

# Special Report

## Arkansas Legislative Audit

### Review of Selected Expenditures, Procurements, and Other Matters

#### Arkansas Educational Television Commission/Arkansas PBS

For the Period July 1, 2021 through December 31, 2023



## INTRODUCTION

This report is issued in response to a request, approved by the Legislative Joint Auditing Committee (LJAC), for Arkansas Legislative Audit (ALA) to examine processes and procedures of the Arkansas Educational Television Commission (AETC), which is doing business as Arkansas PBS,<sup>1</sup> subsequent to the audit report issued by ALA for fiscal year 2022. The Schedule of Findings and Responses sections from the fiscal year 2022 and 2023 audit reports are included in **Appendix A** and **Appendix B**, respectively.

## OBJECTIVES

The objectives of this review were to:

- Review internal controls and processes surrounding expenditures and procurements for adequacy.
- Assess expenditures and procurements for compliance with Arkansas laws, rules, and guidelines.
- Analyze recent staffing levels of Arkansas PBS.
- Review processes and controls surrounding compliance with Federal Communications Commission (FCC) requirements.

## SCOPE AND METHODOLOGY

The review was conducted primarily for the period July 1, 2021 through December 31, 2023. ALA staff reviewed reports obtained from the Arkansas Administrative Statewide Information System (AASIS), particularly those related to expenditures and employment records; examined supporting documentation; and interviewed current and former employees of Arkansas PBS.

## BACKGROUND

### Creation and Governance

AETC was created by Act 198 of 1961 for the purpose of making educational television available to Arkansas citizens, and Act 38 of 1971 merged AETC into the Department of Education. As a result of Act 910 of 2019, the existing Department of Education was renamed Division of Elementary and Secondary Education (DESE) and placed under the cabinet-level Department of Education (ADE); however, AETC has continued to operate independently of both DESE and ADE. AETC is governed by a commission composed of eight members appointed by the Governor for eight-year terms and charged with controlling and supervising the use of channels reserved by the FCC for Arkansas for non-commercial educational use. Currently, Arkansas PBS provides public television broadcast coverage to the majority of the State, as shown in **Exhibit I on page 2**.

<sup>1</sup>AETC is the name established for the Agency under state law, while Arkansas PBS is the “brand name” under which daily operations and programming occur. Prior to February 28, 2020, Arkansas PBS was known as the Arkansas Educational Television Network (AETN).

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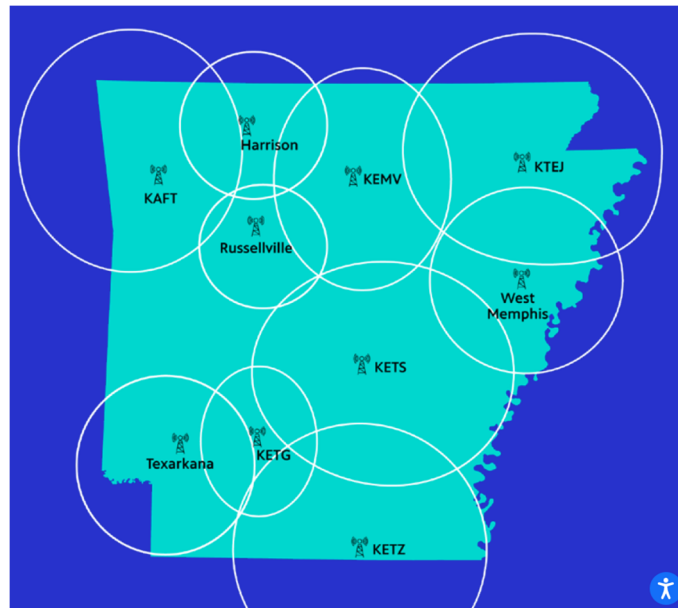
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## Exhibit I

Coverage Area for Arkansas PBS Channels



Source: Arkansas PBS website (<https://www.myarkansaspbs.org/find-your-station>) (unaudited by Arkansas Legislative Audit)

### Selected Arkansas PBS Programs and Projects

#### ArkansasIDEAS

ArkansasIDEAS (Internet Delivered Education for Arkansas Schools) is a partnership between Arkansas PBS and ADE-DESE to provide online professional development resources and courses for K-12 educators throughout the State. Licensed educators are provided with full access to ArkansasIDEAS free of charge. Resources for paraprofessionals, pre-licensed educators, and support staff are also available. ArkansasIDEAS currently offers over 700 professional development courses and has over 84,000 registered users.

#### Rise and Shine

The Rise and Shine project was funded by \$3 million in grants, awarded to Arkansas PBS by ADE-DESE, from federal Coronavirus Aid, Relief, and Economic Security (CARES) Act and American Rescue Plan Act (ARPA) funding. Aligned with state academic standards, Rise and Shine was designed to mitigate potential learning loss for students in pre-K through 5th grade during school breaks, especially during the COVID-19 pandemic. Rise and Shine programming features lessons presented by Arkansas teachers and reinforces learning in key subjects, including literacy, math, science, and social studies. Rise and Shine aired for three seasons, during calendar years 2021-2023, and lessons remain available on the Arkansas PBS website.

#### K-2 Children's Program (K-2)

Arkansas PBS was awarded a maximum of \$4.3 million from ADE-DESE for the K-2 Children's Program, a program designed to boost learning for students in kindergarten through 2nd grade. Created in partnership with ADE-DESE, this programming is tailored to Arkansas academic standards critical for strengthening key skills and mitigating learning loss in the areas of social studies and science. One project within this program is the *K-2 Mystery League* show, which consists of a 20-episode live-action series produced by Arkansas PBS. The series involved approximately 80 actors and was filmed at multiple locations throughout the State.

## Sports Broadcasting

In August 2018, Arkansas PBS entered into a partnership with the Arkansas Activities Association (AAA) to broadcast AAA-sanctioned high school football and basketball tournament and championship events for school classifications 1A-7A, effective for the 2018 high school football state finals. In 2023, Arkansas PBS broadcast a total of 30 high school championship games for baseball, softball, basketball, football, and volleyball from various locations around the State. Arkansas PBS contracts with an outside vendor for crews, cameras, equipment rental, and other services needed to broadcast sports events.

## Other

Other original programs airing on Arkansas PBS stations or streaming on its website include, but are not limited to, Arkansas Quiz Bowl, Arkansas Citizens Access Network (AR-CAN), Blueberry's Clubhouse, Arkansas Treasures, and Arkansas Week. According to press releases from Arkansas PBS, 15 of its programs and projects received regional/national awards in 2022 and 2023, and many others were nominated.

## **Sources of Funds**

Funding for Arkansas PBS activities comes from multiple sources, including, but not limited to, general revenues, federal grants, the Corporation for Public Broadcasting (CPB),<sup>2</sup> the Arkansas PBS Foundation, production revenues, and transfers from other state agencies.

## **RESULTS OF REVIEW**

### **Objective 1: Review Internal Controls and Processes Surrounding Expenditures and Procurements for Adequacy**

Generally, Arkansas PBS is required to adhere to the State's Financial Management Guide and Procurement Manual, issued by the Department of Finance and Administration (DFA) and Department of Transformation and Shared Services – Office of State Procurement (DTSS-OSP), respectively. In November 2018, Arkansas PBS contacted OSP and received guidance regarding the interpretation of Arkansas Code sections pertaining to competitive bidding and requirements for reporting and presenting service contracts to the General Assembly. OSP clarified that if an agency enters into two contracts to cover one project, with each contract under the threshold for obtaining a bid or reporting a contract, the agency has engaged in an unallowable "split purchase."

