



Corporation
for Public
Broadcasting

Office of the Inspector General

September 30, 2021

To: Jackie J. Livesay, Deputy General Counsel and Vice President, Compliance
Kathy Merritt, Senior Vice President, Radio, Journalism and CSG Services

From: Kimberly A. Howell, Inspector General

Digitally signed by
Kimberly Howell
Date: 2021.09.30
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Subject: Evaluation of KILI-FM Compliance with Selected Communications Act and
Transparency Requirements as of August 9, 2021, Final Report No. ECR2111-2114

We have completed an unannounced evaluation of compliance with selected requirements of the 2021 Corporation for Public Broadcasting (CPB) Community Service Grant (CSG) awarded to KILI-FM (KILI), licensed to Lakota Communications, Inc, Porcupine, South Dakota. Our specific objectives were to verify compliance with twelve requirements of the Communications Act of 1934, as amended (Act) for open and closed meetings and open financial records, as well as the CSG General Provisions and Eligibility Criteria (General Provisions) for transparency as presented in Exhibit A. Background information on the station and CSG program can be found in Exhibit B. Our scope and methodology are discussed in Exhibit C.

Based on our review of KILI's website on July 21st, 2021, we found the station was compliant with five of the nine applicable requirements. Three requirements were not applicable. The station was not fully compliant with the following four requirements:

- to provide seven days advance notice of governing body meetings;
- provide seven days advance notice of Community Advisory Board (CAB) meetings;
- posting most recent CPB Annual Financial Report (AFR) on the station's website; and
- posting members of its CAB on the station's website.

In response to the draft report KILI took corrective actions and is now compliant with posting their most recent AFR and CAB members to the website. Further, management understands the requirement to document advance notice to the public of governing body and CAB meetings.

We recommend that CPB require KILI to fully comply with Act requirements for advance notice of public meetings of both its Board of Directors and CAB; and identify what controls it will implement to ensure future compliance with Act requirements for advance notice of open

meetings and CSG transparency requirements to post its AFR and CAB members on the station website.

Based on KILI-FM's response to the draft report, we consider recommendations one and two unresolved and open pending CPB's final management decision resolving our findings and acceptance of the station's corrective action. The station's response to the draft report is presented in Exhibit D.

This report presents the conclusions of the Office of the Inspector General (OIG) and the findings do not necessarily represent CPB's final position on the issues. While we have made recommendations that are appropriate to resolve the findings, CPB officials will make a final determination on our finding and recommendation in accordance with established CPB audit resolution procedures.

We initiated this evaluation to address station accountability as identified in our Annual Plan. We conducted our evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Inspection and Evaluation*.

cc: Bruce M. Ramer, Chair, CPB Board of Directors
Robert Mandell, Chair, Audit and Finance Committee, CPB Board of Directors
U.S. Senate Committee on Homeland Security and Governmental Affairs
U.S. House of Representatives Committee on Oversight and Government Reform
U.S. Senate Committee on Commerce, Science and Transportation
U.S. House of Representatives Energy and Commerce Committee
U.S. Senate Committee on Appropriations
U.S. Senate Labor-HHS-Education Appropriations Subcommittee
U.S. House of Representatives Committee on Appropriations
U.S. House of Representatives Labor-HHS-Education Appropriations Subcommittee

FINDINGS AND RECOMMENDATIONS

ACT COMPLIANCE

Our review found that KILI was not fully compliant with Act requirements for advance notice of public meetings.

a) Open Meeting – Advance Notice of Board of Directors and CAB Meetings

We found that KILI did not fully comply with open meeting requirements of the Act to provide seven days advance notice to the public for Board of Directors and CAB Meetings.

The Act at 47 U.S.C. Section 396 (k)(4) requires that stations make reasonable advance notice of open meetings to the public.

Funds may not be distributed pursuant to this subsection to the Public Broadcasting Service or National Public Radio (or any successor organization), or to the licensee or permittee of any public broadcast station, unless the governing body of any such organization, any committee of such governing body, or any advisory body of any such organization, holds open meetings preceded by reasonable notice to the public.

Further, CPB’s Communications Act Compliance requirements clarify that stations may satisfy the reasonable notice requirement by doing the following:

Stations may satisfy that requirement by providing at least seven days’ advance notice of an Open Meeting, including the time and place of the meeting by:

1. posting notice on the station’s website;¹
2. broadcasting notice on-air between 6 a.m. and 11 p.m., as shown by station’s log;
3. placing notice in the “Legal Notices” section of a local newspaper in general circulation in the station’s primary coverage area; or
4. giving notice through recorded announcement accessible on the station’s phone system.

CPB’s Communications Act Compliance requirements, I. Open Meetings, E. Notice of Open Meetings (June 2019).

