



Corporation
for Public
Broadcasting

April 28, 2021

VIA ELECTRONIC MAIL

Ms. Maria O'Mara
Executive Director
KUER-FM and KUED-TV
101 South Wasatch Drive
Salt Lake City, UT 84112-1792

Dear Ms. O'Mara,

RE: Audit of Community Service and other Grants Awarded to the University of Utah for
KUER-FM and KUED-TV, from July 1, 2017 through June 30, 2019, (Report No.
ASJ2006-2102)

The Corporation for Public Broadcasting (CPB) awarded \$4.1 million in grants, including community service grants (CSGs), to the University of Utah, licensee of KUER-FM and KUED-TV (collectively the “stations”), over a two-year period. The report referenced above examined the stations’ compliance with those grant terms, specifically, the Certification of Eligibility¹, the applicable provisions in the Communications Act of 1934, 47 U.S.C. §396, et seq. (Communications Act), the television General Provisions and Eligibility Criteria and the Financial Reporting Guidelines (Guidelines). While the findings identified misreported non-federal financial support (NFFS) that resulted in CSG grant overpayments, there were no findings concerning the Communications Act or the Certification of Eligibility.

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The specific findings and CPB's determinations for the stations follow.

I. Recommendation 1: Overstated NFFS

The audit found that the stations overstated NFFS resulting in CSG overpayments detailed below.

A. Ineligible Endowment Revenue

CPB’s Guidelines² provide that only the interest and dividends from endowments may be reported as NFFS; the remainder—realized and unrealized gains, including annual endowment distributions—may not be reported as NFFS. The audit found that the stations

¹ AKA CSG Agreement and Certification of Eligibility.

² FY 2019 Financial Reporting Guidelines (Section III, Lines 15 & 17)

included ineligible endowment revenue in their NFFS, resulting in CSG overpayments of \$1,141 to KUER-FM and \$51,859 to KUED-TV (\$53,000 in total).

The stations and CPB agreed with this finding.

The report also recommended that CPB require the stations to identify the corrective actions and controls they will implement to ensure its future compliance with CPB requirements. Considering the corrective action described in their correspondence of February 8, 2021, we are confident that the stations understand the requirements and we will not require additional documentation.

Action: The stations must return \$53,000 in CSG overpayments, which CPB will recover through an adjustment to their FY 2022 CSG awards.

B. Unsupported Underwriting Trades

The audit found that the stations claimed six underwriting trades but did not have the required supporting documentation. The Guidelines³ state that trade underwriting agreements or contracts may not be used to document the value of a contribution because they represent the donor's intent but are not evidence that the donation occurred. The misreported NFFS resulted in CSG overpayments of \$1,653 to KUER-FM and \$4,551 to KUED-TV (\$6,204 in total).

The stations and CPB agreed with this finding.

The report also recommended that CPB require the stations to identify the corrective actions and controls they will implement to ensure their future compliance with CPB requirements. Considering the corrective action described in their correspondence of February 8, 2021, we are confident that the stations understand the requirements and we will not require additional documentation.

Action: The stations must return \$6,204 in CSG overpayments, which CPB will recover through an adjustment to their FY 2022 CSG awards.

C. Revenues Provided by Public Broadcasting Entities

CPB's Guidelines⁴ state that funds provided by CPB and other public broadcasting entities may not be reported as NFFS. The audit found KUED-TV included such revenue in its NFFS resulting in CSG overpayments of \$2,961.

KUED-TV and CPB agreed with this finding.

The report also recommended that CPB require KUED-TV identify the corrective actions and controls it will implement to ensure its future compliance with CPB requirements. Considering the corrective action described in its correspondence of February 8, 2021, we are confident that KUED-TV understands the requirements and we will not require

³ FY 2019 Financial Reporting Guidelines (Part II: NFFS, Section VII, In-kind Contributions)

⁴ FY 2019 Financial Reporting Guidelines (Part II: NFFS, Section V, NFFS: Excluded Revenues)

additional documentation.

Action: KUED-TV must return \$2,961 in CSG overpayments, which CPB will recover through an adjustment to its FY 2022 CSG award.

D. Donations Not Used for Public Broadcasting

KUER-FM established a program for donors under which it would “pass through” a portion of the donations to a nonprofit that the donor selects from a specific list. The audit found that the station reported the gross amount received as NFFS which is inconsistent with CPB’s Guidelines⁵, which limits NFFS, to that used for the construction or operation of noncommercial educational broadcast stations, or for the production, acquisition, distribution, or dissemination of educational television or radio programs, and related activities. Accordingly, the amount passed through to nonprofits, did not meet this requirement resulting in CSG overpayments of \$1,603.

KUER-FM and CPB agreed with this finding.

The report also recommended that CPB require KUER-FM to identify the corrective actions and controls it will implement to ensure its future compliance with CPB requirements. Considering the corrective action described in its correspondence of February 8, 2021, we are confident that KUER-FM understands the requirement and we will not require additional documentation.