During the review period, Arkansas PBS did not have formal written internal controls over contracts or a clear definition of what constitutes a "project" for procurement purposes. Without adequate and consistent guidelines, a project could be construed either as an entire season of a broadcast series or as a single episode of the series. For example, Arkansas PBS considered broadcasting of the high school basketball playoffs to be one project, broadcasting of high school football playoffs to be another project, etc. Subsequent to the term "project" being clarified, Arkansas PBS began considering high school sports broadcasting to be one project around September 2023.

The Chief Fiscal Officer (CFO) of Arkansas PBS was in the process of creating and implementing the Arkansas PBS Procurement Guide and was conducting training with Arkansas PBS personnel prior to resigning on February 1, 2024. Specifically, Arkansas PBS held formal roundtable training with employees in January 2024, at which the CFO asked employees to provide scenarios and feedback regarding the revised draft of the internal procurement manual. The Arkansas PBS Procurement Guide was implemented as of February 14, 2024, and in this Guide, individual episodes/segments are considered components of an overall project for procurement purposes.

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<sup>2</sup> The Corporation for Public Broadcasting (CPB), a private, nonprofit corporation authorized by Congress in the Public Broadcasting Act of 1967, is the steward of the federal government's investment in public broadcasting and the largest single source of funding for public radio, television, and related online and mobile services. CPB does not produce programming and does not own, operate, or control any public broadcasting stations.

**Objective 2: Assess Expenditures and Procurements for Compliance with Arkansas Laws, Rules, and Guidelines**

Exhibit II summarizes disbursements made during the review period, and disbursements for four major projects (IDEAS, Rise and Shine, K-2, and sports broadcasting) are summarized in Exhibit III.

**Exhibit II**  
**Arkansas PBS**  
**Disbursements by Fiscal Year**  
**For the Period July 1, 2021 through December 31, 2023**

	Fiscal Year			Total
	2022	2023	2024*	
Disbursements	\$ 16,089,146	\$ 15,864,462	\$ 9,834,730	\$ 41,788,338

\*Through December 31, 2023.

*Source: Arkansas Administrative Statewide Information System (AASIS) (unaudited by Arkansas Legislative Audit)*

**Exhibit III**  
**Arkansas PBS**  
**Disbursements by Major Project**  
**For the Period July 1, 2021 through December 31, 2023**

Fiscal Year	Project				Totals
	Arkansas IDEAS*	Rise and Shine	K-2 Children's Program	Sports Broadcasting	
2022	\$ 2,332,586	\$ 1,183,962	\$ 209,460	\$ 125,251	\$ 3,851,259
2023	2,473,872	629,711	1,141,701	105,324	4,350,608
2024**	879,861	395,755	1,880,908	43,038	3,199,562
<b>Totals</b>	<b>\$ 5,686,319</b>	<b>\$ 2,209,428</b>	<b>\$ 3,232,069</b>	<b>\$ 273,613</b>	<b>\$ 11,401,429</b>

\*IDEAS = Internet Delivered Education for Arkansas Schools  
 \*\*Through December 31, 2023

*Source: Arkansas Administrative Statewide Information System (AASIS) (unaudited by Arkansas Legislative Audit)*

ALA review revealed that Arkansas PBS did not always use standard documents when entering into contracts, circumvented bidding requirements and engaged in “split purchases,” and paid for goods and services before they were received, as discussed in the sections that follow.

**Lack of Standard Contract Documents**

According to Ark. Code Ann. § 19-11-1012(a), the State Procurement Director shall prescribe standard forms to be utilized by all state agencies. **ALA staff review indicated that Arkansas PBS did not always utilize standard contract documents, which would have been reviewed by an attorney, as required by Ark. Code Ann. § 19-11-219, and authorized by DTSS-OSP, for the procurement of services.** For example, Arkansas PBS often utilized internally-generated “scope statements” in addition to, or instead of, purchase orders and contracts.

## Circumvention of Bidding Requirements

As noted in Finding 2022-1 of the AETC audit report for fiscal year 2022 (see **Appendix A**), on multiple occasions **Arkansas PBS entered into agreements just below the \$20,000 bid threshold with two companies, which were owned by the same person, in apparent violation of Ark. Code Ann. § 19-11-234(d)**. Further detail regarding these agreements is provided below:

- On May 26, 2021, a scope statement was executed between Arkansas PBS and Company A, which was registered with the Arkansas Secretary of State on May 19, 2021 and was owned by the same person who owned Company B. This scope statement, in the amount of \$19,725, was for lighting services and lighting gear set-up for production shoots for Rise and Shine during June 2021. On June 2, 2021, Arkansas PBS and Company B executed a scope statement dated May 26, 2021, in the amount of \$19,745 for lighting services for the Rise and Shine project from June 1-26, 2021. Services included delivery and set-up of equipment and lighting experts to operate the equipment on the days of filming in the studio.
- In another instance, scope statements were executed in December 2021 with both Company A and Company B for a project referred to as the Remodel of Studio C. The services to be provided by both companies included specialized equipment and technicians. Originally, the scope statements were for \$8,900 to Company A and \$8,850 to Company B. Change orders were completed in January 2022, and Company A and Company B were ultimately paid \$13,900 and \$17,700, respectively.
- Nearly identical scope statements were executed on May 4, 2022, between Arkansas PBS and Companies A and B to provide lighting services for the studio shoots for the Rise and Shine project in May/June 2022. Services included delivery and set up of equipment and lighting experts to run the equipment. Company A was paid \$19,829, and Company B was paid \$19,843.

To evaluate whether certain procurement laws, such as those related to competitive bidding, were circumvented by dividing payments among multiple vendors with the same ownership at the same address, ALA identified 44 additional instances, totaling \$488,159, during the review period in which multiple vendors at the same address received payments from Arkansas PBS. ALA staff reviewed payments associated with 17 of these identical addresses, which accounted for \$476,200 and represented vendors that received more than \$1,000. No questionable payments were identified, other than those noted in the prior audit finding. As part of this review, ALA noted payments totaling \$152,180 to four vendors with the same owner and at the same address; however, the services provided by these vendors were exempt from bidding requirements, as allowed by Ark. Code Ann. § 19-11-203(14)(A).

## Prepayment for Goods and Services

As noted in Finding 2022-1 (see **Appendix A**), **payments were often made to vendors before goods and/or services were received, in noncompliance with Ark. Code Ann. § 19-4-1206(b)(3)(B), which states that it shall be the responsibility and duty of each disbursing officer or agent to certify that services have been performed or goods received.** Two additional examples are provided below:

- Pursuant to a Memorandum of Understanding, Arkansas PBS paid \$13,000 to a vendor in July 2023 for a video project before the work was performed. According to Arkansas PBS staff, the vendor provided some video footage, but the project remains incomplete and is currently on hold. The employment of the Production Director who was initially assigned the project was terminated on October 6, 2023.

- Arkansas PBS paid \$19,750 to a vendor for cinematography, additional research/narrative, and editing of a documentary. One-third of the total amount was paid to the vendor on each of the following dates: May 11, 2022; July 24, 2022; and January 12, 2023. The documentary was incomplete as of December 31, 2023, although the vendor was paid in full.

A State of Arkansas Services Contract for \$65,850 was properly executed with another vendor associated with the documentary noted above, and Arkansas PBS paid \$30,000 to the vendor, in accordance with the contract terms. Since Arkansas PBS did not amend the contract prior to its expiration at December 31, 2023, a new contract needs to be executed for the remaining services and the unpaid amount.

Additionally, a contract was approved in November 2021 for a special procurement using an out-of-state vendor for creation of a curriculum-aligned program for ADE. Arkansas PBS executed a contract in the amount of \$180,000 with the vendor for co-developing the K-2 show, writing the pilot episode, and serving as co-executive producer of the show, among other duties. Arkansas Legislative Council (ALC) approved the contract at its meeting held January 28, 2022, and an initial payment of \$90,000 (50%) was issued to the vendor on February 15, 2022. Additional installments were paid to the vendor as the project progressed, and on November 29, 2022, the vendor delivered the pilot episode. Based on inquiries of and documentation provided by Arkansas PBS staff, the vendor fulfilled the contract and was paid in full.

