



July 20, 2016

VIA ELECTRONIC MAIL, HARD COPY TO FOLLOW

Mr. David Kansas
President of the Board of Directors
The Public Media Platform
c/o American Public Media
400 Cedar Street
St. Paul, MN 55101

Dear Mr. Kansas:

RE: Audit of CPB Grant No.14515 Awarded to Public Media Platform, Inc., Washington, D.C., for the Period November 1, 2012 – December 31, 2013, Report No. APM1501-1509

The Corporation for Public Broadcasting's (CPB) Office of the Inspector General (OIG) completed its audit of the grant which CPB awarded to Public Media Platform, Inc. (Grant Agreement, Grant No. 14515). This letter provides CPB's determination on the OIG audit findings for which CPB agrees and the necessary actions required by PMP.

We recognize auditing this unique partnership involving five organizations made the audit process more challenging. Although the audit covered the period through deliverable #6 of the Construction Term, we have responded to audit findings and recommendations incorporating the final deliverable #7 of the Construction Term, as well as the final amended budget. We found this necessary as the OIG audit determinations were based on comparing actual expenses incurred against progress payment amounts, which are not directly linked per the grant provisions.

I. Background

PMP was created as a collaboration among its founding members (FMs), NPR, PBS, Public Radio International (PRI), American Public Media (APM), and Public Radio Exchange (PRX). The collaboration worked to design, develop and operate a shared platform to store and distribute digital media content based on a foundational Application Program Interface (API), which NPR had begun developing on its own before PMP was formed. PMP entered into an agreement with NPR under

which NPR agreed to provide further enhancements that would eventually result in a fully-developed API (Technical Services Agreement).

The OIG’s field work began November 2014, four months after the end of the amended Construction Term. Because the final deliverable had not been submitted to CPB, the audit addressed project activities through deliverable #6, or December 31, 2013, and was released September 30, 2015. The objectives of the audit were to determine whether PMP: (a) submitted financial reports that fairly presented grant revenues and expenditures; (b) incurred costs in accordance with the grant requirements; and (c) complied with grant requirements.

II. CPB’s Methodology

As explained above, CPB’s determinations are based on a review of the entire 23 month Construction Term, the budget attached to the grant agreement and the budget revisions resulting from the grant amendment. This approach results in our reviewing the last two deliverables (#6 and #7) for the Construction Term. Our determinations follow and result in our adjusting the final grant payment for this Term.

When awarding a grant, CPB frequently funds a proportion of the total project costs that are detailed in a budget, as opposed to funding specific amounts for certain budget line items. The budget incorporated in the grant agreement reflects our funding a proportion of the total project costs. The budget and/or budgets exchanged during the negotiations were not incorporated into the grant agreement. Consequently, we find no legal basis to conclude that one or more of these versions exchanged during negotiations are contractually binding, regardless whether PMP incorporated some of the detail from them into its deliverable reports. Applying this methodology, the expenses for the Construction and Operation Terms are shown in the table below with CPB’s proportional share of costs for each.

Term	Budgeted Amounts	CPB Grant Amount	CPB % Share
Construction Term	\$ 6,590,248	\$ 6,100,000	92.5610%
Operating Term	3,469,632	1,986,341	57.2493%
Total	\$ 10,059,880	\$ 8,086,341	80.3821%

III. OIG Recommendation 1: Leadership and Software Development Costs

The OIG recommends that CPB determine the reasonableness of or disallow and recover CPB’s share of the questioned costs totaling \$1,962,445 (\$452,094 for leadership plus \$1,510,351 for software development) of labor, fringe benefits, and overhead expenses claimed without adequate project accounting records.

A. CPB Determination – Leadership Costs \$452,094

The grant Agreement budget clearly labels the founding member’s leadership costs as a “flat allocation,” a term that identifies fixed fee expenses. It does not show which organization is funding this expense, leaving us to apply CPB’s grant to cover its proportional share of each line item.

