



Corporation  
for Public  
Broadcasting

By email ([scot1106@umn.edu](mailto:scot1106@umn.edu))

April 23, 2024

Tara Plath  
KSMQ-TV Board Treasurer  
KSMQ Public Service Media, Inc.  
107 West Oakland Avenue  
Austin, MN 55912

RE: Audit of Community Service and Other Grants Awarded to KSMQ-TV,  
Licensed to KSMQ Public Service Media, Inc., Austin, Minnesota, for the  
Period July 1, 2020, through June 30, 2023 (Report No. AST2316-2406)

Dear Tara Plath:

The evaluation referenced above concluded that KSMQ-TV (“KSMQ”) was noncompliant with several applicable requirements in the Communications Act of 1934, 47 U.S.C. §§ 396, *et seq.* (“Communications Act”) and in the Television General Provisions and Eligibility Criteria (General Provisions) which govern the 2020-2023 community service grants (“CSG”) awarded it by the Corporation for Public Broadcasting (“CPB”).

The specific findings and CPB's determinations for KSMQ follow.<sup>1</sup>

***I. Overstated NFFS***

The audit found that KSMQ overstated non-federal financial support (“NFFS”) totaling \$87,996, resulting in CSG overpayments of \$11,256. The details of these overstatements are set forth below.

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<sup>1</sup> Note that this determination letter summarizes a more detailed audit report already provided to KSMQ. Accordingly, this letter should be considered with such audit report and the details it contains.

Conditions	FY 2021	FY 2022	Total
Ineligible Passive Income	\$22,219	\$51,556	\$73,775
Ineligible In-Kind Contributions Local Ads	\$10,400	\$0	\$10,400
Ineligible Payments for Production Services (Exchange Transactions)	\$1,845	\$0	\$1,845
Ineligible Underwriting Contributions	\$0	\$560	\$560
Fair Market Value of High-End Premiums	\$0	\$1,416	\$1,416
<b>Total Overstated NFFS</b>	<b>\$34,464</b>	<b>\$53,532</b>	<b>\$87,996</b>
<i>Incentive Rate of Return</i> <sup>2</sup>	0.1258278200	0.1292529330	
<b>CSG overpayments</b>	<b>\$4,337</b>	<b>\$6,919</b>	<b>\$11,256</b>

A. Ineligible Passive Income

CPB’s Financial Reporting Guidelines (“Guidelines”) state that revenues derived from realized and unrealized gains on investments cannot be reported as NFFS.<sup>3</sup> In this case, the audit found that KSMQ overstated its NFFS by \$73,775, resulting in CSG overpayments of \$9,460. The audit recommends CPB require KSMQ to repay the CSG overpayments and identify the corrective actions and controls it will implement to ensure future compliance with NFFS reporting. KSMQ agreed with the finding and said it will review its financial reporting processes and implement measures to ensure accurate reporting. We agree with the finding and recommended actions.

**Action:** KSMQ must return \$9,460 in CSG funds, which CPB will recover through an adjustment to its FY 2025 CSG award. Within forty-five days of the date of this correspondence, KSMQ must provide CPB with documentation of its corrective actions and controls.

B. Ineligible In-kind Contributions – Local Advertising

The Guidelines allow certain in-kind contributions to be reported as NFFS if these contributions are adequately documented as to their valuation and fulfillment.<sup>4</sup> The audit found KSMQ had not received an in-kind donation for advertising of \$10,400 that it reported as NFFS. The misreporting resulted in CSG overpayments of \$1,309. KSMQ had reported the amount as NFFS based on a trade agreement signed at the time the in-kind donation was promised, but the audit found the advertising was never provided. The proper documentation for in-kind contributions reported as NFFS should be obtained at the time of the fulfillment. The audit recommends that CPB recover the CSG overpayments of \$1,309 and require KSMQ to identify the corrective actions and controls it will implement to ensure future compliance with NFFS reporting. KSMQ agreed with the finding and said

<sup>2</sup> The Incentive Rate of Return is CPB’s match to each eligible dollar of NFFS raised by a grantee.

<sup>3</sup> Guidelines, FY 2021 and 2022 – Part II, Section V- NFFS Excluded Revenues: L. Other Revenues.

<sup>4</sup> Guidelines, FY 2021 and 2022 – Part II. NFFS In-kind Contributions, paragraphs B and C.

it will review its financial reporting processes and implement measures to ensure accurate reporting. We agree with the finding and recommended action.

**Action:** KSMQ must return \$1,309 in CSG funds, which CPB will recover through an adjustment to its FY 2025 CSG award. Within forty-five days of the date of this correspondence, KSMQ must provide CPB with documentation of its corrective actions and controls.

