



Corporation
for Public
Broadcasting

Office of the Inspector General

July 13, 2021

To: Jackie J. Livesay, Deputy General Counsel and Vice President, Compliance
Michael Levy, Executive Vice President and Chief Operating Officer
Kathy Merritt, Senior Vice President, Radio, Journalism and CSG Services

From: Kimberly A. Howell, Inspector General

Subject: Evaluation of KIYU-AM Compliance with Selected Communications Act and
Transparency Requirements as of March 25, 2021, Report No. ECR2104-2108

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 KIYU-AM (KIYU), licensed to Big River Public Broadcasting Foundation, Galena, Alaska. 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 KIYU-AM's website on February 24th and March 18, 2021, we found the station was compliant with eight of the eleven requirements applicable. One requirement was not applicable. The station was not fully compliant with the following three requirements to:

- provide seven days advance notice of CAB meetings;
- provide reasons for closed meetings; and
- make reasons for closed meetings available to the public within 10 days.

We recommend that CPB require KIYU to: 1) fully comply with Act requirements for open and closed meetings; and 2) identify the corrective actions it will implement to ensure future compliance with Act requirements for open and closed meetings, as well as, CPB requirements to make closed meeting information available to the public within 10 days of the closed meeting.

In response to the draft report, KIYU management acknowledged that the station was not fully compliant and said that they have taken corrective actions to ensure its future compliance with Act and CSG transparency requirements. Based on KIYU's response to the draft report, we consider our recommendations unresolved pending CPB's final determination on our findings and acceptance of the station's corrective actions. 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 findings and recommendations 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 KIIYU was not fully compliant with Act requirements for advance notice of public meetings and reasons for closed sessions of public meetings.

a) Open Meeting – Advance Notice

We found that KIIYU did not fully comply with open meeting requirements of the Act to provide seven days advance notice to the public. For the most recent Community Advisory Board (CAB) meeting, held on November 23, 2020, KIIYU provided evidence of four days advance notice for the meeting that discussed KIIYU business.

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 website¹;
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).

A station official stated that open meeting advance notices were posted on the Yukon Wireless page on the station's website. For the most recent KIIYU CAB meeting on November 23, 2020, a

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.

station official provided evidence of four-day advance notice of the meeting but no additional documentation to support it met the seven-day advance notice requirement. A station official stated that a good faith effort was made to stay in compliance.

The station was not fully compliant with advance notice requirements and the public did not have seven days advance notice of the most recent KIYU CAB meeting that discussed KIYU business.

b) Reasons for Closed Meetings

We found that KIYU did not comply with closed meeting requirements of the Act to provide a basis for closing part of a meeting and making that reason available to the public within ten days.

CPB's Communications Act Compliance requirements clarify when stations may close a meeting:

When may a meeting be closed? The Act allows stations to hold Closed Meetings, or to close an Open Meeting, when discussing any of the following:

1. matters concerning individual employees;
2. proprietary information;
3. litigation and other matters requiring confidential advice of counsel;
4. commercial or financial information obtained from a person on a privileged or confidential basis; or
5. the purchase of property or services, if the premature disclosure of the transaction would compromise the station's business interests.

§396(k)(4)

CPB's Communications Act Compliance requirements, II. Closed Meetings, B. When may a meeting be closed? (June 2019).

The Act requires that stations document the reason(s) for closed meetings and make the reason(s) available to the public within a reasonable time after the closed meeting. Further, CPB's Communications Act Compliance requirements clarify that stations may satisfy the reasonable notice requirement by posting within ten days of the meeting:

C. Closed Meeting Documentation: The Act requires stations to document and make available to the public the specific reason(s) for closing a meeting within a reasonable time after the meeting. CPB also requires that the written statement be made available for inspection, either at the CSG recipient's central office or posted on its station website, within 10 days after each closed meeting.

CPB's Communications Act Compliance requirements, II. Closed Meetings, C. Closed Meeting Documentation (June 2019).

The most recent Board meeting that had a closed session occurred on August 26, 2020. A station official stated that a written statement for closing part of the meeting was included in the agenda.

The agenda was posted in high trafficked locations in Alaskan villages (e.g., community boards in grocery stores and post offices). However, a station official stated the language used in the written statement, for the reason for the closed session, was not in compliance with the Act requirement. In addition, the station did not comply with the Act requirement to make the written statement available to the public by either posting it on the station's website or making it available for inspection at the central office.