As previously mentioned, the Schedule of Findings and Responses sections from the AETC audit reports for fiscal years 2022 and 2023 are included in **Appendix A** and **Appendix B**, respectively. Both include findings regarding noncompliance with procurement guidelines.

### **Objective 3: Analyze Recent Staffing Levels of Arkansas PBS**

Arkansas PBS has written processes in place for hiring new personnel as well as documenting discipline or termination of employees. **Exhibit IV on page 7** illustrates the number of filled full-time and extra-help positions as of December 31, 2016 through December 31, 2023. While the number of appropriated full-time positions decreased from 109 to 102 (6%) since fiscal year 2017, the number of filled full-time positions decreased by 20%.<sup>3</sup> The number of appropriated extra-help positions has remained constant at 51. **Exhibit V on page 7** summarizes reasons for employee terminations and departures since fiscal year 2017, according to Arkansas PBS and as recorded in AASIS.

Since fiscal year 2017, for the 13 positions listed as part of Arkansas PBS's organizational chart for administration (provided in **Exhibit VI on page 8**), 9 positions have been held by 25 individuals, 3 positions (and the employees in those positions) have not changed, and 1 position was not filled after an employee departure. As of December 31, 2023, 4 management positions were vacant. These positions and the reason for the departure of the individual most recently holding the position are listed below:

- Associate Director and Chief Operating Officer retired in October 2023.
- Director of External Relations transferred to another state agency in January 2023.
- Director of Engineering & Information Technology was involuntarily terminated in September 2023.
- Director of Production was involuntarily terminated in October 2023.

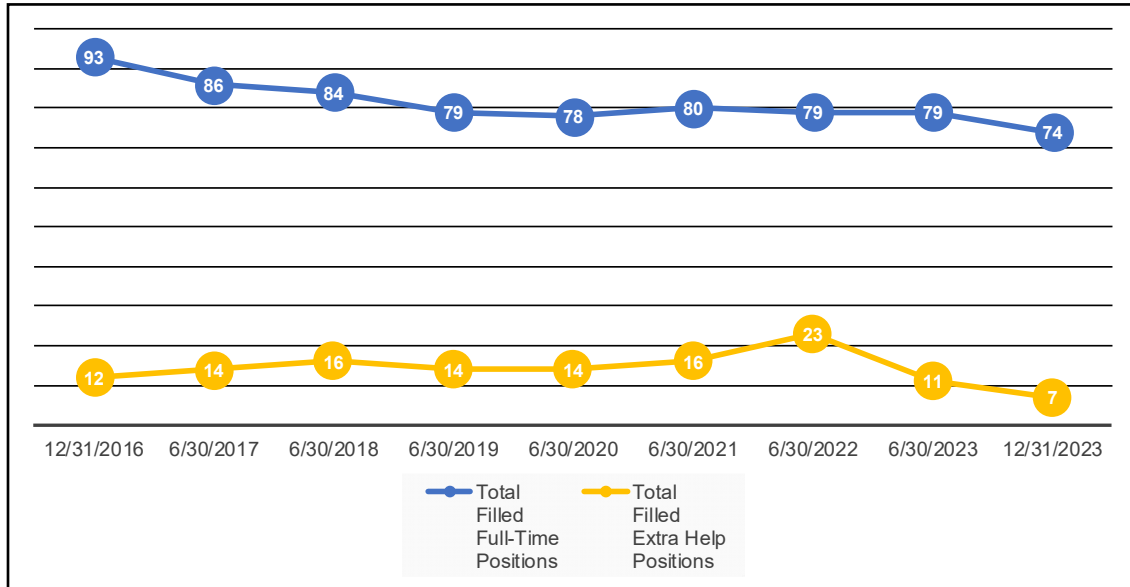
As mentioned on **page 3**, the CFO resigned in February 2024.

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<sup>3</sup>Generally, the term "filled positions" refers to positions to which employees have been assigned, while the term "appropriated positions" refers to the number of positions authorized by the General Assembly via appropriation acts.

Exhibit IV

Arkansas PBS  
Trends in Filled Full-Time and Extra-Help Positions  
As of December 31, 2016 through December 31, 2023



Source: Arkansas Administrative Statewide Information System (AASIS) (unaudited by Arkansas Legislative Audit)

Exhibit V

Arkansas PBS  
Reasons for Employment Termination/Departure  
For the Period July 1, 2016 through December 31, 2023

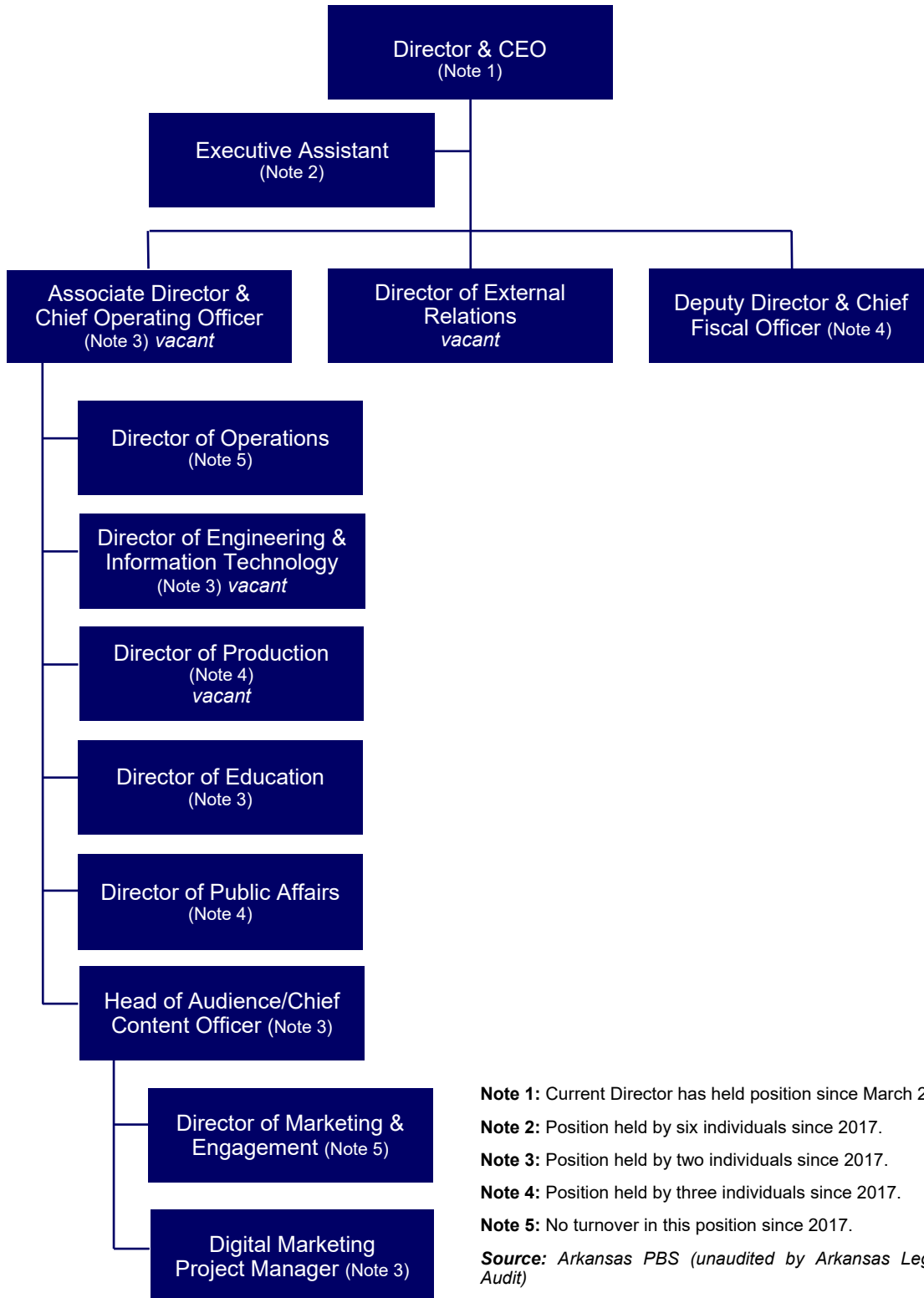
Reason for Employment Termination/Departure	Fiscal Year								Total
	2017	2018	2019	2020	2021	2022	2023	2024*	
Career opportunity				2	1	6	6	2	17
Death	1				1	1			3
Education/Retraining				1					1
Health reasons - self			1						1
Involuntary	4		2			1	3	2	12
Probationary period				1					1
Relocation				1		2	1	1	5
Retirement	3	4	5	2	4	4		3	25
Seasonal/Temporary	1	1	1	1		7	6	2	19
Transfer to non-participating agency							1		1
Transfer to other state agency	1	1	3	1	1		4		11
Unsatisfactory job performance			1						1
Voluntary	6	9	4	5		6	2	2	34
<b>Grand Total</b>	<b>16</b>	<b>15</b>	<b>17</b>	<b>14</b>	<b>7</b>	<b>27</b>	<b>23</b>	<b>12</b>	<b>131</b>