CPB chose to negotiate this cost as a flat, fixed fee rather than hourly rates because of the uniquely difficult nature of this project. The project would create a cross-media digital publishing, distribution, and operating system, based on a conceptual design of automated

systems and processes to be developed over a period of four years and nine months, including two years to complete the API's design and construct the platform. Because it relied on the collaborative efforts of multiple media entities, CPB felt that PMP required significant leadership at the highest levels of the founding members' organizations to succeed. Recognizing that complications among the collaborating founders and in developing the technical aspects of the platform were highly likely, CPB considered fixed fee payments to be more advantageous than paying hourly rates. Accordingly, as these costs were included as a "Flat Allocation" in the Grant Agreement, CPB finds these costs to be reasonable, as discussed above.

However, as the project unfolded, PBS significantly reduced its level of participation in the project and in Deliverable Report #7, and scrupulously charged PMP its actual costs of \$42,949, instead of the \$183,750 "Flat Allocation" provided in the Grant Agreement.

Action: CPB will amend the Grant Agreement within 60 days of the date of this correspondence, reducing the Construction Term line item budget for PBS Leadership from \$183,750 to \$42,949. As a result of this change, CPB's commitment for the Construction Term and the total grant will be reduced by \$130,327 (92.561% of the difference between the original budgeted amount (\$183,750) and the revised amount (\$42,949)). CPB will reflect this change in the amendment prior to processing the payment associated with Deliverable Report #7.

B. CPB Determination - Software Development Costs \$1,510,351

The Grant Agreement explicitly provided that CPB's grant would be used to reimburse grantee for its actual fees and expenses to develop, construct and operate the platform. While APM, NPR and PRX failed to maintain timesheets or accounting records to support various software development services performed by their employees, PRI and PBS provided timesheets to support their employee software development costs.

The employee software development costs through deliverable #6 (audited by the OIG) and deliverable #7 (the final Construction Term invoice from PMP) are shown by founding member in the table attached as Exhibit A.

The Grant did not specifically require project level timesheets, but it clearly required the founding members maintain their general ledgers and other records in detail sufficient to provide an audit trail¹. In an effort to document the time APM, NPR and PRX spent on the project, they provided CPB a detailed description of their process for estimating and evaluating the time it took to develop their code. They also provided examples of the data created by their tracking software. The data and methodology are explained in Exhibit B. CPB believes that these records fail to comply with the documentation requirements in the Grant Agreement. It would be unfair to treat grantees that fail to provide the required documentation the same as those that comply. Balancing the non-compliance against the fact that these three members no doubt incurred significant costs in developing the cost, CPB believes the equitable outcome is to recognize the costs and assess a compliance penalty of 5%. The penalty will be taken from deliverable #7 in the amounts shown below.

Action: CPB is assessing the non-compliance penalty against PMP of \$102,362 for its failure to compel the founding member's to maintain the documentation required by the Grant Agreement. Within 60 days of the date of this correspondence, CPB will amend the

¹ Section 16 (G) and 17 (C).

Grant Agreement inserting a new line item “Employee Software Development Penalty” for each of the founding members listed below with the penalty amounts reflected as a negative value. This will reduce CPB’s Construction Term grant and our total grant by \$102,362. This revision will be included in the amendment prior to processing the payment associated with deliverable # 7.

Founding Member	Budget	Penalty %	Penalty Amount
APM	\$ 353,646	5%	\$17,682
NPR	957,032	5%	47,852
PRX	736,564	5%	36,828
Total	\$2,047,242	5%	\$ 102,362

IV. OIG Recommendation 2: Future CPB Grants

The OIG recommends that CPB ensure future grants specify that employee direct labor expenses are based on actual project level timekeeping records, and that leadership costs are claimed based on the organization’s indirect cost methodology documented in accordance with CPB’s indirect cost policy.

CPB Determination: The Grant Agreement and CPB’s documentation unequivocally require PMP to “keep ... such records as may be reasonably necessary to fully disclose the amounts expended pursuant to the Budget ... and such other records as will facilitate an effective audit.”² However, to underscore the point, CPB has updated the language in its Terms and Conditions that govern most CPB awarded grants, by requiring grantees meet the documentation requirement for budgeted labor costs by keeping time sheets or other similar evidence, effective November 1, 2015.