The station manager stated that they have not had regular monthly board meetings during the coronavirus pandemic, but they announce meetings live over the air, several times during the day, a minimum of seven-days prior to meetings. Information on meetings held during 2020 and 2021 were not provided by the station manager.

¹ “Station website,” as defined in the General Provisions, includes the CSG recipient’s station website, if it has one, and if not then its licensee’s website or an affiliated station’s website. If the CSG recipient has none of the foregoing, it may, with CPB’s approval, use a website shared by other public broadcasting stations.

Further, the station did not provide evidence of on-air advance notices given to the public for the Board or CAB meetings (e.g., station logs) and as a result we could not confirm that the station was compliant with advance notice requirements.

TRANSPARENCY REQUIREMENTS

a) Annual Financial Report – Public Access

We found that KILI did not fully comply with the requirement to post the most recent AFR on the station website. The station promptly posted its most recent AFR on its website after we presented our preliminary observations. KILI-FM is now compliant with the open financial records requirement.

CPB's *Compliance 2019* document requires the following:

E. The Public's Access to Financial Information: The Act requires station to make available to the public their annual financial and audit reports and other financial information they are required to provide to CPB. CPB also requires that each CSG recipient post the following documents on its station website: ...

2. Its most recent annual financial report (AFR) or annual financial summary report (FSR) (whichever is applicable).

b) Community Advisory Board – Available for Public Inspection

We found that KILI did not fully comply with the requirement to post the listing of CAB members on the station website. The station promptly posted the list of CAB members on its website after we presented our preliminary observations. KILI-FM is now compliant with the list of CAB members available for public inspection.

CPB's 2021 Radio and Television Community Service Grants General Provisions and Eligibility Criteria require the following transparency requirements (Section 9. for Radio and Section 6. For Television).

B. Documents for Public Inspection: Website Posting Required: At a minimum, each Grantee must post the following for public inspection on its station website.

3. CAB Members: A list of its CAB members;

* * * * *

In summary, the station was not compliant with Act requirements for advance notice of public meetings and transparency requirements to post the AFR and the members of the CAB on its website and may be subject to penalties under CPB's Non-Compliance Policy.

Recommendations

We recommend that CPB management take the following actions, requiring KILI to:

- 1) fully comply with Act requirements for advance notice of public meetings of both its Board of Directors and CAB; and
- 2) identify what controls it will implement to ensure future compliance with Act requirements for advance notice of open meetings and CSG transparency requirements to post its AFR and CAB members on the station website.

KILI Response

In response to the draft report, KILI management acknowledged that its advance notice announcements were not logged in at the time they were made but are committed to both making those live announcements and logging them in and putting a notice on its website to meet requirements. Further, regarding the posting of the AFR and CAB member KILI indicated that it had requested its auditor to provide them with copies of both its annual audit and AFR to post to its website. KILI indicated it had currently posted its CAB members on its website but did not specifically indicate its procedures for updating the listing as members change.

OIG Review and Comment

Based on KILI's response, we consider recommendations one and two unresolved pending KILI actions to document its advance notice announcements and CPB's acceptance of KILI's planned corrective actions.

Exhibit A

**Summary of KILI-FM Website Review
as of August 9, 2021**

| Requirements | Met | Not Met | Unable to Determine |
|--|-----|---------|---------------------|
| Station reviewed: KILI - FM | | | |
| 1) Seven-day advance notice of governing body meeting: | | | |
| a) available on website | | | |
| b) available by other means | | | X ² |
| 2) Seven-day advance notice of board committee meetings: | N/A | | |
| a) available on website | | | |
| b) available by other means | | | |
| 3) Seven-day advance notice of CAB meetings: | | | |
| a) available on website | | | |
| b) available by other means | | | X ³ |
| 4) If closed meetings were held, was documentation prepared explaining the basis for closing meeting in accordance with the Act: | N/A | | |
| a) available on website | | | |
| b) available at central office | | | |
| 5) If closed meeting documentation was prepared, was it available within 10-days of the closed meeting | N/A | | |
| 6) Most recent AFR available on website | | X | |
| 7) Most recent audited financial statements or unaudited financial statements on website | X | | |
| 8) Senior/executive management information on website | X | | |
| 9) Governing body members on website | X | | |
| 10) CAB members on website | | X | |
| 11) Diversity Statement: | | | |
| a) available on website | | | |
| b) available at central office | X | | |
| 12) Most recent Local Service Content Report (Section 6 of the SAS): | | | |
| a) available on website | X | | |
| b) available at central office | | | |

² The station did not provide evidence to support on air announcement of seven-day advance notice of governing body meetings.

³ The station did not provide evidence to support on air announcement of seven-day advance notice of CAB meetings.

