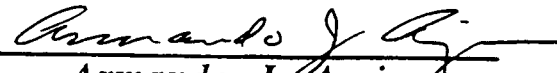


CORPORATION FOR PUBLIC BROADCASTING
OFFICE OF INSPECTOR GENERAL

COMPLIANCE AUDIT
of
PACIFICA FOUNDATION
BERKELEY, CALIFORNIA
AUDIT REPORT No. 97-01

APRIL 9, 1997


Armando J. Arvizu
Inspector General

EXECUTIVE SUMMARY

PURPOSE AND OBJECTIVE

On July 11, 1996, members of a California organization, known as 'Take Back KPFA,' filed with the Office of Inspector General a complaint regarding Pacifica Foundation, owner and operator of a network of local public radio stations. The complaint alleged that the Pacifica Foundation, headquartered in Berkeley, California, had failed to comply with the 'open board meetings' and 'advisory board' provisions of the Communications Act, and consequently, the public had not been able to effectively voice its concerns regarding operations and programming by the Berkeley local station, KPFA.

We reviewed Pacifica Foundation's operating procedures pertaining to the governing board and local advisory boards, and minutes of their meetings to determine if the Foundation had been complying with provisions of the 1934 Communications Act, as amended.

AUDIT SCOPE

We performed the audit at the Pacifica Foundation during March 24-28, 1997. The audit included reviews of minutes taken at meetings held by Board of Directors and the KPFA Local Advisory Board since May 1994. We also reviewed the minutes taken at four strategic planning sessions conducted by the Board of Directors since March 1996; the planning sessions were conducted in conjunction with the scheduled board meetings.

We reviewed policies and procedures for announcing board meetings to the public and for conducting governing and advisory board meetings. We interviewed members of Pacifica's Board of Directors, KPFA's Local Advisory Board, and members of Take Back KPFA.

AUDIT RESULTS

We noted a strong willingness by the Pacifica Board of Directors, the Executive Director, and staff to continually improve the organization; however, the Foundation had not been adhering to all Communications Act provisions it had agreed to follow when accepting CPB funding. Specifically,

- The limited documentation available on public announcements made for Board of Directors meetings reflected that announcements were being made only in the city where the meeting was being held, and not in the other four cities where Pacifica had stations;
- The documentation available on two public announcements reflected the time periods for the entire Board proceedings, but did not state the time reserved for Public Comment;
- The public was not being offered the opportunity to observe Board of Directors deliberations as all board sessions were being held in closed session, with the exception of one hour for Public Comments;
- The Foundation had not been issuing written notices to the public to provide the reasons for holding closed Board meetings; and
- The advisory boards were not being provided with the autonomy they needed to perform their functions. Advisory Boards had not been advising the Board of Directors.

AUDIT PROCEDURES

PURPOSE AND OBJECTIVES

We audited Pacifica Foundation's records pertaining to the Board of Directors and the five Local Advisory Boards to determine if provisions of the Communications Act were being followed, a condition for continued funding by the Corporation for Public Broadcasting.

Section 396(k)(4) of the Act specifies, in part, that "Funds may not be distributed pursuant to this subsection 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 such organization, holds open meetings preceded by reasonable notice to the Public."

Regarding advisory boards, Section 396(k)(8) of the Communications Act states that, "The board shall be permitted to review the programming goals established by the station, the service provided by the station, and the significant policy decisions rendered by the station. ... The board shall advise the governing body of the station with respect to whether the programming and other policies of such station are meeting the specialized educational and cultural needs of the communities served by the station, and may make such recommendations as it considers appropriate to meet such needs."

SCOPE AND METHODOLOGY

We reviewed the following Pacifica Foundation records:

- The file of documents being made available to the public;
- Minutes taken at Board of Directors meetings held since May 1994;
- Minutes taken at four Board of Directors retreats held since March 1996;
- Minutes taken at KPFA Local Advisory Board meetings held since March 1994; and
- Various Board of Directors memoranda issued to the Local Advisory Boards.