CPB believes that negotiating fixed fees for certain staff, as it has done with the PMP, can be advantageous for CPB from a business perspective. However, CPB has revised the Terms and Conditions to require grantees with fixed-price labor costs in their budgets that exceed \$5,000 and were not awarded through a competitive bidding process to document that these costs were reasonable. This revision was also made effective November 1, 2015.

Action: No further action is required.

V. OIG Recommendations 3 & 4: NPR’s Technical Service Agreement

A. OIG Recommendation 3: Flat Fees

NPR billed PMP for its services on a flat fee basis instead of its actual costs, as required by the Technical Services Agreement. In addition, NPR’s fees included overhead on the overstated hours. These errors result in a \$110,251 overstatement of expenses. The OIG recommends that CPB recover \$110,251 for amounts NPR overbilled PMP, consisting of \$87,578 for employee and contract labor costs that exceeded NPR’s actual costs and \$22,673 for indirect costs that exceeded those provided for in the Grant Agreement.

² Grant Agreement, paragraph 16 (a)

B. OIG Recommendation 4: Documentation

The OIG also found that NPR failed to provide documentation substantiating \$135,542 in expenses. Because PMP has not yet requested CPB reimburse it for the same, the OIG recommends CPB de-obligate this amount from the grant.

C. CPB's Determinations – Technical Service Agreement

CPB is in general agreement that NPR overbilled PMP for services it provided pursuant to the Technical Services Agreement. The OIG disputed these costs because NPR calculated its fees using market rates instead of reporting its actual costs and proposed indirect cost rates that exceeded those assumed by the OIG in its findings. Of the \$671,250 billed by NPR through deliverable #7, CPB will accept \$508,084 based on NPR's actual costs as detailed in Exhibit C.

With regard to indirect costs, CPB does not agree with the OIG's findings. The Grant Agreement did not place a limit on fringe benefits or indirect costs as the OIG reports³. Admittedly, the budgets exchanged during the negotiations included specific indirect costs rates. Because the executed Grant Agreement did not specify those rates, and CPB's intent to reimburse the founding members for the actual expenses is clearly stated in the Agreement, it would be inequitable to impose the caps the OIG recommends.

NPR has completed its work under the Technical Services Agreement. Its actual costs are summarized in Exhibit C and reflected in deliverable #7. CPB will reimburse NPR for \$470,288, which represents CPB's share of actual expenses, reduced by the amount it improperly charged PMP for indirect costs on contractor services. CPB will amend the Grant Agreement to reflect these costs.

Action: Within 60 days of the date of this correspondence, CPB will amend the Grant Agreement reducing the Technical Service Costs portion of the budget from \$671,250 to \$508,084 and reduce CPB's grant for the Construction Term expenses by \$151,028.

VI. OIG Recommendation 5 – Fringe and Indirect Costs

PMP calculated the founding members' fringe benefits and indirect costs, which are applied to leadership and software development costs, using budgeted instead of the actual rates. This results in an overstatement of these costs by \$97,153 (CPB's share is \$59,691). In addition PMP acknowledged that it inadvertently and improperly claimed indirect costs of \$26,801 on contractor and travel expenses (CPB's share is \$26,801). The OIG recommends that CPB recover these amounts and CPB concurs.

CPB Determination: CPB will recover the overpayment of \$86,492 from PMP.

Action: CPB will reduce the amount due to PMP under Deliverable Report #7 by \$86,492.

³ Page 13 of the audit report.

VII. OIG Recommendation 6 – PBS’ Software Development Costs

The OIG recommends that CPB recover \$129,697 for unsupported software development work PBS contracted with an outside developer. PBS hired a software development firm to support this project as well as an unrelated project, but PBS was unable to provide the OIG with documentation indicating the cost of the work completed for PMP. As a result, the audit questioned \$129,697 for the cost of software development by PBS (CPB’s share is \$120,049).

CPB Determination: PBS has not provided CPB with documentation that substantiates the software development work that was specific to the PMP. Therefore, CPB disallows the \$129,697 paid by PMP to PBS.

Action: Within 60 days, CPB will amend the Grant Agreement to reduce the amount under Deliverable Report #7 by \$129,697. This will reduce CPB’s commitment by \$120,049 (92.561% of the budgeted amount).