Action: KUER-FM must return \$1,603 in CSG overpayments, which CPB will recover through an adjustment to its FY 2022 CSG award.

E. Incorrect Premiums Offset Against Membership

The audit found the stations misstated NFFS due to errors in tracking membership contributions and in reducing the Fair Market Value (FMV) of high-end premiums. CPB Guidelines⁶ require stations to exclude the FMV of high-end premiums from NFFS.

Therefore, KUER-FM overstated its NFFS resulting in a CSG overpayments of \$250 and KUED-TV understated its NFFS by \$75,775 resulting in a CSG underpayments of \$9,054.

The stations and we agree with this finding.

The audit required KUED-TV to reconcile the membership premiums it provided to donors in FY 2021. In FY 2021, the stations transitioned to a new system enabling them to reconcile their premiums with total membership contributions.

We accept the February 8, 2021 letter noting that KUED-TV will reconcile membership premiums provided to donors in FY 2021 and in subsequent years to contributions received annually, and we require no further documentation.

Action: KUER-FM must return the CSG overpayments of \$250, which CPB will

⁵ FY 2019 Financial Reporting Guidelines (Part II: NFFS, Section I and II, Subsection A.3, Contribution Purpose)

⁶ FY 2019 Financial Reporting Guidelines (Section III, Line 10)

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recover through an adjustment to its FY 2022 CSG award. As for the \$9,054 CSG underpayment⁷ by KUED-TV, CPB will offset it against other CSG overpayments identified by the audit.

F. Unallowed Indirect Administrative Support

The audit found the stations reported indirect administrative support (IAS) as NFFS using the Federal Indirect Cost Rate Other Sponsored Activities (OSA) rate, which was erroneous, since the stations' costs were not included in the OSA rate as required by the Guidelines⁸. Nonetheless, the audit acknowledged that the stations received IAS during the audit period. In the alternative and subject to CPB's approval, the audit recommends that IAS be calculated using CPB's new Standard Method, which became effective for FY2020. Because there is no question that significant indirect support was provided to the stations and based on the information in the audit report, CPB will recognize IAS as the amount calculated using the Standard Method.

With the Standard Method, IAS is less than the amount the stations reported resulting in CSG overpayments of \$6,322 to KUER-FM and \$38,805 to KUED-TV (\$45,128 in total).

The stations and we agree with this finding.

In addition, the report requested that CPB obtain documentation from the stations on the controls they will implement to comply in the future. In lieu thereof, we accept the controls and corrective action identified in the stations February 8, 2021 correspondence with their commitment to use the Standard Method going forward.

Action: The stations must return \$45,128 in CSG overpayments, which CPB will recover through an adjustment to their FY 2022 CSG awards.

II. Recommendation 2: Non-compliance Policy

CPB adopted the CSG Non-compliance Policy to encourage grantees to comply with the applicable provisions governing their CSG and the Communications Act. Failure to comply which results in an overpayment of the recipient's CSG subjects the recipient to a penalty of ten percent of the amount of the overpayment. Considering the CSG overpayment of \$100,091 set forth above, a ten percent penalty is \$10,009. However, given the significant impact COVID-19 has had on grantees, we will reduce the penalty by fifty percent for a total of \$5,005.

Action: The stations must provide the \$5,005 penalty to CPB within 45 days of the date of this correspondence.

CPB will recover the CSG overpayments of \$100,091 (\$10,970 for KUER-FM and \$89,121 for KUED-TV) through deductions to the stations' NFFS used to calculate their 2022 CSGs and we will alert the stations when those adjustments are made. Within 45 days of the date of this correspondence, please

⁷ \$75,775 NFFS.

⁸ FY 2019 Financial Reporting Guidelines (Part II, Section XII, Indirect Administrative Support)

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forward a check in the amount of \$5,005 for penalties. The check should be made payable to CPB and forwarded to the attention of Nick Stromann, Vice President, Controller, Corporation for Public Broadcasting, 401 Ninth Street N.W., Washington, D.C. 20004-2129.

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. Otherwise, CPB will consider these determinations final, and KUER-FM and KUED-TV must comply with the actions set forth above. CPB reserves the right to take any other action it deems appropriate until these issues are resolved to CPB's satisfaction.

Kind regards,

Jackie J. Livesay

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

CC: VIA ELECTRONIC MAIL

William John Warren, Chief Communications and Marketing Officer, University of Utah

Michael Levy, Executive Vice President & Chief Operating Officer, CPB

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

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

Kathy Merritt, Senior Vice President, Radio, Journalism & CSG Services, CPB

Kimberly Howell, Inspector General, CPB

William J. Richardson, III, Deputy Inspector General, CPB

Katherine Arno, Vice President, Community Service Grants and Station Initiatives, CPB

Nick Stromann, Vice President, Controller, CPB

Andrew Charnik, Director, Radio CSG Policy & Administration, CPB

Tim Bawcombe, Director, Television CSG Policy and Review, CPB