



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 RPF 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

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