We discussed operating policies and procedures with the Foundation's Executive Director and staff. We also conducted personal and phone interviews with members of the Board of Directors, the KPFA Advisory Board, and members of Take Back KPFA.

AUDITOR

The audit was performed by Armando J. Arvizu, CPA, CIA, in accordance with generally accepted government auditing standards.

AUDIT RESULTS

I. STRONG INTEREST IN IMPROVING PACIFICA'S STRUCTURE

Any network of radio stations, such as Pacifica, needs strong, central leadership when it comes to organizational and operational matters. Pacifica is improving its central management in those areas. In our review of governing board minutes and discussions with the Executive Director and her staff, we noted a strong interest in improving Pacifica's organizational structure, listener ratings, and financial status. For the last year, the governing board and the staff have undertaken efforts to prepare a strategic plan and place it into effect.

One recent improvement has been the initiation of phone conferences between the Board of Directors Chairman and the five Advisory Board Chairmen to ensure better flow of information.

Another positive step was to discontinue the practice of allowing station personnel to serve as members of the Board of Directors. We agree that the governing board is to be independent of operational matters.

According to the Executive Director and documentation for the June 23, 1996 and January 26, 1997 meetings, the announcements were being made only in those cities where the meetings were to be held. The Executive Director readily agreed that since Pacifica has stations in five cities, that the public in all five cities needed to be informed regarding upcoming board meetings and the locations.

Because of the relative proximity of Berkeley and Los Angeles, as well as Washington, DC and New York City, listeners in those areas could attend board meetings in either city. The five to seven days notice of meetings may not be sufficient time for listeners living outside the immediate area to make arrangements to attend.

The two available announcements did not provide the times for the open sessions, or any contact person who could provide additional information. The June 23, 1996 and January 26, 1997 newspaper announcements stated that the governing board meetings were to held from 8:30 AM to 12:30 or 1:30 PM; however, only one hour of those stated time frames were to be open to the public. The June 16, 1996 and January 21, 1997 newspaper announcements read as follows:

"Notice is hereby given for the Pacifica Foundation Board of Directors' (National) Meeting in Washington, DC on Sun. June 23, 1996 at the Hotel Sofitel from 8:30 am-1 pm to discuss agenda and related issues."

"Notice is hereby given of a meeting of the National Board of Directors of the Pacifica Foundation in Galveston, Texas on Sunday, January 26, 1997 from 8:30 AM-12:30 PM. The meeting will take place at the Hotel Galvez, ... for the purpose of transacting matters of the agenda and any other matters which come before the Directors of the Corporation."

In what may be an isolated case, the time scheduled for the Public Comment session at the September 30, 1995 Board meeting was changed at the last minute. A representative of Take Back KPFA claimed attending the Board of Directors meeting in Houston on September 30, 1995 and obtaining a meeting agenda that morning. The agenda reflected that the Public Comment session was to be held from 5:00 to 6:00 PM that same day. However, according to the representative, the Board actually started the comment period about three hours earlier than scheduled. The representative claimed pointing out to the Board that other people may have wanted to attend the Public Comment session expecting it would be held at the originally scheduled time. In our review of Board minutes, we confirmed that the Board held two Public Comment sessions on September 30, 1995.

CONCLUSION

Pacifica had not been providing adequate notice of pending governing board meetings to the public. However, we did see a willingness by the Executive Director to make the appropriate changes.

RECOMMENDATION

The Pacifica Foundation Executive Director should ensure that public notices of pending governing board meetings are made in all five cities where stations are located, with sufficient advance notice for members of the public to make arrangements to attend. Also, public notices should include the time for the open sessions. Proper documentation on public announcements should be maintained.

violence and written hate materials directed against the staff. Members of Take Back KPFA claimed they had not committed any acts of violence, and that they had even called the Police Department to determine what incidents Pacifica had claimed. The Pacifica staff did acknowledge that there were other groups who did not agree with Pacifica's methods of operation.