\* Through December 31, 2023

Source: Arkansas PBS and the Arkansas Administrative Statewide Information System (AASIS) (unaudited by Arkansas Legislative Audit)

Exhibit VI

Arkansas PBS  
Administration Organizational Chart  
As of December 31, 2023



**Note 1:** Current Director has held position since March 2017.

**Note 2:** Position held by six individuals since 2017.

**Note 3:** Position held by two individuals since 2017.

**Note 4:** Position held by three individuals since 2017.

**Note 5:** No turnover in this position since 2017.

**Source:** Arkansas PBS (unaudited by Arkansas Legislative Audit)



## Objective 4: Review Processes and Controls Surrounding Compliance with FCC Requirements

According to Arkansas PBS staff, since the Associate Director position became vacant at the end of October 2023, no single employee has been responsible for overseeing compliance with FCC requirements. Instead, various employees have been managing the required filings and compliance.

No payments to the FCC were necessary and the FCC did not impose any fines on Arkansas PBS between July 1, 2021 and December 31, 2023. A complaint was filed with the FCC by a former employee in December 2023 regarding problems with closed captioning for Rise and Shine programming. Arkansas PBS responded to the complaint in February 2024, acknowledging that Arkansas PBS experienced a production issue with embedded captions; however, Arkansas PBS maintained that, as locally-produced educational programming, Rise and Shine is exempt from closed captioning requirements. As of March 22, 2024, an FCC decision regarding this complaint was not yet available.

Since at least 2014, Arkansas PBS has utilized an out-of-state law firm that specializes in non-commercial radio and television broadcasting, as well as educational telecommunications law, for FCC issues. Arkansas PBS's last approved contract with the firm expired in 2019 and has not been renewed. **Ark. Code Ann. § 25-16-702 requires the Attorney General to provide legal services for state agencies, and if the Attorney General is unable to provide such services, the Governor may authorize an agency to obtain outside counsel. ALA could not locate authorization for the services provided to AETC by this firm since 2019.** Between July 1, 2021 and December 31, 2023, Arkansas PBS paid the firm a total of \$14,265 for various services.

## OTHER ISSUES

### Grant-Related Penalties

The CPB is a source of grant funding for Arkansas PBS, with grant awards totaling \$2.29 million and \$2.22 million in fiscal years 2023 and 2022, respectively. Arkansas PBS was required to submit its fiscal year 2022 Annual Financial Report (AFR) to CPB by February 13, 2023, but it was 22 days late. Based upon correspondence from CPB, a penalty with an estimated maximum of \$130,843, as calculated on Arkansas PBS's fiscal year 2024 Community Service Grant, has been assessed; however, CPB intends to reduce the estimated penalty to no less than \$32,711. The final late-filing penalty amount will be deducted from a subsequent grant payment from CPB.

### Revenue-Generating Agreement

The agreements and contracts involving Arkansas PBS are not limited to the disbursement of funds; Arkansas PBS routinely generates income as well. The Arkansas PBS Director and an outside investor/producer co-developed the concept for a program, and the investor/producer was awarded a separate grant from CPB in May 2021 for financing and distributing the program. A "docu-series co-production agreement," effective January 1, 2020, between AETC and the outside investor/producer was signed on April 24, 2022. In December 2022, Arkansas PBS received \$45,283 in production fee revenue, and in November 2023, Arkansas PBS recouped \$100,000 from the investor/producer for marketing and education services that had been provided. The agreement included a "key-person clause," allowing the investor/producer to terminate the agreement and engage with another PBS station if Arkansas PBS management were to change. In the event of such termination, all or part of the future revenue payable to Arkansas PBS may be transferred to a new PBS station. It is unknown how much additional revenue, if any, Arkansas PBS will collect in association with this agreement.

## SUMMARY

As a result of its review, ALA noted the following:

- Arkansas PBS has reportedly provided employee training regarding state procurement requirements and, as of February 14, 2024, had implemented an internal procurement guide.
- Arkansas PBS did not always comply with state procurement guidelines. Specifically, Arkansas PBS:
  - ⇒ Did not always use standard documents when entering into contracts, in noncompliance with Ark. Code Ann. §§ 19-11-1012(a), -219.
  - ⇒ Circumvented bidding requirements by splitting purchases of goods and services among two companies owned by the same person, in noncompliance with Ark. Code Ann. § 19-11-234(d).
  - ⇒ Made payments to vendors for goods and services before they were received, in noncompliance with Ark. Code Ann. § 19-4-1206(b)(3)(B).
- Arkansas PBS has experienced a high degree of personnel turnover since 2017, most notably in key management positions.
- Since the Associate Director position became vacant in October 2023, no single employee has been responsible for overseeing FCC compliance. It does not appear that the FCC has imposed any fines on Arkansas PBS. However, a complaint filed with the FCC by a former employee in December 2023 had not been ruled upon by the FCC as of March 22, 2024.
- Arkansas PBS obtained services from a law firm to address FCC issues but does not have the proper approval for those services, as required by Ark. Code Ann. § 25-16-702.

Additionally, Arkansas PBS failed to submit a required report to the CPB timely, resulting in a penalty. CPB intends to reduce the estimated penalty to no less than \$32,711, which will be deducted from a subsequent grant payment.

This report has been referred to the 20th Judicial District Prosecuting Attorney and the Attorney General.

## RECOMMENDATIONS

ALA recommends that Arkansas PBS:

- Continue to provide procurement training to employees.
- Comply with procurement laws and guidelines.
- Submit required reports to grantors and oversight organizations timely.
- Seek approval for the use of outside legal counsel when necessary.

## MANAGEMENT RESPONSE

Management response is provided in its entirety in **Appendix C**.

## Appendix A

### Division of Elementary and Secondary Education – Arkansas Educational Television Commission Schedule of Findings and Responses Contained in the Annual Financial Report June 30, 2022

2022-1 Ark. Code Ann. § 19-11-204(13)(A) defines “small procurements” as procurements not exceeding \$20,000, which may be obtained without seeking bids; however, competition should be used to the maximum extent practicable. Additionally, as noted in Ark. Code Ann. § 19-11-234(d), using repeated small quantity procurements to circumvent competitive bid limits or failing to obtain competitive bids without justification constitutes a violation of Arkansas Procurement Law. Finally, the *State of Arkansas Financial Management Guide* states that vendors should be selected before a purchase order is created; after the purchase order is approved, it can be printed and sent to the vendor.