VIII. OIG Recommendation 7 – Timely Reporting

The OIG recommends that CPB require PMP to record its financial transactions in a timely manner and provide the required financial information to CPB within the time frames specified in the Grant Agreement on an accrual basis, in accordance with GAAP. The OIG notes that this requirement may compel PMP to secure full-time accounting services.

CPB Determination: It is not uncommon for a project as complex as the development of the API to face unforeseen development delays. CPB has discussed this issue with PMP, and PMP has agreed to provide its financial reports on a timely basis going forward, provide the financial information to CPB within the time frames specified in the Grant Agreement, and maintain its accounting records on an accrual basis in accordance with GAAP.

Action: No further action is required.

IX. OIG Recommendation 8 - Financial Reporting

The OIG recommends that CPB require PMP to ensure that all financial reports submitted to CPB are traceable and can be reconciled to its general ledgers.

CPB Determination: In order to ensure that the costs incurred by PMP to develop the API are transparent, the Grant Agreement requires PMP to not only “maintain its general ledger and other records” in sufficient detail to account for the project’s activities and provide an audit trail, but also to keep sufficient records that may be “reasonably necessary” to establish the project costs and facilitate an effective audit⁴. CPB believes that the reporting and audit requirements PMP must meet are quite clear, and no additional clarification is necessary.

Action: No further action is required.

⁴ Section 16 (a) and (g) of the Grant Agreement.

X. Payment, Budget and Grant Adjustments

To summarize, the adjustments that CPB will make to deliverable #7, the budget and Grant Agreement follow.

OIG Recommendations	Deliverable #7 Revisions	Budget Revisions	Grant Revisions
Recommendation 1 (a)	-0-	(\$140,801)	(130,327)
Recommendation 1 (b)	(\$102,362)	(\$102,362)	(\$102,362)
Recommendations 3 & 4	(\$200,992)	(\$163,166)	(\$151,028)
Recommendation 5	(\$86,492)	-0-	-0-
Recommendation 6	(\$129,697)	(\$129,697)	(\$120,049)
Total Revisions	(\$519,543)	(\$536,026)	(\$503,766)

	Budget	Grant
Original Construction Term	\$6,590,248	\$6,100,000
Total Reductions	(\$536,026)	(\$503,766)
Revised Construction Term	\$6,054,222	\$5,596,234

If PMP wishes CPB to consider additional information concerning CPB's determinations, please forward the information in writing within 30 days of the date of this correspondence. Failing that, CPB will consider these determinations final, and PMP will be required to comply with the actions set forth above.

We appreciate the work that the founding members do in support of public broadcasting and trust that we can work cooperatively to quickly resolve these issues.

Sincerely,



Jackie Livesay
Assistant General Counsel & Vice President, Compliance

CC: VIA ELECTRONIC MAIL

- Mary Mitchelson, Inspector General, CPB
- William J. Richardson, Deputy Inspector General, CPB
- 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
- Deborah Carr, Vice President, Radio, CPB
- Kristina Cushing de Recinos, Vice President, Operations, CPB
- Joyce MacDonald, Vice President, Journalism, CPB
- Erika Pulley-Hayes, Vice President, Radio, CPB
- Nick Stroman, Vice President, Controller, CPB
- Tom White, Director, Media Strategies, CPB

Exhibit A
Software Development Costs

Deliverable #6 – Employee Costs thru 12/31/13				Deliverable #7 – Employee Costs thru 7/31/14		
Founding Member	Actual Software Expenses	Budget	Difference Over/(Under)	Actual Software Expenses	Budget	Difference Over/(Under)
APM	\$ 222,293	\$ 183,188	\$ 39,105	\$ 353,740	\$ 353,646	\$ 94
NPR	911,448	957,032	(45,584)	993,635	957,032	36,603
PRX	395,599	736,564	(340,965)	770,089	736,564	33,525
Total	\$1,529,340	\$1,864,054	\$(334,486)	\$2,117,464	\$2,047,242	\$70,222
PRI	\$ 191,692	\$ 348,039	\$(156,347)	\$330,948	\$ 324,039	\$6,909
PBS	462,341	656,621	(194,280)	658,150	656,621	1,529
Total	\$ 654,034	\$1,004,660	\$(350,627)	\$989,098	\$1,004,660	\$8,438
Total All	\$2,183,373	\$2,868,714	\$(685,113)	\$3,106,562	\$3,027,902	\$78,963