### C. Ineligible Payments

The Guidelines allow certain types of payments (from sources including the State or educational institutions for the provision of instructional television or radio programs) to be reported as NFFS.<sup>5</sup> The audit found that KSMQ had misreported as NFFS an ineligible payment of \$1,845 made in exchange for production services, resulting in a CSG overpayment of \$232. The audit recommends that CPB recover the CSG overpayment of \$232 and require KSMQ to identify the corrective actions and controls it will implement to ensure future compliance with NFFS reporting. KSMQ agreed with the finding and said it will review its financial reporting processes and implement measures to ensure accurate reporting. We agree with the finding and recommended action.

**Action:** KSMQ must return \$232 in CSG funds, which CPB will recover through an adjustment to its FY 2025 CSG award. Within forty-five days of the date of this correspondence, KSMQ must provide CPB with documentation of its corrective actions and controls.

### D. Ineligible Underwriting Revenues

The Guidelines allow underwriting that meets the criteria to be included as NFFS, but advertising revenues are not to be included.<sup>6</sup> The audit found that a portion of underwriting reported as NFFS included print advertising revenues of \$560, resulting in a CSG overpayment of \$72. The audit recommends that CPB recover the CSG overpayment of \$72 and require KSMQ to identify the corrective actions and controls it will implement to ensure future compliance with NFFS reporting. KSMQ agreed with the finding and said it will review its financial reporting processes and implement measures to ensure accurate reporting. We agree with the finding and recommended action.

**Action:** KSMQ must return \$72 in CSG funds, which CPB will recover through an adjustment to its FY 2025 CSG award. Within forty-five days of the date of this correspondence, KSMQ must provide CPB with documentation of its corrective actions and controls.

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<sup>5</sup> Guidelines, FY 2021 – Part II, Section II, Contributions vs. Payments.

<sup>6</sup> Guidelines, FY 2022 – Part II, Section V – NFFS Excluded Revenues. J. Advertising Revenues.

#### E. Fair Market Value (FMV) of High-End Premiums

The Guidelines require that the FMV of premiums (high end thank you gifts) be deducted from membership revenues reported as NFFS.<sup>7</sup> The audit found that KSMQ underreported the FMV of premiums, overstating NFFS by \$1,416. The audit recommends that CPB recover the corresponding CSG overpayment of \$183 and require KSMQ to identify the corrective actions and controls it will implement to ensure future compliance with NFFS reporting. KSMQ agreed with the finding and said it will review its financial reporting processes and implement measures to ensure accurate reporting. We agree with the finding and recommended action.

**Action:** KSMQ must return \$183 in CSG funds, which CPB will recover through an adjustment to its FY 2025 CSG award. Within forty-five days of the date of this correspondence, KSMQ must provide CPB with documentation of its corrective actions and controls.

In accordance with CPB's CSG Non-compliance Policy, failure to comply with these applicable provisions governing a station's CSG, which results in a CSG overpayment subjects the recipient to a ten percent penalty of the amount of the overpayment, in addition to refunding the overpayment. Therefore, we are assessing a penalty of \$1,126 for the CSG overpayments detailed above.

## II. Questioned Costs

The General Provisions allow CSG funds to be used for station expenditures and requires grantees maintain adequate recordkeeping and documentation support.<sup>8</sup> The audit found that KSMQ failed to provide documentation for \$1,143 in FY 2022 CSG expenditures. The audit recommends CPB recover \$1,143 in unsupported CSG expenditure costs and require station to identify and implement controls to ensure future CSG expenditures are supported with adequate documentation. KSMQ did not address this finding. We agree with the audit finding and recommended action.

In accordance with CPB's CSG Non-compliance Policy, the station is subject to a penalty of \$1,000 for misreported CSG expenditures but in consideration of the small amount of questioned costs, we are assessing a penalty of \$500.

**Action:** KSMQ must return the unsupported CSG expenditure costs of \$1,143, which CPB will recover through an adjustment to its FY 2025 CSG award. Within forty-five days of the date of this correspondence, KSMQ must provide to CPB the \$500 penalty and the required documentation identifying controls it will implement to ensure compliance going forward.

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<sup>7</sup> Guidelines, FY 2022 – Part II, Section V – NFFS Excluded Revenues. K. Premiums.

<sup>8</sup> CPB 2022 General Provisions, Part I, Section 3. Recordkeeping Requirements.

