



Corporation
for Public
Broadcasting

Date 20, 2019

VIA ELECTRONIC MAIL AND HARDCOPY TO FOLLOW

Mr. Stewart Vanderwilt
President & CEO
Colorado Public Radio
7409 S. Alton Ct.
Centennial, CO 80112

Dear Mr. Vanderwilt,

RE: Audit of Community Service Grants awarded to Public Broadcasting of Colorado, Inc., Colorado Public Radio, Centennial, Colorado for the period July 1, 2016 through June 30, 2018, Report No. ASR1905-1905

The audit referenced above concluded that Colorado Public Radio (Colorado) generally complied with its CSG Certification of Eligibility, the numerous provisions in the Communications Act of 1934, 47 U.S.C. §396, et sec. (Communications Act), CPB's Guidelines¹ concerning non-federal financial support (NFFS), and the terms of \$1,795,759 in CSG grants, with some exceptions. Namely, Colorado overstated its NFFS resulting in CSG overpayments of \$2,951² and that it did not fully comply with the open meeting requirements of the Communications Act and CPB's discrete accounting requirement.

The specific findings and CPB's determinations for Colorado follow.

I. Recommendations 1 & 2

A. Underwriting Third-Party Fees

Stations may report underwriting revenues they receive from donors, directly or constructively, as NFFS, pursuant to CPB's Guidelines (Section 2.5.2 Advertising and Underwriting). To establish constructive receipt, there must be an agreement authorizing the third party to receive the revenues on the station's behalf, signed by the third party and the station. The audit found that Colorado included underwriting revenues it received from several third parties as NFFS which were not supported by written agreements, resulting in a \$2,537 overpayment of its CSGs.

While we require stations to comply with GAAP, CPB's Guidelines limit the amounts station may report as NFFS, i.e. the amounts received directly or constructively. Since the documentation requirements for establishing constructive receipt are clear, we agree with this finding and Colorado must return the overpayment to CPB.

The audit also recommends that CPB require Colorado to identify the corrective actions and controls it will implement to ensure its future compliance with CPB's Guidelines concerning underwriting revenues. Although Colorado initially

¹ Financial Reporting Guidelines for Preparing the Annual Financial Report (AFR) & Financial Summary Report (FSR), Fiscal Year(s) 2017 and 2018.

² This amount differs slightly from that in the audit which used an estimated incentive rate of return.

disagreed with this finding, its President and CEO and its Senior Vice President of Finance and Administration, confirmed that they will make the necessary reductions going forward, during our recent call³. Considering this and the amounts involved, we will not require that it provide additional documentation.

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 with these requirements 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, in addition to refunding the overpayment. Accordingly, CPB is assessing a \$253 penalty against Colorado.

Action: Colorado must provide the \$253 noncompliance penalty to CPB within 45 days of the date of this correspondence and return the \$2,537 CSG overpayments through an adjustment to its 2019 NFFS. CPB will provide detailed instructions when that information is due.

B. In-Kind Trades

Stations may report the fair market value of in-kind contributions as NFFS, pursuant to CPB's Guidelines (Section 2.6.3 Valuation Criteria for In-kind Contributions). The fair market value must be determined by using the donor's valuation and documented with details about the transaction, including the value of the donated goods and services and the valuation method. The audit found that Colorado reported in-kind contributions using its own valuation, instead of the donors', resulting in a \$414 CSG overpayment. In addition, the documentation was lacking. We agree with this finding and Colorado must return the overpayment to CPB. Additionally, as provided by the CSG Non-compliance Policy, CPG is assessing a ten percent penalty against Colorado for the misreporting, i.e., \$41.

The audit recommended that CPB require Colorado to document the corrective actions and controls it will implement to ensure accurate reporting for future in-kind contributions. Considering the amounts involved and that Colorado has assigned the task of overseeing this process to a specific individual, we will not require that it provide additional documentation.