While we care for the safety of Pacifica volunteers and staff, and are sympathetic to their feelings, provisions of the Communications Act were not being met. The issue of violent acts against the staff cannot be addressed by closing all governing board deliberations.

PACIFICA PROTECTIVE OF ITS DOCUMENTS

We found that with the exception of a public file containing financial statements, IRS reports, and CPB Station Activity Reports, Pacifica held all other documents as confidential. The Executive Director stated that Board minutes are not released to the public. While the Communications Act does not address the release of governing board minutes to the public, such releases would be beneficial to the public because of the rotation of Board of Directors meetings. The public in any of the five cities may not be able to attend a board meeting for as long as two years, so the availability of minutes would be helpful. For example, a Board of Directors' meeting had not been held in Berkeley since February 1995.

The minutes would also be helpful for the Local Advisory Boards. One member of the KPFA Local Advisory Board informed us that the Board had not been receiving copies of Board of Directors minutes. KPFA Advisory Board members who are also members of the Board of Directors do not routinely brief the Advisory Boards regarding Board of Directors deliberations.

Only one set of minutes were being prepared for both the closed and open Board sessions. The minutes did not provide start or adjourning times, nor whether sessions were held in executive session and/or open session.

Even though Inspector General workpapers are classified as confidential and are protected at all times, we were not allowed to make copies of board minutes or remove the minutes from the room. We were initially denied access to the May and October 1994 board minutes, since we had specifically requested them when coordinating our visit through Pacifica's attorney. All documents released to us had to first be cleared with the Executive Director. We were denied access to the board meeting 'books' and minutes of meetings held by the governing board's executive committee. We were later given copies of Board meeting agendas and listener ratings.

CONCLUSIONS

Pacifica has not complied with Communications Act requirements for openness of governing board deliberations.

RECOMMENDATIONS

Pacifica's Board of Directors should allow the public to observe all board deliberations, with the exceptions of those subjects specifically authorized by the Communications Act. Governing board minutes of open sessions should be made available to the public and advisory board members.

V. PUBLIC ANNOUNCEMENTS
FOR KPFA ADVISORY BOARD MEETINGS

BACKGROUND

The requirements to announce advisory board meetings are the same as those for governing board meetings. The public is to be given reasonable notice, to include time and place.

REASONABLE NOTICE BEING PROVIDED

There was no documentation available at the Foundations's national office regarding public announcements for KPFA advisory board meetings; however, the Executive Director and a member of the KPFA Advisory Board explained that the meetings were announced over the air and in KPFA's program guide. Advisory Board members also felt their meetings were well advertised. Minutes of the advisory board meeting show that the meetings have been well-attended.

We determined that KPFA Advisory Board meetings are also open to the public. The KPFA Advisory Board showed its willingness to listen to community concerns during the July 12, 1995 meeting when 22 members of the public expressed concerns regarding announced changes in KPFA programming. The Advisory Board scheduled a special meeting on August 30, 1995 to hear the public's concern. Pacifica's staff members indicated to us that some 400 people attended the session. Minutes were not taken at the meeting, and there were no reports made to indicate actions taken as a result of that special session.

CONCLUSION

KPFA Advisory Board Meetings are well-advertised and the meetings are open to the public.

programming changes. The Programs Standards Committee emphasized to the Board of Directors that they and the local boards had to publicly support the programming changes. Members were asked to be positive about the changes, when asked to comment.