### III. Act and CPB General Provisions Grant Requirements Noncompliance

#### A. Open Meetings Advance Notice

The Communications Act requires grantees to provide the public with reasonable advance notice (at least seven days) of their open meetings which include, but are not limited to, open governing body meetings, open governing body committee meetings, and community advisory board (“CAB”) meetings (collectively “open meeting(s)”). Grantees may use four methods to satisfy this requirement: posting advance notice of the meeting’s date, time, and place on its station’s website, broadcasting notices on-air between 6 a.m. and 11 p.m., placing notice in the Legal Notices section of a local newspaper, and giving notice through a recorded announcement accessible on a station’s phone system.<sup>9</sup>

The audit found that KSMQ did not provide the public with the required advance notice for public meetings of the board, its committees, and CAB for twenty-three of thirty-four meetings held during the audit period. It recommends that CPB require KSMQ to provide the corrective actions it will implement to ensure the public receives the required advance notice of upcoming governing board, committee, and CAB meetings discussing public broadcasting activities. KSMQ and we agree with the finding, as well as the recommended action.

**Action:** Within forty-five days of the date of this correspondence, KSMQ must provide to CPB the corrective actions it will implement to ensure the public receives reasonable advance notice of all upcoming governing board, committee, and CAB meetings discussing public broadcasting activities at least seven days in advance of the meeting.

#### B. Closed Meetings Documentation

The Act and CPB’s Communications Act Compliance guidance identify when a station may close a meeting, including matters concerning individual employees, proprietary information, litigation, and other matters requiring confidential advice of counsel, commercial or financial information, and the purchase of property or services when the premature disclosure of the transaction would compromise the station’s business interests.<sup>10</sup> The Act requires grantees document the reason(s) for closing meetings and make the reason(s) available to the public within a reasonable time of closing the meeting. CPB requires these reasons be made available to the public within ten days of closing the meeting.<sup>11</sup>

The audit reviewed a total of thirty-seven meetings (of the board, executive committee, and

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<sup>9</sup> CPB’s Communications Act Compliance Guidance, 1. Open Meetings, E. Notice of Open Meetings (June 2021) and Television General Provisions, Section 2.A Open Meetings.

<sup>10</sup> CPB’s Communications Act Compliance Guidance, 2. Closed Meetings, B. When May a Meeting Be Closed? (June 2021).

<sup>11</sup> CPB’s Communications Act Compliance Guidance, 2. Closed Meetings, C. Closed Meeting Documentation (June 2021). Television General Provisions, Section 2.B. Closed Meetings.

CAB) and found that KSMQ held three closed meetings and nine closed executive sessions as part of otherwise open meetings. The audit found that for eight of these twelve, the required documentation was not available within the ten-day period. For one of the twelve, the documentation available did not identify the reason(s) for the closed meeting.

The audit recommends CPB require the station to identify the corrective actions it will implement to ensure that within ten days of a closed meeting, it documents and provides the public with reasons for holding closed meetings. KSMQ agreed with the findings and, in response, provided preliminary details on new procedures to ensure compliance going forward. The audit states that KSMQ has since provided and posted the required documentation on its website for all the closed meetings examined and that it now complies with CPB grant and Act requirements.

**Action:** Within forty-five days of the date of this correspondence, KSMQ must provide to CPB the corrective actions it will implement to ensure that within ten days of a closed meeting, it documents and provides the public with the reason(s) for holding the closed meeting. Such meetings include those of the governing board and its committees, and CAB.

### C. CAB Responsibilities

The Act requires stations - other than those owned by a state, a political or special purpose subdivision of a state, or a public agency - to have a CAB.<sup>12</sup> Accordingly, KSMQ if required to establish a CAB,<sup>13</sup> must ensure the CAB meet its responsibilities. The audit found that KSMQ's CAB did not fully meet its responsibilities because it did not advise and make recommendations to the governing body on whether the station's programming and significant policies are meeting the specialized educational and cultural needs of the communities served by the station. The audit recommends that KSMQ identify the corrective actions it will implement to ensure that the CAB fulfils its obligations as required by the Act and General Provisions.

KSMQ said it is establishing a formal process to report to the governing board on CAB activities to ensure that the CAB meets its obligation to advise and make recommendations to the governing body. We agree with the finding and recommended action.

**Action:** Within forty-five days of the date of this correspondence, the grantee must provide CPB with the corrective actions it will implement to ensure that its CAB fulfils its obligations as required by the Act and CPB.

CPB adopted the CSG Non-compliance Policy to encourage grantees to comply with the applicable provisions governing its CSG and the Communications Act. Stations are subject to a penalty of \$5,000 for failure to comply with a category in the Communications Act and a penalty of \$1,000 for failure to comply with a category in the General Provisions. Considering its prompt response

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<sup>12</sup> CPB's Communications Act Compliance requirements, 4. Community Advisory Board, E.4 CAB's Responsibilities (June 2021). General Provisions, Section 2.D.2. CAB.