Background

KILI-FM, Porcupine, South Dakota, is a public broadcasting station licensed to Lakota Communications, Inc. According to the website, KILI is a non-profit radio station broadcasting to the Lakota people on the Pine Ridge, Cheyenne River, and Rosebud Indian Reservations, part of the Great Sioux Nation & a translator in Rapid City, South Dakota (88.7 FM). The station started broadcasting on February 25, 1983, as the first American Indian-owned radio station in the United States. It seeks to preserve Native American culture and instill pride in the peoples' unique heritage.

CPB's Community Service Grant Program

The Act provides that specific percentages of the appropriated funds CPB receives annually from the United States Treasury must be allocated and distributed to licensees and permittees of public TV and radio stations. CPB distributes these funds through its CSG program. Grant award amounts are based in part on the amount of Non-Federal Financial Support (revenues) claimed by all stations on their Annual Financial Reports and Financial Summary Reports (FSR) submitted to CPB.

In addition to the annual filing of a station's AFR(s) or FSR for radio and/or television, the chief executive of the station and a licensee official annually certify to CPB the station's compliance with Act requirements and selected General Provisions requirements in the legal agreement awarding the station CSG funds.

These certifications specifically address Open and Closed Meetings; Open Financial Records; Community Advisory Board, CPB Employment Statistical Report; and Donor information requirements under Section IV Communications Act Compliance of the agreement. Station officials responsible for closed meetings and the CPB Employment Statistical Report requirements are identified in the grant agreement. The certification also includes Website Postings Required under Section V. Selected General Provisions Requirements of the agreement.

Scope and Methodology

We performed an evaluation of KILI-FM's compliance with selected CSG provisions of the Act and grant certification requirements. Our specific objectives were to verify compliance with selected Act requirements for open and closed meetings and open financial records, as well as Radio Community Service Grants General Provisions and Eligibility Criteria for Transparency. The scope of the evaluation included reviews of the information posted on the station's website as of July 21, 2021, as well as information provided in response to our Preliminary Observations issued on August 2, 2021.

We reviewed documents supporting the station's compliance with the Act requirements to provide advance notice of public meetings; notice of closed meeting reasons; and make financial information available to the public. We also reviewed the station's website and processes to determine its compliance with CPB's transparency requirements for eligibility. We informed station management of our evaluation on August 2, 2021, and we requested additional information to support the station's compliance, including as applicable transparency information maintained at its central office for documents that was required to be made available to the public at its central office if not posted on its website.

We also reviewed CPB's Integrated Station Information System (ISIS) to determine if the evaluated information made available to the public was the most recent information submitted to CPB. In addition, we verified with station management that board and management listings posted to its website were current.

Our fieldwork was conducted from July through August 2021 and our evaluation was performed in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Inspection and Evaluation*.

KILI Radio

PO Box 150 Porcupine, SD 57772 605 685-5533

September 27, 2021

Mr. William J. Richardson III
Deputy Inspector General, Corporation for Public Broadcasting
Office of the Inspector General
401 Ninth Street, NW
Washington, DC 20004

Dear Mr. Richardson,

Thank you for the draft report of your office's review of KILI Radio's adherence to the requirements of the Communication Act and the need for transparency.

In regard to specific problem areas that your office found, 1) although we stated that we announced on air at least seven days ahead of either a Board of Directors meeting or a Community Advisory Board meeting, those announcements were not logged in at the time that they were made; we are committed to both making those live announcements and logging them in and putting a notice on our website at least seven days ahead of a planned Board of Directors meeting or Community Advisory Board meeting.

As to the posting of the station's Annual Financial Report (AFR), I have to take full responsibility for that, I literally didn't know how to take the report off of ISIS and put it up on our website, after our initial discussions, I asked our auditor that when he uploads our annual audit and AFR that he would send me copies of both so we could put them both up on our website. He did and now both the annual audit and AFR are up on our website.

It's not that KILI Radio hasn't had a Community Advisory Board, we just failed to put the CAB up on our website, we have corrected that omission. We have committed community members who feel very strongly about the station and its role as a community radio station. Our current board features members from all geographical areas within the station's broadcast area including Oglala in the west,

Martin in the east, Kyle in the central area and Rapid City in the north covered by our translator. These CAB members support the station but also represent the community and hold us accountable to our listening communities.

More than anything, we appreciate your evaluation. We ask for your help in meeting our requirements so that we are able to continue as a vital community radio station serving our listeners and community members, on and off Pine Ridge Reservation, home of the Oglala Lakota Nation.

If you have the need for any additional information, please feel free to contact me at 605 685-5533 or tcpostrehab@gmail.com.

Respectfully,

Thomas Casey

Station manager/development director