We selected 10 vendors used by the Agency with transactions both above and below the \$20,000 threshold for obtaining bids. Our review revealed the following:

- On multiple occasions, the Agency entered into agreements to procure goods and services from two companies owned by the same person. If the goods and services had been obtained from the same company, bids would have been required.
- The Agency regularly informed vendors how much they would pay for goods and services. While this practice does not appear to violate a specific purchasing law, it raises the question of whether a vendor would have charged less had the Agency not provided this information.
- The Agency made numerous purchases just below the \$20,000 threshold for obtaining bids.
- The Agency regularly paid for a portion of goods and services before they were obtained.
- The Agency often executed an internally-generated Scope of Work agreement with vendors instead of a purchase order; therefore, goods and services may have been procured before purchase orders were created.

The Agency circumvented and violated certain aspects of Arkansas Procurement Law due, in part, to indifference to select procurement and accounting rules and laws as well as the need to produce over 100 hours of new content in a limited amount of time.

We recommend the Agency strengthen internal controls to comply with applicable requirements of Arkansas Procurement Law, as well as guidance within the *State of Arkansas Financial Management Guide*.

#### **Management response:**

- *Services were obtained from two different vendors, each with its own TaxID. Amounts contracted with each vendor did not exceed the \$20,000 bid threshold. This was for a 30-day daily production shoot. There are no other qualified vendors in Central Arkansas who offer these services.*

## Appendix A (Continued)

*One company provided specialized lighting and grip equipment and the services of a principal lighting director. The second company provided certified skilled technicians to operate the specialized equipment.*

*Total FY2022 invoices per vendor did not exceed the \$20,000 bid threshold for either vendor.*

- *Management agrees that this practice could impact competitive pricing. The agency produced 251 (5 to 7-minute) segments during a 3-month period for K-5 students under the Rise and Shine grant. In one instance, the field trip segments Scope of Work, budget information was incorrectly included.*

*In the future, the agency will take extra care to ensure no rate information is included in a SOW.*

- *The agency works on hundreds of projects in any given year. Many require contracted services. Many of the contracted services for an individual project fall under the \$20,000 bid threshold. The fact that some procurements fell just below the threshold in FY2022 is incidental rather than by design.*

*The agency worked directly with the State Procurement Director in 2018 to receive an administrative interpretation of Ark. Code Ann. 19-11-234(d) which deals with competitive bidding. The administrative interpretation the agency received regarding repeated small procurements indicated the statute "contemplates a split made for intent to avoid a legal requirement" versus the separate costs associated with individual projects, with the project being the defining variable for determining compliance with the competitive bid threshold. Per the Office of State Procurement administrative interpretation: "...a contract to produce one show has a cost. Production on a different show has its own cost. Those are two separate costs, not a split purchase."*

*The agency makes every effort to comply with both the letter and the intent of the law and will continue to do so.*

- *Management acknowledges prepayment for some creative services. It is industry standard practice to provide up-front funds for certain artistic services like animation, development of a character and pre-production planning, as examples.*

*For these and some other creative services, vendors do not typically quantify their creative output on a percentage of completion basis for payment. They require a percentage of up-front funding as a condition of accepting the work.*

*The agency will work directly with the Office of State Procurement to find a solution to this challenge to ensure the agency complies with State Procurement Law.*

*In addition, one vendor was inadvertently paid a portion of their invoice prior to work being completed because of an internal communication error related to a scope change. The agency will take extra care to ensure this does not happen in the future.*

## Appendix A (Continued)

- *The agency completes detailed Scopes of Work for every project as a method to ensure project requirements are defined and there are no surprises once production begins. This step is performed in addition to issuance of a purchase order. The SOW is always finalized with a vendor before work begins and before a purchase order is generated for the work. In a few instances, there may have been a slight delay in issuing a purchase order after the SOW was finalized and signed. The agency has already taken measures to ensure vendors are not authorized to begin work until a signed purchase order has been issued.*

*Management values, welcomes, and respects the recommendations and feedback of Arkansas Legislative Audit. Any violation of accounting regulations or law was unintentional. Any interaction that caused Arkansas Legislative Audit to form an impression of agency indifference to the law was unintentional and unfounded.*

*We reaffirm our respect for the law and accounting rules. We continue to hold ourselves to the highest standards regarding stewardship of agency resources, integrity, ethical conduct, and compliance with the law. We acknowledge the findings and will ensure that all directors and staff receive comprehensive procurement training to understand its complexities and ensure compliance with the law.*

*Management values the feedback of Arkansas Legislative Audit. The agency will review its internal controls, processes, and procedures, and amend as needed to ensure compliance with State Procurement Law and the State of Arkansas Financial Management Guide.*

2022-2 Time and Effort (T&E) sheets, which are prepared separately from the regular timekeeping function, are used by certain Agency employees to track the number of hours worked on various projects. The Agency used inaccurate T&E sheets to support payroll costs reimbursed from grants awarded by the Arkansas Department of Education (ADE). Of 159 T&E sheets that were used as support for the "Rise and Shine 2022" grant from May through September 2022, we selected 30 sheets for 13 employees for review. Our review revealed that the hours ADE reimbursed for that grant exceeded the number of hours on the selected T&E sheets by 119 hours, totaling \$2,267. Additionally, the total number of hours on the selected T&E sheets exceeded the number of hours in AASIS for which employees were paid by 87.5 hours, totaling \$1,756. The Agency did not reconcile T&E sheets to AASIS timely or ensure that the number of hours for specific grant programs, which would be reimbursed by the grantor, were correct.

We recommend the Agency strengthen internal controls to timely reconcile the T&E sheets to AASIS so that requests for reimbursement of grant-related expenses are appropriate.

**Management response:** *The agreed-upon process between ADE and AETC was for Wednesday submission of payroll advance requests. This process required AETC to submit estimated payroll costs to ADE in advance of payroll. Occasionally, there were variances between estimated payroll and actual payroll costs.*

## Appendix A (Continued)

*At the end of the Rise and Shine project, a final reconciliation of actual AETC expenses to amounts reimbursed by ADE was performed. AETC was owed \$10,529.10 in additional reimbursements from ADE for salary and benefits compared to previously estimated and reimbursed amounts.*

*For future projects, AETC will work with ADE to revise the process to ensure both timely reconciliation and timely cost reimbursements.*

*The agency will ensure timely reconciliation of grant T&E sheets to AASIS on future projects. All T&E sheets will be reviewed and reconciled by the Directors of Education & Human Resources for accuracy. In the future, the CFO will review the T&E sheets for compliance before final submission.*

**Source:** *Division of Elementary and Secondary Education – Arkansas Educational Television Commission – Annual Financial Report – June 30, 2022 (SA1451622) (available on the ALA website at <https://www.arklegaudit.gov/>)*

## Appendix B

### Division of Elementary and Secondary Education – Arkansas Educational Television Commission Schedule of Findings and Responses Contained in the Annual Financial Report June 30, 2023

2023-1 Ark. Code Ann. § 19-11-204(13)(A) defines “small procurements” as procurements not exceeding \$20,000, which may be obtained without seeking bids; however, competition should be used to the maximum extent practicable. Additionally, Ark. Code Ann. § 19-11-234 provides guidance regarding competitive bidding for contracts in which the purchase price exceeds \$20,000 and is less than or equal to \$75,000 and states that using repeated small quantity procurements to circumvent competitive bid limits or failing to obtain competitive bids without justification constitutes a violation of Arkansas Procurement Law. The *State of Arkansas Financial Management Guide* states that vendors should be selected before a purchase order is created; after the purchase order is approved, it can be printed and sent to the vendor. Services Contract Instructions issued by the Department of Transformation and Shared Services – Office of State Procurement (OSP) require that the department and the contractor complete the signature portion of the form. Additionally, the use of state-issued credit cards (such as purchasing cards and travel cards) is governed by rules and regulations issued by OSP.

