



November 20, 2015

VIA ELECTRONIC, HARDCOPY TO FOLLOW

Mr. John Galmiche III
President and Chief Executive Officer
Nine Network of Public Media
KETC-TV
3655 Olive Street
St. Louis, MO 63108-3601

RE: Examination of Community Service and Other Selected Grants at St. Louis Regional Public Media, Inc., KETC-TV, St. Louis, for the Period July 1, 2012 – June 30, 2014, Report No. AST 1502-1507, issued August 31, 2015 (Report)

Dear Mr. Galmiche:

The Corporation for Public Broadcasting's (CPB) Office of Inspector General (OIG) completed its limited scope audit of Community Service Grants (CSG) and other selected grant activity at St. Louis Regional Public Media, Inc. (KETC) for the period July 1, 2012, through June 30, 2014.

The OIG's objectives were to examine KETC's certifications of compliance with CPB grant terms that required it to: (a) claim Non-Federal Financial Support (NFFS) on its Annual Financial Reports (AFR) in accordance with CPB Financial Reporting Guidelines (Guidelines); (b) expend CSG and other grant funds in accordance with grant agreement requirements; and (c) comply with the Certification of Eligibility requirements and the statutory provisions of the Communications Act of 1934, 47 U.S.C. §396, et seq., as amended (Communications Act or Act). The OIG also evaluated the adequacy of the framework that KETC used to carry out the American Graduate Initiative activities (CPB grant #15057).

CPB is pleased with the success of KETC in its role as executive producer for the American Graduate Initiative and the OIG's recognition that the project's framework was appropriately designed. However, the OIG identified the following:

- KETC overstated NFFS by \$191,901, which resulted in potential CSG overpayments of \$25,870 (\$17,666 in 2015 and \$8,204 in 2016);
- The OIG questioned \$422,549 that KETC reported as production expenditures, stating that they did not conform with the grant budgets, although the expenditures were largely supported as grant costs in KETC's ledger;¹ and

¹ Page 2, first paragraph of the Report.

- KETC did not fully comply with the CSG requirements for open meetings, Community Advisory Board (CAB) meetings, and transparency and diversity.

The OIG's findings and recommendations, and CPB's determinations, follow.

- I. Recommendation 1:** The OIG recommends that CPB: *require KETC to submit revised AFRs, eliminating ineligible revenues for FYs 2013 and 2014, and identify the corrective actions and controls it will implement to ensure future compliance with NFFS Guidelines.*

CPB Determination: Except for the NFFS issue involving HEC-TV, discussed below, CPB agrees with the OIG's finding that KETC overstated its NFFS by the following amounts:

- \$3,100 in its 2014 AFR, which represents the fees KETC received in exchange for advertisements in its membership magazine (representing a \$410 CSG overpayment)²;
- \$39,964 in its 2014 AFR, which represents a contribution KETC received, which was paid using federal dollars (a \$5,283 CSG overpayment);
- \$14,790 in its 2014 AFR, which represents underwriting facilitation fees (a \$1,955 CSG overpayment); and
- \$15,229 in its 2013 AFR, which represents the amount KETC recorded for two unqualified trades that were valued at the station's underwriting rates instead of the value of the donated services and the trade which was not supported by the required documentation (a \$2,053 CSG overpayment).

HEC-TV paid \$118,818 to KETC for designing educational materials (\$115,818 in 2013 and \$3,000 in 2014), resulting in a \$15,613 CSG overpayment in 2013 and \$404 in 2014. KETC argues that the payment qualifies as NFFS because it is a fee paid by an educational institution, defined in the Guidelines as a "degree granting" entity, "for services or materials with respect to the provision of educational or instructional television."³ Because KETC did not provide sufficient evidence to show that HEC-TV qualified as a degree granting entity, the OIG did not consider the payments NFFS-qualified.

Upon review, CPB determined that the "degree granting" qualification in the Guidelines is not consistent with the Act, which requires only that such payments be received from educational institutions.⁴ Because the Guidelines are in error, CPB will correct them to reflect the Act and will allow KETC to report the payments as NFFS.