The KPFA Advisory Board was informed of pending programming changes on November 9, 1994, when the KPFA General Manager reported that, "The KPFA staff is ready to implement the pending changes in programming, and ... intend to effect these changes slowly, and to build audience levels day-by-day, show-by-show, rather than by making mass changes." According to the July 12, 1995 KPFA Advisory Board meeting minutes, the General Manager "briefly explained the reasons for and the mechanism used to implement [the] new program schedule that will take effect on August 1." Twenty-two members of the public attended the meeting to express concern over the pending programming changes. Based on the level of concern expressed, the Board Chairman scheduled a public hearing for August 30, 1995; that session was attended by an estimated 400 people. However, minutes were not taken at the August 30, 1995 public session, and there was no indication of any action taken as a result.

CHANGES ACTUALLY DIRECTED BY EXECUTIVE DIRECTOR

The Executive Director informed us that *she* had directed the 1995 programming changes that caused so much concern at all five stations; she was interested in increasing listening ratings. The five Advisory Boards had been left out of the loop. The Executive Director had good intentions, but failed to involve the local advisory boards to review listener preferences. While we agree with the Executive Director that the KPFA Advisory Board may have been mistakenly occupied with such operational matters as reviewing nominations for a new station manager and technical matters, we believe that the KPFA Advisory Board had sufficient time and experience to review community programming needs through its Community Needs Committee. Station management and staff had worked on programming changes for nine months so there had been time to involve the KPFA Advisory Board.

UNDUE INFLUENCE ON THE LOCAL ADVISORY BOARD

The Pacifica Board of Directors, the Executive Director, and Station Managers had exerted too much influence on the local advisory boards. At the October 1994 Board of Directors meeting, the Executive Director reported to the Board that station general managers "must be in charge of Local Advisory Boards. The advisory boards are in place to assist in the work of the stations." At that same meeting, the Board amended the job descriptions of station managers to read: "To choose, manage and guide the work of Station Advisory Boards. (Clarifying the work of the Board.) The work of the Advisory Boards is to ensure that National Board policy is implemented; to assist the manager in preparation of and oversight of station plans and budgets; to review proposals involving the station; and to do community needs assessment and evaluate the overall performance of the station...."

In a July 12, 1995 Board Executive Committee memo to the Local Advisory Board, the Committee stated that in October 1994 the Board of Directors had mandated that station managers re-configure programming to better serve core listeners in each signal area, to develop more relevant and professional programming, and to increase the audience. The memo also stated that station managers and program directors had the authority to make such alterations without the approval or disapproval of the Local Advisory Boards.

work that is the purview of the LABs and which no other body is capable of performing.”

However, of the ten job responsibilities being assigned to local advisory boards in the policy statement the Secretary was attaching to her memo, the following four responsibilities still did not meet Communications Act criteria as they force advisory boards to continue performing operational duties:

- “1. To assist in raising money through direct financial contributions and in collaboration with the station.”
- “6. To annually advise the Governing Board of LAB performance and the roster of the LAB.”
- “9. At the direction of the Executive Director, to participate in the annual evaluation of the General Manager.”
- “10. At the direction of the Executive Director, to participate in the search for the General Manager.”

STATION STAFF SERVING ON ADVISORY BOARDS

Until recently, station personnel had been able to serve on local advisory boards. The Board of Directors changed that policy during its January 1997 meeting. The new policy statement on local advisory boards stated that “CPB staff have indicated that service of station personnel on the LAB is a clear conflict of interest.” We could not validate that any CPB member had stated that station staff members could not serve on advisory boards.

According to CPB’s Office of Systems and Station Development, station personnel may serve on an ex-officio basis, as they can be a valuable resource to the local advisory boards.

CONCLUSION

The Pacifica Foundation Advisory Boards were not been allowed the autonomy needed to perform the role envisioned by the drafters of the Communications Act. The drafters envisioned the advisory boards as separate boards to serve as an effective way for the public to participate in the planning and decision making.

RECOMMENDATIONS

The Pacifica Board of Directors should relieve the advisory boards of all operational matters, and allow those boards the autonomy needed to assess the needs of the communities and formally report their recommendations to the Board of Directors. Local Advisory Board members should not be threatened to blindly support Pacifica and local station policies and procedures, as well as their programming.