Our review of 61 maintenance and operation expense items, totaling \$3,405,679, and 35 expense items specifically from credit card activities, totaling \$199,066, revealed the following:

- The Agency obtained goods and services without always obtaining bids for transactions that were at or near the threshold for requiring bids, which increases the risk that noncompliance could occur. In one instance, a change order of \$5,000 was made after the contract began, which caused the total contract to rise above the bid threshold.
- A contract valued at \$250,000 was not manually or digitally signed by the vendor; rather, the vendor’s name was typed onto the contract.
- Contracts for two vendors, valued at \$48,448 and \$37,200, respectively, were not executed for services.
- Expenditures totaling \$25,037 were coded to incorrect expenditure descriptions.
- Expenditures totaling \$75,825 for contractors’ travel costs were charged directly to the Agency’s travel card, and \$6,825 was charged to the personal credit card of an employee, instead of being paid by the contractors. OSP guidance on the use of credit cards stipulates that the travel card is intended for official state travel-related use only and should never be used for personal purchases or to pay for someone else’s travel expenses.
- Overpayments for rental car charges totaling \$3,033 were identified. In one instance, the cost of a contractor’s rental car was charged directly to the Agency’s credit card and reimbursed to the contractor. As a result, the Agency unnecessarily paid the contractor \$2,762. The Agency was

## Appendix B (Continued)

unaware of this event until informed by the auditors. In another instance, a credit of \$271 was issued by a rental car company to a different contractor towards a new personal rental instead of refunded to the Agency. This event was self-reported by the Agency. After auditor inquiries, the Agency recovered the funds from both contractors.

- The Agency was charged \$108 for a hotel room for a contractor who did not stay overnight.

The Agency did not adequately plan, prepare, and train staff to ensure that the extraordinary number and type of transactions associated with its projects would always follow applicable state laws and guidelines.

We recommend the Agency strengthen internal controls to comply with applicable sections of Arkansas procurement laws, state travel regulations, and the Arkansas Financial Management Guide.

2023-2 Ark. Code Ann. § 6-3-110(b) states that “only an appropriate state employee may supervise state employees of the Educational Television Division of the Division of Elementary and Secondary Education,” and “no person or employee paid with funds not appropriated by the General Assembly shall supervise any state employee of the Educational Television Division.” An AETC employee trained an employee of the Arkansas PBS Foundation (“Foundation”) from June 26 through September 1, 2023. As stipulated in a Short Term Accounting Shared Services Agreement, which was executed between the Agency and the Foundation on July 26, 2023, the Agency employee was under the exclusive direction of the Chief Executive Officer of the Foundation during the days of the training. AETC received \$17,025 from the Foundation to cover payroll costs associated with the employee.

As a result of this arrangement, the employee was supervised by a person who was not a state employee and who was paid with funds not appropriated by the General Assembly.

We recommend the Agency comply with applicable sections of Arkansas Code.

### ***Agency Management Response***

Arkansas PBS values the time, effort, and recommendations of Arkansas Legislative Audit. We acknowledge and concur with the FY23 findings. Please find our detailed responses to the audit findings below.

The following FY23 background information informs the audit findings:

- The agency had 60% turnover in its fiscal/procurement positions during FY23.
- The CFO, controller and procurement coordinator positions were vacant for 5 months, 3 months and one month, respectively. A new CFO began work on January 31, a new procurement coordinator on April 3, and a new controller on June 19. A fiscal division manager position was added (filled on June 26).



## Appendix B (Continued)

- The agency does not employ a contracts administrator. The CFO manages procurement contracting.
- In FY2023, the agency issued 464 purchase orders totaling \$7,506,307. Thirty-two percent (32%) of the POs were for two projects: 99 for the K2 project and 48 for the Rise & Shine S3 project.
- All fiscal and procurement activities for the Rise & Shine S3 project and most fiscal/procurement activities for the K2 project were concentrated during the spring-summer of 2023. Project complexity, the extraordinary number and type of transactions, as well as insufficient staff capacity contributed to regulatory compliance issues.

### **Finding 2023-1**

#### **Item 1.1**

This finding is related to approximately 240 individual educational video segments produced during a 90-day period (Rise & Shine S3 project).

The agency had 30 days to plan (48 purchase orders) and 60 days to execute the work, which included puppet shows to teach spelling, educational field trips throughout the state, video-taped readings of stories, animated videos to teach colors and shapes, educational music videos and video-taped lessons by teachers. Work began in early April 2023.

On April 14, 2023, the agency solicited competitive bids from 12 prospective vendors for field trip video production services. Each prospective vendor was permitted to bid on up to ten (10) of 36 digital field trip segments to be filmed throughout the state.

After bids were received, the agency hired the 6 qualified bidders and the collective cost for the 6 contracts totaled \$145,000 for 55 segments. Since the cost of the video production work was substantially higher than \$75,000, it should have been bid as a formal contract through the Office of State Procurement but was not. Awarding a formal bid to multiple vendors would have required pre-approval from the OSP Director, but approval was not obtained by the agency.

During this period of extreme workload when the agency was transitioning to a new procurement coordinator, the proper steps to manage this procurement were not taken.

The agency solicited bids via email, received 7 bids, and issued a multi-award to 6 bidders. Bids ranged from \$1,850 per segment to \$5,500 per segment.

The agency accepted four (4) bids as-is:

# Segments	Per Segment	Total	Contractor
10	\$ 1,850	\$ 18,500	DENNIS MATTHEW JORDAN*
10	\$ 2,000	\$ 20,000	DUNN MEDIA GROUP LLC
10	\$ 2,500	\$ 25,000	MADE BY MATTHEWS
10	\$ 3,000	\$ 30,000	SDS FILMS LLC
40	\$ 2,338	\$ 93,500	
*later increased from \$18,500 to \$23,500			

## Appendix B (Continued)

The agency negotiated with two vendors to reduce their bids from \$3,500 x 10 segments to \$3,200 x 10 segments, and from \$5,000 per segment x 3 segments to \$3,000 per segment x 5 segments.

In the instance of the \$5,000 increase to the \$18,500 original PO (\$23,500 amended total), the vendor's original bid was 32% lower than the average of the other bids awarded. Due to the logistics of creative preproduction, the agency was unable to provide precise topics and locations to vendors for the 55 segments in advance. Once creative directions for each field trip segment were decided and field trip logistics were finalized, there was additional work required that this particular vendor was unable to budget in the original \$18,500 bid submitted.

The agency deemed it in the state's best interest to renegotiate the contract amount with the existing vendor. All other bids received for this solicitation exceeded this vendor's original bid. It was deemed unlikely the agency would find a qualified vendor to perform the work for the same or less money within the designated timeframe. Purchase orders totaling \$145,500 were issued for 55 video segments.

# Segments	Per Segment	Total	Contractor
10	\$ 2,000	\$ 20,000	DUNN MEDIA GROUP LLC
10	\$ 2,350	\$ 23,500	DENNIS MATTHEW JORDAN
10	\$ 2,500	\$ 25,000	MADE BY MATTHEWS
5	\$ 3,000	\$ 15,000	TITAN CONCEPTS LLC
10	\$ 3,000	\$ 30,000	SDS FILMS LLC
10	\$ 3,200	\$ 32,000	ONELIGHT FILM LLC
55	\$ 2,645	\$ 145,500	

### Item 1.2.

Management acknowledges the oversight. The contract was electronically signed by the vendor on March 27, 2023, and sent to the agency via email, but the digital signature was not certified.