² CPB used the actual Incentive Rate of Return to calculate each CSG overpayment. The actual rate was not available when the OIG issued the audit report.

³ Section 2.3.2 of the Guidelines.

⁴ 47 U.S. Code § 397 (9) (B).

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CPB took the additional step of reviewing HEC-TV's Form 990 for 2012, which covers most of its 2013 fiscal year,⁵ to ensure that funds KETC received were not from federal sources which would prohibit KETC from reporting them as NFFS. CPB's review confirmed that HEC-TV received non-federal funds exceeding the amount HEC-TV paid KETC for educational materials, and the auditors who prepared HEC-TV's Form 990 confirmed this information.⁶

Action: CPB requests that KETC, using a template that CPB will provide, revise its 2013 AFR to eliminate \$15,229 in NFFS and to return the associated CSG overpayment of \$2,053 to CPB within 60 days of the date of this letter. KETC has already appropriately adjusted its 2014 CSG.

CPB would normally assess a penalty in the range of 10 percent of the overstated CSG, but not less than \$1,000, pursuant to its Grantee Non-Compliance Policy.⁷ In light of the amount overstated by KETC and the reporting errors in Recommendation 3, CPB believes a more constructive remedy is to require KETC to send its Chief Financial Officer (CFO)⁸ to CPB's two-day training workshop on annual financial and survey reporting requirements for CSG recipients at CPB's office in Washington, D.C. in 2015 or 2016. To register, KETC may contact Elsie Hillman Gordon, Manager, Grants Administration, at: ehillmangordon@cpb.org.

- II. Recommendation 2:** The OIG recommends that CPB: *recover KETC \$17,666⁹ in excess CSG payments to KETC for FY 2015 based on the FY 2013 reported NFFS, reduce FY 2016 CSG payments based on the revised FY 2014 AFR, and recover the estimated overpayment of \$8,204.*

CPB Determination: As explained above, CPB agrees with recovery of \$2,053 for the FY 2013 CSG overpayment. Since KETC has already revised its AFR for the 2014 errors, no repayment is required.

Action: CPB requests that KETC send its CFO or the senior level staff mentioned above to the training workshop in December 2015 or December 2016 and return \$2,053 to CPB.

⁵ CPB acknowledges that HEC-TV's Form 990 for 2013 is not available; however, the majority of the funds should be covered by the 2012 Form 990 and no portion of the payment should be excluded from NFFS.

⁶ Correspondence dated October 7, 2015, from Lisa Good, Anders CPAs + Advisors.

⁷ Factors CPB may consider when determining a penalty include the type and size of the errors, whether the errors are recurring, appear to be intentional or involve egregious misconduct, the extent to which the noncompliance should have been known, and any relevant information.

⁸ If the CFO is not available, KETC may send a senior level staff member responsible for preparing financial information KETC submits to CPB.

⁹ This amount was calculated using the actual IRR which was not available then the OIG issued its audit report.

III. Recommendation 3: The OIG recommends that CPB: *recover \$422,539 (\$382,412 from closed grants and \$40,127 from active grants) in questioned CPB funds.*

CPB Determination: The OIG questioned expenditures of \$422,539 under KETC's American Graduate Grants because "... these costs exceeded the general ledger costs that corresponded to the grant budgeted categories."¹⁰ CPB agrees with the OIG's findings that KETC failed to comply with the terms of the various grant agreements and provided CPB with inaccurate financial information, despite having an electronic time keeping system that should have enabled it to track its costs for each grant.

Since the release of the OIG's report, CPB has met with KETC and discussed the reporting issues and methodologies employed. As a result, KETC has provided reconciliations and revised final financial reports for each of the closed grants in question (CPB grants numbered 14191 and 14873), and a revised interim financial report for the open grant (CPB grant number 15057), which KETC has reconciled to its general ledger.