Action: Colorado must provide the \$41 noncompliance penalty to CPB within 45 days of the date of this correspondence and return the CSG overpayments of \$414 through an adjustment to its 2019 NFFS. CPB will provide detailed instructions when that information is due.

II. Recommendation 3

The Communications Act requires that stations give advance notice of open meetings and document the reasons for closing those meetings. CPB requires at least seven days-notice and that the documentation be available for inspection, either at the station's central office or posted on its station website. The audit found that Colorado either did not consistently provide or provided less than seven-days advance notice of six out of 14 meetings and that Colorado did not document for the public the reasons for closing all or portions of 20 meetings.

The audit also found that Colorado had no internal controls in place and no written policies or procedures to ensure that it would be compliant with the Act or CPB's requirements. It recommended that CPB require Colorado to identify the corrective actions and internal controls it will implement to ensure compliance with the seven-day advance notice requirement for open meetings and the documentation requirements for closed meetings. Colorado recently launched a new website that makes posting and organizing announcements of its open and closed meetings easier, as it explained in its August correspondence. It also assigned an individual to ensure that it complies with these requirements. With these

³ December 18, 2019 phone call.

Mr. Stewart Vanderwilt
President & CEO
Colorado Public Radio

steps, we are satisfied that Colorado understands the requirements and will comply in the future. Therefore, we will not require additional documentation from Colorado.

Although the CSG Non-compliance Policy provides for a penalty of \$5,000 for each instance of noncompliance with the Act, since Colorado promptly took action to address this issue, we are assessing a reduced penalty of \$2,500.

Action: Colorado must provide the \$2,500 penalty to CPB within 45 days of the date of this correspondence.

III. Recommendation 4

The General Provisions and Eligibility Criteria⁴ require stations to use unique accounting codes to identify CSG funds – both revenues and expenses, restricted and unrestricted. The audit found that Colorado did not discretely account for CSG restricted and unrestricted revenues and expenses. It recorded all CSG revenues and expenditures in its restricted revenue and expense accounts. Colorado took issue with this finding in its August correspondence because the funds were identifiable within its accounting system. Nonetheless, the requirement for unique accounting codes is clear, and we agree with this finding.

The report recommends that CPB ensure that Colorado discretely accounts for its CSG revenues and expenditures and require Colorado to identify the corrective actions and controls it will implement to ensure future compliance. Colorado promptly added the two unrestricted account codes to its chart of accounts to track unrestricted CSG funds, as explained in its August correspondence. Because the audit identified no misspending, we accept Colorado's response as sufficient corrective action and will not require additional documentation. We are satisfied that it understands the requirement and will comply with it going forward.

The CSG Non-compliance Policy provides for a penalty of \$1,000 for each instance of noncompliance with the General Provisions and CSG Agreement, which includes the discrete accounting requirement. Because the audit did not identify any misspending and that Colorado promptly adopted the necessary accounting codes, we are assessing a reduced penalty of \$500 against Colorado.

Action: Colorado must provide payment of the \$500 penalty to CPB within 45 days of the date of this correspondence.

Within 45 days of the date of this correspondence, please send the payments totaling \$3,294 for penalties by check payable to CPB 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 Colorado 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
Assistant General Counsel & Vice President, Compliance

⁴ Governing the 2017 and 2018 CSGs.

Mr. Stewart Vanderwilt
President & CEO
Colorado Public Radio

CC: VIA ELECTRONIC MAIL

Philip Johnson, Chairman of the Board, Colorado
Jenny Gentry, Senior Vice President, Finance & Administration, Colorado
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
Kimberly Howell, Inspector General, CPB
William J. Richardson, III, Deputy Inspector General, CPB
Kathy Merritt, Senior Vice President, Journalism & Radio, CPB
Erika Pulley-Hayes, Vice President, Radio, CPB
Katherine Arno, Acting Vice President, CSG & Station Initiatives, CPB
Nick Stromann, Vice President, Controller, CPB
Andrew Charnik, Director, Radio CSG Policy & Administration, CPB
Nadine Feaster, Director, Grants Administration, CPB