict in the objective calculation of price scores by the Vice President, Compliance. Assigning this responsibility to another employee would be impractical because there are no CPB departments sufficiently neutral on the selection of vendors other than the offices of the General Counsel and the CFO and Treasurer. As noted above, they also exercise procurement compliance responsibilities in conjunction with the Vice President. We are quite pleased that the results of this audit show that our process has been working well and we trust this will continue.

Documenting Grant Costs

Production and content related projects are specifically exempted from our Procurement Policy for the inherent flexibility that is required when awarding these types of grants. Program production proposals involve creative ideas developed by a producer that cannot be "shopped" as you would for consulting services to find others capable of creating the same program at a lower cost. Unlike purchases subject to our Procurement Policy, CPB awards program production

grants based on the producer's proven success, relevance of the subject matter, its alignment with our goals and objectives, its likely impact on public media audiences, and whether the program will be aired by PBS or NPR. While such criteria might hypothetically be used in a formal competitive process, issuing an RFP for the next Ken Burns documentary, or the next season of "Nature" or the "PBS NewsHour," would not be a worthwhile exercise.

We have, as recommended, asked our project officers to provide more information about the comparable projects they use when evaluating the reasonableness of production grant costs. Nevertheless, there are inherent limitations in comparing the costs of projects from different producers because there are too many variables to do price comparisons in a traditional sense.

Other Matters

With regard to the three issues raised in the section entitled "Other Matters" that do not warrant a recommendation for corrective action, our response follows.

The report suggests that we place additional focus on deciding whether an agreement is a grant or contract, referencing the CPB's Project Officers Handbook and explaining that sole source contracts require a justification. As we explained in our response to the 2013 procurement audit, the Procurement Policy "alone governs how goods and services shall be purchased, clearly exempt[ing] content-related grants from the RFP process. Likewise, procurement-related questions in the concurrence form are relevant (and thus require answers) only for projects subject to the Procurement Policy, which does not include content-related grants. Admittedly, the distinction between "grants" and "contracts" causes some confusion, if only because every CPB grant is, *per se*, a contract." We "have already modified the Project Officers Handbook to avoid any inference that it somehow supersedes CPB's procurement and contracting policies."

Concerning the issue of signing agreements after their effective date, the report cites production and content-related grants that were signed after some of the work had begun. It is in fact quite common within public media for the content producer or creator to start work on a project months and sometimes years in advance of securing funding from CPB or other similar organizations. Moreover, CPB's grants stipulate that no funds are due without an executed agreement, and in most production grants CPB is a partial funder.

As for the new grants management system, all departments will be transitioned to the new system by the end of the current fiscal year. Developing and implementing a new system like ours with customized software involves a great deal of time, effort and fixing many unanticipated issues.

Finally, we appreciate your suggestion regarding disclosure forms for panels of outside experts who review production proposals. We have standardized the form and all CPB departments with projects subject to review by these panels will be using the same form.

Please let me know if you have any questions.

Kind regards,



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

CC: VIA ELECTRONIC MAIL

Patricia de Stacy Harrison, President & Chief Executive Officer
Michael Levy, Chief Strategy Officer & Executive Vice President
Steven J. Altman, Executive Vice President and Chief Operating Officer, CPB
J. Westwood Smithers, Jr., Senior Vice President & General Counsel, CPB
William P. Tayman, Jr., Chief Financial Officer & Treasurer, CPB
Ted Krichels, Senior Vice President, System Development & Media Strategy, CPB
Debra Sanchez, Senior Vice President, Education & Children's Content Operations
Joseph Tovaes, Senior Vice President and Chief Content Officer
Joyce MacDonald, Vice President, Journalism, CPB
Erika Pulley-Hayes, Vice President, Radio, CPB
Greg Schnirring, Vice President, Station Grants & Television Station Initiatives, CPB
William J. Richardson, Deputy Inspector General, CPB