The success of the American Graduate projects was never in doubt, and the revised documents support the fact that KETC used the CPB grant funds appropriately. Accordingly, CPB has determined that KETC should not be required to return the misreported expenditures. Nevertheless, because of the extent to which KETC did not properly report expenditures in accordance with the grant requirements, CPB considers it appropriate to assess a penalty of \$20,000, which is approximately five percent of the questioned funds.

Action: CPB requests that KETC submit payment of a penalty in the amount of \$20,000 to CPB within 60 days of the date of this correspondence. In addition, CPB will continue working with KETC to amend the open grant within this time frame to ensure that it accurately reflects the remaining project work and grant expenditures, and that the expenditures tie to KETC's general ledger. The amendment should be completed within this timeframe.

IV. Recommendation 4: The OIG recommends that CPB: *require KETC to:*

- a) *adequately explain future budget modifications and obtain CPB's written approval to revise budget amounts in accordance with grant agreement terms; provide a reconciliation crosswalk for CPB funds to the station's general ledger accounts; and report variances and total project costs in accordance with terms; and*
- b) *resubmit interim and final financial reports to accurately present actual costs for approved budget line items and identify the corrective actions and controls that KETC will implement to ensure future compliance with grant reporting requirements.*

CPB Determination: The OIG has accepted the corrective actions proposed by KETC for (a) and (b), and CPB concurs, noting that the corrective actions KETC has undertaken are identified in its July 27 and September 16, 2015, correspondence.

¹⁰ Page 9, the Section entitled "Questioned Costs" of the Report.

Accordingly, for the open grant CPB will require that KETC explain any requested budget modifications and obtain CPB's written approval of the same, consistent with CPB's current practices.

Action: With regard to the open grant, CPB requests that KETC seek CPB's approval of any budget and/or work scope modifications on a timely basis and in writing and ensure that any future financial reports for this grant tie to KETC's general ledger.

V. Recommendation 5: The OIG recommends that CPB: *require KETC to:*

- a) Provide reasonable notice to the public for all board, committees and CAB open meetings;*
- b) Make available to the public a written explanation for why a meeting or part of a meeting was closed;*
- c) Establish a CAB in accordance with Act requirements;*
- d) Submit to CPB its newly written policies that explain how the station complies with open meetings and open financial records requirements to ensure the policies meet CPB requirements;*
- e) Establish diversity goals and implement initiatives; and*
- f) Comply with all transparency requirements by posting required information to KETC's website.*

CPB Determination: CPB agrees with the OIG's findings, except the findings compelling written policies. CPB also addresses KETC's specific concerns about its focus groups and the CAB requirements.

1. **Written Policies:** The OIG is correct in finding that KETC failed to document the process it followed to comply with Communications Act requirements pursuant to CPB's previous guidelines. However, CPB has since rescinded the documentation requirement because it is not required by the Communications Act. In the past it has led to negative compliance audit findings against stations did not, in fact, fail to comply with substantive provisions of the Act, subjecting stations to undeserved criticism without commensurate benefit to public media. CPB does not, therefore, consider this to be a violation for which KETC should be penalized.
2. **CAB:** CPB acknowledges KETC's efforts in developing the six focus groups with an eye toward soliciting its communities input and feedback. However, CPB's Certification Requirements¹¹ clearly state that the Communications Act requires stations not owned by a state or public agency to have a CAB, which includes KETC.

¹¹ CPB's Communications Act Certification Requirements for Community Service Grant Recipients, May 2015 (Certification Requirements).

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Furthermore, the OIG found that the focus groups do not operate as a CAB since the focus groups do not: “review the station’s programming goals, services, and policy decisions.”¹² In addition to these requirements, a CAB must “advise the station’s governing body on whether the station’s programming and other significant policies are meeting the specialized educational and cultural needs of the communities served by the station and recommendations the CAB deems appropriate to meet such needs.”¹³ KETC asserts that its focus groups do comply with this requirement, but there was insufficient information provided for CPB to make a determination.