The agency has clarified signature requirements with staff and has specified that a certificate-based digital ID such as Adobe Sign is required for digital signatures.

### Item 1.3

Both missing contracts were for the K2 project. Both POs (issued without a contract) were issued on April 13, 2023, during the period when the agency was transitioning to a new procurement coordinator, resulting in the oversight.

### Item 1.4

The accounting errors were for K2 project expenses, including a FEDEX p-card transaction incorrectly coded to freight that was for printing services; an equipment rental transaction coded to audio/visual equipment rather than to other rent and leases; and a mileage reimbursement that was accidentally coded to special purpose supplies.

## Appendix B (Continued)

### Item 1.5

It is industry-standard practice in the film industry for all production expenses to be borne by the production company. Cast and crew as a standard practice do not pay their own expenses up-front, to be reimbursed later. For the K2 project, Arkansas PBS served as the production company, and in expanding its service in education to Arkansas, it was the first time the agency had managed a project of this type and magnitude. Given the size and scope of the K2 project, the project had a very limited planning period.

The agency should have requested guidance from OSP on the unique project requirements that were new to the agency.

Over 112 primary cast and crew (contractors) worked on this project, several of whom required airfare, hotel, and rental car accommodation and/or mileage reimbursement for use of personal vehicles for project work.

In the instance of the agency travel card use for contractor travel, the agency failed to closely review the travel card regulations and was therefore unaware that it was violating state procurement law in this instance.

A contracted crew member in a key production role informed the agency late in the day that he was being ousted from his Airbnb accommodation due to a declined agency credit card (no available credit). To secure the contractor's room and avoid possible disruption to the K2 project, the CFO consulted with Arkansas PBS fiscal staff about expense reimbursement regulations but did not review the DFA Financial Management Guide for allowability before giving her personal credit card to cover the bill. The agency failed to remove the CFO's personal credit card from the Airbnb account and the card was subsequently charged for two additional reservations before the error was discovered. The above was self-disclosed to both DFA and Arkansas Legislative Audit by the CFO. In addition, the CFO received cash back on her credit card related to the three lodging transactions, which she self-disclosed to both DFA and Legislative Audit and paid in full to the agency.

### Item 1.6

A contractor on the K2 project reserved a rental car in his own name prior to the establishment of an agency corporate account with Hertz. He then submitted a reimbursement request to the agency for the rental car charge, which the agency paid (\$2,762). Subsequently, Hertz approved the agency's account application and the contractor's reservation was switched to the agency account. Hertz made the decision without the agency's authorization to retroactively credit the contractor's personal credit card and charge the agency travel card for the earlier rental car costs.

With the volume of project transactions, the agency failed to catch this error and the contractor did not notify the agency that he had been reimbursed twice for the same transaction, by both Hertz and the agency. The contractor has since reimbursed the agency in full for the overpayment.

A second contractor on the K2 project received a reimbursement (credit) from Hertz to her personal credit card that was due to the agency. This was a Hertz administrative error. The agency has since received the full \$271 reimbursement from the contractor.

**Item 1.7**

A contracted actor on the K2 project was originally scheduled to work one production day but was then extended to work 3 days due to needed production schedule changes. Hotel availability was limited in Central Arkansas due to high occupancy rates after the tornado that occurred in the spring of 2023. The agency moved the actor (a minor) and parent to a hotel that had multi-day availability but failed to cancel the original one-day reservation.

**2023-2**

In drafting and executing the agreement with the agency's affiliated foundation, the agency CFO was unaware of applicable sections of Arkansas Code. In the future, only an appropriate state employee will supervise state employees of the agency.

**Corrective Action Plan**

Arkansas PBS will strengthen its internal controls to ensure compliance with all applicable laws, rules, and regulations in the future.

The agency is creating new internal resources to ensure that agency employees are knowledgeable and fully prepared to comply with state laws, rules, and regulations. In December of 2023, the agency issued a detailed procurement guide to all agency employees and in January of 2024 began the initial phase of conducting agency-wide procurement trainings.

*Source: Division of Elementary and Secondary Education – Arkansas Educational Television Commission – Annual Financial Report – June 30, 2023 (SA1451623) (available on the ALA website at <https://www.arklegaudit.gov/>)*

## Appendix C

### Management Response



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Agency management values and welcomes the recommendations and input of Arkansas Legislative Audit (ALA). We reaffirm our commitment to strict adherence to the laws and regulations of the state of Arkansas and to holding ourselves to the highest standards of integrity, ethical conduct, and stewardship of agency resources. Having previously acknowledged and agreed to the findings in the FY 2022 and FY2023 audits, we further acknowledge the summary and recommendations in the special report. We will ensure that all division directors and staff continue to receive ongoing procurement training to achieve understanding of the complexities of Arkansas procurement law and to ensure compliance with those laws.

#### Objective 1: Internal Controls and Processes Surrounding Expenditures and Procurements

The Agency experienced a large influx of COVID 19 funding directed toward mitigating learning loss resulting in an inordinately heavy workload for the period of time covered by the overlapping audits of FY 2022 and FY 2023. Agency division directors sought guidance and approval from agency finance personnel including the procurement coordinator regarding all procurements but were provided misguided information. During this period, the agency issued an extraordinary number and variety of types of purchase orders, many of them for two large projects: K-2 Arkansas-focused educational series, and Rise & Shine for K-5 Arkansas-focused curriculum summer learning. During this time, all agency procurement activities and contracts were overseen by former finance division CFO's and a former procurement coordinator, all of whom are no longer with the agency. The procurement coordinator approved all procurements prior to execution. Following a restructure of the agency fiscal division, Arkansas PBS now employs a new Associate Director/CFO who is strongly motivated to work with the agency CEO to tighten all processes and procedures, and a highly experienced procurement coordinator, also strengthening the division with a new controller, replacing an experienced accounting coordinator who retired, as well as the addition of a fiscal manager role in June 2023. The division now retains three certified accountants who hold various professional credentials including: CPA, CGFM, and CICA. Our goal is to continue to strengthen expertise through comprehensive regular training to guarantee compliance and build knowledge and confidence for all employees involved in procurement.

Agency leadership reviews internal controls biannually and coordinates with the Office of the Inspector General. Moving forward, we will work to further strengthen controls governing agency operations.

Arkansas PBS deals with some unique aspects in content production. We often find ourselves facing first-time activities related to procurement. The agency seeks guidance from the Office of State Procurement (OSP) when questions arise as to whether an initiative must be treated as one project or multiple projects for procurement purposes. Our network sports initiative began as coverage of the high school football state championships in December of 2018 followed by basketball in March of 2019. As sports grew into a larger initiative encompassing not only football and basketball but baseball, softball, and volleyball, we sought advice from OSP on whether sports should be considered as a single overall

project or multiple individual projects. In the fall of 2023, with the guidance of OSP, we began addressing all sports efforts as a single project. For the summer learning project Rise & Shine with its many individual video components under a large Rise & Shine umbrella, OSP determined that the many components of Rise & Shine were to be treated as a number of individual projects for procurement purposes. Through our experiences over the past several years, we now recognized the absolute importance of seeking overall guidance from OSP before accepting large federal awards. Before we embark on future projects where procurement-related processes could be in question, the agency will consistently seek advice from OSP.

Regarding procurement training, in response to the findings from FY2022/FY2023, in December of 2023 the agency issued its own Arkansas PBS procurement guide as required reading for agency employees, drawing upon the state's procurement manual and with emphasis on our media network's particular challenges. In the first quarter of calendar 2024, the agency designed and conducted in person training for all managers, directors and administrative assistants with guidance from OSP. This initial phase of agency-wide procurement training will remain a top priority for Arkansas PBS as an ongoing effort to ensure compliance with procurement laws.

