



OIG Office of Inspector General
U.S. Department of State • Broadcasting Board of Governors

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December 8, 2015

The Honorable Jeffrey Shell
Broadcasting Board of Governors
Chairman
330 Independence Ave, SW, Room 3360
Washington, DC 20237

Mr. John Lansing
Broadcasting Board of Governors
Chief Executive Officer and Director
330 Independence Ave, SW, Room 3360
Washington, DC 20237

Dear Mr. Shell and Mr. Lansing:

Enclosed for your information and review is the Office of Inspector General (OIG) for the Department of State and the Broadcasting Board of Governors (BBG), *Management Assistance Report: Mandatory Disclosure Language in Broadcasting Board of Governors Grants and Assistance Agreements* (INV-15-03). It was prepared by the OIG's Office of Investigations, under the Inspector General's continuing responsibility to assist management through independent reviews of BBG operations. Please provide comments to this report within 10 business days of receipt.

The official response should be signed, dated, and printed on letterhead, and should indicate agreement or disagreement with the recommendation. If the response indicates disagreement with the recommendation, it should provide the reasons for disagreement, propose an alternate remedy to address the findings, and provide all documents relevant to your response. Please have your staff send an electronic copy of the official response to me, Geoffrey Cherrington, Assistant Inspector General for Investigations, at [Redacted] (b) (6) [@state.gov](mailto:[Redacted]@state.gov).

To ensure that OIG's work products are timely and responsive to its stakeholders, OIG policy is to issue final reports without comments if the comments are not received by the date requested.

OIG appreciates the cooperation and assistance provided by your staff. If you have any questions, please contact me at [Redacted] (b) (6) [@state.gov](mailto:[Redacted]@state.gov).

Sincerely,

Geoffrey A. Cherrington
Assistant Inspector General for Investigations

Enclosure: As stated.



OIG

Office of Inspector General

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INV-15-03

Office of Investigations

December 2015

Management Assistance Report: Mandatory Disclosure Language in Broadcasting Board of Governors Grants and Assistance Agreements

MANAGEMENT ASSISTANCE REPORT

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Summary of Report

During the course of investigative work related to Lead Inspector General for Overseas Contingency Operations (LIG-OCO) efforts, the Office of Inspector General (OIG) for the Department of State (Department) and the Broadcasting Board of Governors (BBG) identified opportunities to strengthen the requirements for reporting fraud, waste, and abuse related to grants, cooperative agreements, and other Federal assistance awards.

BACKGROUND

OIG's Office of Investigations is performing an assessment to proactively gather and analyze information related to grant funding of Operation Inherent Resolve as part of the LIG-OCO Congressional mandate. A portion of this assessment concerned the review of line nine, *Humanitarian Support*, of the Administration's comprehensive nine lines of effort strategy to counter the Islamic State of Iraq and the Levant (ISIL), with our focus on the crisis in Syria and Iraq. This support was in the form of grants, cooperative agreements, and other Federal assistance awards. A BBG grant agreement was included in this assessment.

FINDINGS

The Code of Federal Regulations (CFR) provides guidance to Federal agencies on how to administer grants, cooperative agreements, and other Federal assistance awards. Part 200 of 2 CFR establishes certain uniform requirements for Federal assistance awards. One of these requirements is stated in 2 CFR Section 200.113 (December 26, 2014), and mandates certain disclosures:

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and condition outlined in Appendix XII-Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in §200.338 *Remedies for noncompliance*, including suspension or debarment. (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

OIG's assessment of the BBG grant agreement reviewed found that the mandatory disclosure provision in 2 CFR Section 200.113 is incorporated by reference into amendment number one (1) to the grant agreement. The amendment language incorporates the Office of Management and Budget (OMB) *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for*

Federal Awards (the so-called “Super Circular”), codified at 2 CFR Part 200, et seq., which consolidates and streamlines eight Federal regulations (including OMB Circulars A-110, A-122, and A-133). However, the requirement of 2 CFR Section 200.113 is not specifically referred to, cited, or set forth expressly.

Amendment number 1 includes a section entitled, “The Parties hereby agree as follows.” Paragraph 6 of that section states that:

“The terms and conditions of the Office of Management and Budget (OMB), *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, codified at 2 CFR 200, et seq., are hereby incorporated into the Grant Agreement. Any reference to OMB Circular A-110, A-122, or A-133 shall heretofore refer to the corresponding section of these Uniform Requirements which supersedes such regulations as of December 26, 2014.”

The disclosure requirement in section 200.113 is vital for grantees to know. Therefore, it would improve BBG grant agreements if the requirements related to mandatory disclosures were stated in full in the grant agreement or an attachment, similar to what has been done for other important topics. Placing the grant recipients on notice of the requirement to report violations of Federal criminal law could enhance detection and investigation of fraud, bribery and gratuity violations in BBG grant agreements.

In addition, the requirement for mandatory disclosure could be further strengthened by implementing a best practice identified at the U.S. Agency for International Development (USAID). Specifically, in its *Standard Provisions for U.S. Nongovernmental Organizations*— USAID includes a variation of the mandatory disclosure clause, requiring that the USAID OIG be notified of all potential fraud related to the grant or cooperative agreement award.

Specifically, USAID uses the following clause:

Consistent with 2 CFR §200.113, applicants and recipients must disclose, in a timely manner, in writing to the USAID Office of the Inspector General, with a copy to the cognizant Agreement Officer, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Sub-recipients must disclose, in a timely manner, in writing to the USAID Office of the Inspector General and to the prime recipient (pass-through entity) all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.338 *Remedies for noncompliance*, including suspension or debarment (See 2 CFR 180, 2 CFR 780 and 31 U.S.C. 3321).¹

¹ USAID highlights this specific section in its *Standard Provisions for U.S. Nongovernmental Organizations* in order to identify it as a new requirement.

According to USAID officials, including this revised requirement in grant and cooperative agreements has resulted in increased reporting from its grant and cooperative award recipients of potential civil, criminal, and administrative issues.

RECOMMENDATIONS

Recommendation 1: OIG recommends BBG include the complete citation for 2 CFR 200.113, *Mandatory Disclosure*, in all grants and attachments, cooperative agreements, and other Federal assistance awards.

Recommendation 2: OIG recommends BBG insert the following language in all grants and attachments, cooperative agreements, and other Federal assistance awards:

"Consistent with [2 CFR §200.113](#), applicants and recipients must disclose, in a timely manner, in writing to the Office of Inspector General (OIG) for the Department of State and the Broadcasting Board of Governors, with a copy to the cognizant Grants Officer, all violations of Federal criminal law involving fraud, bribery, or illegal gratuities potentially affecting the Federal award. Sub-recipients must disclose, in a timely manner, in writing to the OIG and to the prime recipient (pass-through entity) all violations of Federal criminal law involving fraud, bribery, or illegal gratuities potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in §200.338 *Remedies for noncompliance*, including suspension or debarment.

Disclosures must be sent to:

U.S. Department of State Office of Inspector General, P.O. Box 9778, Arlington, VA 22219. Website: <https://oig.state.gov/hotline>
Phone: 1-800-409-9926 or 202-647-3320

Recommendation 3: OIG recommends BBG amend all active grants, cooperative agreements, and other Federal assistance awards to include the language cited in recommendations 1 and 2 *supra*.



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OIGWPEAOmbuds@state.gov