KETC’s argument that the name it has assigned to its CAB should not be dispositive has some merit. However, an entity that is not identified as a CAB and does not function as a CAB cannot be regarded as a CAB.

In light of the foregoing, CPB agrees with the OIG’s assessment that KETC failed to maintain a CAB consistent with the requirements of the Communications Act. Accordingly, CPB requests that KETC establish a CAB consistent with the requirements in the Act.

In accordance with the Grantee Non-Compliance Policy, CPB assesses a penalty of \$5,000 for each Communications Act violation. KETC was found to be out of compliance with two Communications Act requirements: CAB and the open meetings requirement, which includes open meeting announcements and closed meeting notice requirements. KETC was also found to be out of compliance with two requirements in the General Provisions, the diversity and transparency requirements. There is no confusion about the existence of these requirements, and CPB expects KETC and all stations to comply with them. Accordingly, CPB will assess a penalty of \$10,000 against KETC for failing to comply with the Act.

Action: CPB requests that KETC provide CPB with the following documentation to CPB within 60 days of the date of this correspondence, along with a penalty of \$10,000 for failing to comply with the Communications Act. Please send the documentation to:

Katherine Arno
Director, TV CSG Policy & Review, CPB
karno@cpb.org

- Evidence or an example of the notice that KETC will provide to advise the public of upcoming open board, board committee, and CAB meetings.
- Evidence or an example of its open meeting policy announcement that will/or have been made once a quarter for three consecutive days;

¹² CAB Section, page 17 of the OIG’s Report.

¹³ Certification Requirements, page 11.

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- Explain how KETC will document closed board, board committee, and CAB meetings, and make that information available to the public;
- Evidence that KETC has posted its diversity statement on its website and the results from the past 2-3 years, if relevant;
- Evidence that KETC has created a CAB; and
- Evidence that KETC has posted to its website all the elements required by the Transparency Section 7 of the FY 2016 TV General Provisions.

Below is a summary of the amounts due CPB. Please make your check payable to CPB and forward to:

Nick Stromann
Vice President, Controller
Corporation for Public Broadcasting
401 Ninth Street NW
Washington, D.C. 20004-2129

Compliance Issues	Amount
II. CSG Overstatement	\$ 2,053
III. Misreporting Penalty	\$ 20,000
V. Communications Act Compliance Penalty	\$ 10,000
Total	\$ 32,053

If you wish CPB to consider additional information relating to this matter, please provide the same in writing within 30 days of the date of this letter. Failing that, CPB will consider these determinations final, and KETC will be required to comply with the required actions set forth above. In the event KETC fails to comply with these actions, CPB reserves the right to withhold payment of any CSG funding due KETC and to take any other action CPB deems appropriate until these issues are resolved to CPB's satisfaction. We look forward to working with KETC to resolve these issues cooperatively.

Sincerely,



Jackie Livesay
Assistant General Counsel & Vice President, Compliance

CC: VIA ELECTRONIC MAIL

Richard Skalski, Sr. Vice President, CFO, COO, KETC
Mary Mitchelson, Inspector General, CPB
William J. Richardson, Deputy Inspector General, CPB
Steven Altman, Chief Operating Officer, CPB
West Smithers, Senior Vice President & General Counsel, CPB
William P. Tayman, Jr., Chief Financial Officer & Treasurer, CPB

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Ted Krichels, Senior Vice President, System Development & Media Strategy, CPB
Debra Sanchez, Senior Vice President, Education & Children's Content Operations, CPB
Stephanie Aaronson, Vice President, Education & Community Impact, CPB
Kristina Cushing de Recinos, Vice President, Operations, CPB
Greg Schnirring, Vice President, Station Grants and Television Station Initiatives, CPB
Nick Stromann, Vice President, Controller, CPB
Katherine Arno, Director, TV CSG Policy & Review, CPB
Nadine Feaster, Director, Grants Administration, CPB
Fiona Macintyre, Director, Education, CPB