KIYU did not comply with closed meeting requirements of the Act to provide a basis for closing part of a meeting and making that reason available to the public within ten days.

In summary, the station was not compliant with Act requirements for advance notice of public meetings and providing the reasons for closing a meeting at the time of our review and may be subject to penalties under CPB's Non-Compliance Policy.

Recommendations:

We recommend that CPB management take the following actions, require KIYU to:

- 1) fully comply with Act requirements for open and closed meetings; and
- 2) identify what controls it will implement to ensure future compliance with Act requirements for advance notice of open meetings and reasons for closed meetings, and CPB requirements to make closed meeting information available to the public within 10 days of the closed meeting.

KIYU Response:

In response to the draft report, KIYU management agreed that there were instances where the station was not fully compliant with Act requirements for advance notice of a public meeting and posting reasons for a closed meeting within 10 days of the meeting. Station officials stated that they have taken corrective action to comply with open and closed meeting requirements by creating a "compliance" page that is linked on the station's website.

OIG Review and Comment:

After reviewing the station's response, we confirmed that the station created a "compliance" page that is linked on the station's website. On the page, we found links to the station's Local Content and Services Report, the most recent Financial Summary Report (FSR), unaudited financial statements, diversity statement, and public meeting information. The public meeting information link contained information on past meetings. A station official stated that upcoming meetings will be added to the public meeting information link to provide advance notice and agendas will be posted for meetings with closed sessions, which will include the reason for closing a portion of the meeting.

Based on KIYU management's response to the draft report, we consider recommendations one and two unresolved and pending CPB's final determination on our findings and acceptance of the station's corrective action.

Exhibit A

Summary Review of KIYU-AM as of February 24, 2021 and March 18, 2021

Requirements	Met	Not Met	Unable to Determine
1) Seven-day advance notice of governing body meeting:			
a) available on website	X		
b) available by other means			
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 Community Advisory Board meetings:			
a) available on website			
b) available by other means		X	
4) If closed meetings were held, was documentation prepared explaining the basis for closing meeting in accordance with Act:			
a) available on website			
b) available at central office		X	
5) If closed meeting documentation was prepared, was it available within 10-days of the closed meeting		X	
6) Most recent Annual Financial Report or Financial Summary Report available on website	X		
7) Most recent audited financial statements or unaudited financial statements available 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) Local Service Content Report (Section 6 of the SAS):			
a) available on website			
b) available at central office	X		

Background

KIYU is a noncommercial radio broadcasting station licensed to Big River Public Broadcasting Corporation, Galena, Alaska. The station provides locally produced and network public programming for residents of rural Alaska. The station receives a significant amount of funding from pull-tab gaming activities, the Alaska Public Broadcasting Commission, the Corporation for Public Broadcasting, and from membership revenues.

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 (AFR) or 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 KIYU-AM'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 February 24th and March 18, 2021, and information retained at the station's central office provided to us on March 25, 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 March 22, 2021, and requested additional information to support the station's compliance, including, as applicable, transparency information maintained at its central office for documents that are 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 February through March 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*.



Big River Public Broadcasting Inc.

907.656.1488 ~ Fax 907.656.1734 ~ raven@kiyu.com

June 10, 2021

To Whom It May Concern:

This is a response for Big River Public Radio to the recent compliance audit performed by the Office of Inspector General on the dates of February 24, 2021 and March 8, 2021. We acknowledge that the station was not fully compliant on posting reasons for a closed meeting within 10 days of a meeting having occurred. We also agree that we have a meeting in question that was posted 4 days prior to the meeting as opposed to the required 7 days.

In order to mitigate this from happening again and ensuring proper documentation of future meetings and documents we have created a 'compliance page' on our front page where future board meetings and required documents will be linked to in order to make this information available, up to date and documented for the future. The link can be seen at the following URL:

<https://www.kiyu.com/compliance.html>

We have put into place systems that will ensure we fully comply with the Open/Closed meeting requirements, especially now that we are fully aware of the need to report and document all reasons for a closed meeting.

If you have any further questions regarding this matter please contact us and we thank you for the opportunity to continue growing in the area of compliance as we take this subject very seriously and strive to steward our public resources well.

Sincerely,

A handwritten signature in black ink, appearing to read "Austin Roof".

Austin Roof
General Manager
Big River Public Radio