<sup>13</sup> KSMQ's CAB is referred to as its "Regional Advisory Committee." No required nomenclature is required under the relevant requirements, although CPB notes that divergent naming conventions may lead to confusion in the future.

to required notifications for open meetings and documentation for closed meetings, CPB will impose a Communications Act penalty of \$2,500. Regarding noncompliance to CAB requirements, KSMQ established the required CAB but fell short of ensuring it advised and reported its recommendations to the governing body. Therefore, CPB will impose a Communications Act penalty of \$2,500.

**Action:** Within forty-five days of the date of this correspondence, KSMQ must provide the \$5,000 in penalties to CPB for its non-compliance with the Communications Act and the General Provisions, by forwarding a check payable to CPB to Nick Stromann, Vice President, Controller, Corporation for Public Broadcasting, 401 Ninth Street N.W., Washington, D.C. 20004-2129.

#### **IV. Incorrect AFR Schedule E – CSG Expenditure Reporting**

CPB requires that CPB grant-funded expenditures are identified and reported on the station's AFR Schedule E.<sup>14</sup> A CSG grant award has a two-year spending period so it is possible that, in any given year, a grantee will report on expenditures made with the current year's CSG award as well as prior year's award.

The audit found that KSMQ had not properly reconciled its annual CSG grants to its accounting records. Consequently, its FY 2021 and FY 2022 AFR Schedule E incorrectly reported CSG expenditures, underreporting \$4,494 in CSG expenditures in FY 2021 and overreporting \$11,316 in FY 2022. During the audit period, KSMQ reconciled its FY 2023 AFR Schedule E to the proper CSG grants after this issue was identified and then properly reported all CSG grant expenditures on its FY 2023 AFR. The audit recommends CPB require KSMQ to identify and implement corrective actions to comply with CPB's AFR Schedule E reporting requirement. Going forward, this will require KSMQ to reconcile its annual CSG grants to its accounting records, as it did for its FY 2023 AFR.

KSMQ agreed with the finding, as do we and will require the grantee to provide the corrective action it is taking to comply with Schedule E reporting.

**Action:** Within forty-five days of the date of this correspondence, KSMQ must provide documentation to CPB identifying corrective actions implemented to report expenditures on AFR Schedule E, according to the Guidelines.

**Penalty:** Given the station's prompt corrective action, CPB will not impose a penalty.

Within forty-five days of the date of this correspondence, KSMQ must provide \$6,626 in penalties to CPB for its non-compliance with the Communications Act and General Provisions, by forwarding a check payable to CPB to Nick Stromann, Vice President, Controller, Corporation for Public Broadcasting, 401 Ninth Street N.W., Washington, D.C. 20004-2129, and send the required documentation to the Director of Television CSG Policy and Review, at [csg@cpb.org](mailto:csg@cpb.org).

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<sup>14</sup> Guidelines, Part III – AFR and FSR Line Item Instructions, Completing AFR Schedule E – Expenses. Line Item Instructions. Reporting CPB Grant Expenditures.

Tara Plath  
KSMQ-TV

If you wish CPB to consider additional information relating to this matter, please provide the same in writing within thirty days of the date of this letter either in hard copy to the undersigned or by email to [ogc@cpb.org](mailto:ogc@cpb.org). Otherwise, CPB will consider these determinations final, and KSMQ 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,

Evan Slavitt  
Senior Vice President and General Counsel

CC: VIA ELECTRONIC MAIL

Sylwia Bujak-Oliver, KSMQ Board Chair ([sylwiab@125livemn.org](mailto:sylwiab@125livemn.org))  
Mike Bednar, KSMQ Interim Station Manager ([michael.bednar@ksmq.org](mailto:michael.bednar@ksmq.org))  
Michael Levy, Executive Vice President & Chief Operating Officer, CPB  
Jackie Livesay, Deputy General Counsel and Vice President of Compliance, CPB  
Nick Stromann., Acting Chief Financial Officer & Treasurer, CPB  
Kimberly Howell, Inspector General, CPB  
William J. Richardson, III, Senior Director & Deputy Inspector General, CPB  
Kathy Merritt, Senior Vice President, Radio, Journalism & CSG Services, CPB  
Katherine Arno, Vice President, Community Service Grants and Station Initiatives, CPB  
Tim Bawcombe, Director, Television CSG Policy and Review  
Forrest Lillibridge, Director, Grants Administration, CPB