Exhibit B
Tracking and Internal Controls for
APM, NPR and PRX

	CHARGE METHODOLOGY		INTERNAL CONTROLS									EMPLOYEE TIME CERTIFICATION	MET DELIVERABLES: Operation Code/Full PMP
	PROFESSIONAL LEVEL OF EFFORT (LOE) ESTIMATES		TEAM AVRG YRS OF EXPERIENCE	UNIT REVIEW: Team Meetings			UNIT REVIEW: Digital Activity Assignment/Tracking			FINANCE REVIEW: Digital Activity Assignment/Tracking			
	Overall	Project Activity Assignments		Ongoing	Weekly	Monthly	Ongoing	Bi-weekly	Digital Tracking	Monthly	Quarterly		
NPR	√	√	?				√	√	Rally		√		√
APM	√		10+				√		Redmine, GitHub	√			√
PRX	√		7+	√	√	√	√		GitHub	√*			√

Rally - Ticketing System
Redmine - Ticketing System
GitHub - Code Repository

* Monthly to 6 week intervals

Below is more detail on the processes APM, NPR and PRX followed when initially estimating the cost and during the project's implementation.

1. Professional Estimating: CPB negotiated with the founding members for more than six months before it agreed on a budget and the work scope. Throughout the negotiations, CPB engaged in extensive discussions with the founding members about the costs of developing the service application layers (SAL). Each member's internal software development teams assisted in developing their respective SAL cost estimates. Considering the efforts undertaken during the negotiations and the review completed prior to executing the Grant Agreement, arguably the estimates provided were thoroughly vetted and an accurate representation of the effort to be expended.
2. Team Meeting Reviews: Each of the three members explained that while they did not have time sheets, they regularly reviewed the estimated times for each task. PRX held periodic team meetings.
3. Digital Assignment and Tracking: Each of the three members indicated that it used an electronic assignment and tracking system as shown above. With each of these systems, the work completed was diligently managed.
4. Financial Reviews: Each of the three members explained that its finance department and its business unit regularly reviewed the estimated time expended for the different tasks and compared those with the estimates.
5. Deliverables: PMP recognized and each organization confirmed that it completed the necessary coding tasks and deliverables to enable it to operate in concert with the API.

Exhibit C
NPR Technical Services Agreement

Technical Service Agreement						
Actual Costs						
Position	Rate/Hour	Fringe	Space	O/H	Rate/Hour	Total Cost
Production Manager	47.99	10.15	8.31	17.07	83.49	45,009
Project Manager 6	52.88	11.16	9.16	18.81	92.01	7,429
Sr. Project Manager	52.00	10.97	9.01	18.49	90.47	12,168
Sr. Project Manager	49.14	10.37	8.51	17.48	85.50	5,942
Project Manager 1	44.84	9.46	7.77	15.95	78.02	4,993
Contractor ⁵	79.00	0	13.68	23.20	115.89	7,417
Contractor	90.00	0	15.59	26.43	132.02	165,422
Contractor	75.00	0	0	22.03	97.03	136,134
Employee	61.30	12.93	0	21.80	96.03	2,209
Programmer IV	48.96	9.70	7.96	16.35	79.97	14,843
Programmer III	42.09	8.88	7.29	14.97	73.23	18,491
Dev. Ops. Engineer	45.67	9.64	7.91	16.24	79.46	14,781
Director 4	78.29	16.52	13.56	27.85	136.22	87,588
Programmer IV	44.388	9.36	7.69	15.78	77.21	22,545
Programmer V	59.51	12.56	10.31	21.16	103.54	1,035
Total Cost						\$ 544,005
Less Contractor Overhead and Space cost in excess of \$50,000 (<i>\$25,000 per contract</i>)						35,921
Net Allowable Costs						\$ 508,084
CPB Share @ 92.561%						470,288
CPB Share of \$671,250 Budget @ 92.561%						621,316
Grant Agreement De-obligation						\$ 151,028

⁵ NPR provided CPB with a copy of its agreements for each contractor indicating the reported rates.