**Objective 2: Expenditures and Procurements Relative to Compliance with Arkansas Laws, Rules, and Guidelines**

With our strong procurement coordinator in place and with our new CFO supervising all finance department activities, the agency will consistently utilize standardized contracts, with the exception of a limited number of media-specific contracts created with the help of specialized outside attorneys approved by the Office of the Attorney General and the Governor.

In response to the findings in the FY 2022 and FY 2023 audits, we will adhere to state procurement law to ensure that we will not purchase commodities or services, or both, from more than one (1) vendor owned by the same person or entity if the aggregate amount of the purchases from the vendors owned by the same person or entity exceeds \$20,000.

Regarding the expiration of the Services Contract for \$65,850, a significant delay in completion of the project in question occurred (a documentary about the creation of the Daisy Bates and Johnny Cash statues), due to federal and state logistics beyond the agency's control. The former Arkansas PBS procurement coordinator neglected to amend/extend the producer's contract prior to its expiration of December 31, 2022. We are grateful to ALA for pointing out the oversight. We have corrected this error through a special procurement contract which was executed with the vendor on March 18, 2024 for the remaining services.

**Objective 3: Recent Staffing Levels of Arkansas PBS**

As noted by ALA in this report, Arkansas PBS maintains defined written processes in place for hiring new personnel as well as documenting discipline or termination of employees.

The current agency leader joined an organization in 2017 with a significant number of employees approaching retirement eligibility, accounting for the departure of 25 employees to retirement during the review period. In addition, the seven years covered by the personnel assessment in the special report

were characterized by two specific circumstances: 1) The agency's need to transform into a modern, relevant media network capable of fully serving Arkansans. As a result, the agency Director/CEO led a transformation of the network from a public media station focused solely on linear broadcasting to a highly relevant multi-platform educational media network and community moderator, encompassing digital platforms as well as linear over-the-air broadcasting. This essential transformation was achieved through both training and skills recruitment, not only equipping Arkansas PBS to serve Arkansans of all ages in an ever-expanding number of ways, but also extending the network's reach in order to raise Arkansans' awareness of the free content and services available to them from the network. 2) Arkansas PBS faces special challenges in recruitment and retention of media-skilled employees. Both recruitment and retention were exacerbated by the challenges of the pandemic, influencing turnover rates.

Specifically in the senior leadership category, aside from 3 involuntary terminations for performance reasons, the shifts in division leadership roles since 2017 have resulted from a variety of causes, ranging from retirement to agency transfers to career opportunity. During the COVID 19 health crisis, multiple executive assistants chose to return home to cover their own childcare. The personnel shifts due to performance issues in Engineering and Production leadership have resulted in greater efficiency in the use of state funds and in ease of operations.

Of note, over the 7 years examined by the special report (2017-2024), agency employees at Arkansas PBS during that time have maintained an average of 12.4 years of service to the agency. According to the U.S. Bureau of Labor Statistics, "The median number of years that wage and salary workers had been with their current employer was 4.1 years in January 2022, unchanged from the median in January 2020." (May 2023 National Occupational Employment and wage estimates 2024)

#### Objective 4: Processes and Controls Surrounding Compliance with FCC Requirements

The agency Director/Chief Executive Officer shared the responsibility of FCC compliance with the previous Associate Director/ Chief Operating Officer until his retirement in October of 2023. Following that retirement, the agency CEO took on the primary responsibility for the leadership of FCC compliance, a duty now shared with the new Associate Director/ Chief Financial Officer. In this equation, select employees are assigned specific duties and filings of compliance deliverables with agency management at the helm of the overall effort. Agency division leadership reviews and discusses FCC compliance regularly in our bi-weekly leadership meetings, guided by a compliance calendar that has been recently updated for any changes to FCC rules and regulations per FCC experts. In addition, the agency CEO communicates on a regular basis with FCC attorneys who specialize in compliance with questions and requested updates on changes to requirements as they occur.

Regarding the complaint filed with the FCC by a former engineering employee in December 2023 which alleged problems with closed captioning for the Rise and Shine curriculum-based programming, Arkansas PBS responded to the FCC on the complaint in detail in February 2024. As locally produced educational programming, the program in question -Rise & Shine - was exempt from closed captioning requirements. Regardless of the exemption, Arkansas PBS provided captioning for Rise & Shine for broadcast and digital segments. On March 11, 2024, the FCC answered the agency's response to the complaint of December 2023 via email to our FCC attorneys, stating that no violation of captioning requirements for the FCC had occurred at Arkansas PBS.

As noted by ALA, the special report raises no questions regarding FCC compliance other than the resolved caption issue. Arkansas PBS will continue to follow the agency's stringent FCC compliance protocol.

Arkansas PBS' most recent contract with the outside law firm specializing in FCC and educational telecommunications expired in June of 2020. The agency is fully aware of the two-step state process required to request and receive permission for outside counsel, having correctly followed the process earlier with the same FCC attorneys referred to above as well as in other instances. In the case of the expired 2020 contract, the agency received and retains a file copy of a return letter from the Attorney General dated December 3, 2019, covering the first step in the state process and granting the agency permission to go to the Governor for approval to hire outside FCC counsel. However, a subsequent letter exchange between the agency and the Governor's office granting permission appears not to have been correctly filed, and no contract renewal was executed by the agency's procurement coordinator at the time. The agency is grateful to ALA for bringing this oversight to our attention and we are actively working with the Office of the Attorney General and the Governor's office to obtain appropriate permissions, so we are able to execute an updated contract.

#### Grant-Related Penalties

The agency acknowledges that during the period covered by the report, one infraction resulted in a late grant report filing. In the 2023 restructure of our fiscal division, institutional knowledge on the complex filings with the Corporation for Public Broadcasting (CPB) compliance was lost and our new controller was assigned the complicated task of learning how to file the reports for our CPB Community Service Grant. Though he received some guidance from CPB, on his first attempt, the controller was unable to complete the lengthy filing by the deadline. Following this infraction, all successive filing deadlines have been met in advance. The agency will endeavor to ensure that all future CPB grant deadlines, as well as all grant deadlines, are met in a timely manner.

#### Revenue-Generating Agreement

Prior to execution, agency leadership reviewed the agreement with the external producer referenced in the special report with the Attorney General's office and to our understanding, no violations occurred. Arkansas PBS' engagement in the creation of stories distributed nationally through public media offers the opportunity for us to share many positive stories from our state to audiences across the country, creating awareness of the attributes of our amazing state to many who might not otherwise know about them. In the creation of video/media content, Arkansas PBS often collaborates with outside producers about potential media projects, some that make it through network vetting and come to fruition and others that, for one reason or another, do not. With this type of collaboration effort, the network helps seed potential projects for the network and minimizes the risk of projects coming to the network from outside producers that fail to meet the editorial and creative standards of our network. "Key Man" clauses are frequently employed in contracts in our industry that cover creative projects and in the rare instances when these clauses are exercised, any costs for services provided by the contracting party up to that point are customarily paid in full, as would have been the case in this instance with Arkansas PBS.



Corrective Action Plan

The agency will continue to reinforce internal processes and controls to ensure compliance with all applicable laws, rules, and regulations as well as compliance with grantors and oversight organizations. The agency will sustain regular procurement training for employees and will consistently seek approvals and maintain records of those approvals for the use of outside legal counsel.

Arkansas PBS management takes these audit findings and recommendations very seriously, making every effort to learn and improve. We reaffirm our adherence to Arkansas law and are dedicated to full compliance. We acknowledge the results and recommendations of the review and will ensure that the agency and its staff continue to pursue in-depth understanding of the laws of Arkansas to ensure compliance with those laws in our service to Arkansas. It is our earnest intent to continue open communications with ALA and the Office of the Attorney General to aid in the continuation of our work to maximize the operational efficiency of the agency.



Courtney Pledger

Executive Director & CEO | Arkansas PBS

