

Making It Work: A Broadcaster's Guide to the FCC's Equal Employment Opportunity Rules and Policies

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1. Introduction

June 1, 2011 marks the beginning of a four-year cycle during which all commercial and noncommercial radio and television stations throughout the United States will come under special scrutiny by the Federal Communications Commission ("FCC"), as it considers whether to renew each station's license to broadcast.

This is a period of regulatory uncertainty and vulnerability for stations, as the FCC closely reviews their record of compliance with its rules and service to the public during the license term, and third parties have the opportunity to petition the FCC to deny the station's renewal request. One significant focus of the FCC's and petitioners' attention will be each station's performance under the FCC's rules concerning equal employment opportunity ("EEO").

In view of the impending renewal cycle, this guide is designed to assist stations in charting a course for full compliance going forward, as well as in evaluating their level of past compliance and the risks the station may face when it files its license renewal application.

2. Debut of the Current EEO Rule in Renewal Processing

The record on which stations will seek renewal of their licenses is the first one developed entirely under the FCC's "new" EEO Rule, which was adopted in 2002² and became effective on March 10, 2003. The rulemaking proceeding in which the EEO Rule was adopted left some matters unresolved. Accordingly, this renewal cycle may provide the greatest insight yet into the Commission's expectations under the new version of the EEO Rule.

The EEO Rule was developed in response to two decisions by the U.S. Court of Appeals for the D.C. Circuit which held that the FCC's prior versions of the EEO Rule were unconstitutional.³ A significant issue in both cases was the Commission's requirement that certain EEO-related information be reported and publicly identify the race, ethnicity and gender of employees at all nonexempt radio and television stations. The D.C. Circuit ruled that the FCC's use of the data to determine compliance with its EEO Rule had the effect of creating a racially-based quota system. Our Section's lawyers successfully litigated these cases and continue to represent the State Broadcasters Associations in proceedings that ask the Commission to reconsider some aspects of the new EEO Rule and in particular, to adopt EEO reporting requirements that do not require the public disclosure of this sensitive data.

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² See *In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, Second Report and Order and Third Notice of Proposed Rule Making, 17 FCC Rcd 24018 (Nov. 20, 2002) ("*Second R & O*"). A copy of the *Second R & O* is available online at http://hraunfoss.fcc.gov/edocs_public/attachmatch/FCC-02-303A1.doc.

³ See *MD/DC/DE Broadcasters Association, et al. v. FCC*, 236 F.3d 13, rehearing denied 253 F.3d 732 (D.C. Cir. 2001), cert. denied, 122 S.Ct. 920 (2002) ("*State Associations*"); *Lutheran Church-Missouri Synod v. FCC*, 154 F.3d 487 (D.C. Cir. 1998), rehearing en banc denied, 154 F.3d 494 (D.C. Cir. 1998).

The Annual Employment Report on FCC Form 395-B is the principal form through which the FCC compiles EEO data, although use of this form has been suspended since 2001. The FCC was required to update the form to conform it to the classifications used by the Equal Employment Opportunity Commission (“EEOC”) on its EEO-1 form. The Office of Management and Budget (“OMB”) generally approved the new form, but instructed the FCC not to use it until the Commission engages in a meaningful review of whether the data requested on the form should be held confidentially and in such a way that the data would not be attributable to an individual station or group of stations. The State Broadcasters Associations and the National Association of Broadcasters (“NAB”) have consistently urged the FCC to engage a third-party to collect such data in confidence and to make the data available to the FCC and anyone else only on an aggregated basis and only in such a way as not to reveal any particular employer’s statistics. As of the date of this Guide, the FCC has not ruled on the issue of confidentiality and thus FCC Form 395-B is not in use.

Simultaneously with its adoption of the new EEO Rule, the FCC also issued a *Third Notice of Proposed Rulemaking* (the “*Third NPRM*”) which requested comment, among other things, on the applicability of the EEO Rule to part-time positions, i.e., positions with regular work schedules of less than 30 hours per week. Comments and reply comments have been filed and the matter remains pending without decision.

As will be discussed in detail below, the EEO Rule requires extensive outreach efforts, substantial recordkeeping, periodic reports filed with the FCC and the placement of those reports in stations’ public inspection files and on their websites. Broadcasters must also analyze the results of their recruitment efforts to ensure that broad outreach is being achieved. Under the EEO Rule, broadcasters face the prospect of EEO complaints filed by members of the public throughout the license term, petitions to deny at license renewal time and periodic FCC audits and/or investigations. Implementing best practices described herein remains a station’s best evidence that it is taking these requirements very seriously.

Finally, the EEO Rule applies to broadcast “station employment units.” A “station employment unit” (“SEU”) is comprised of one or more stations that are commonly owned or controlled, located in the same market and share at least one employee.⁴ SEUs with fewer than five full-time employees are exempt from the EEO Rule outreach requirements but must abide by the FCC’s general equal employment opportunity and anti-discrimination requirements. The fact that a broadcaster may be located in a market where the minority labor force is less than five percent does not exempt that broadcaster from any aspect of the EEO Rule. Unless the SEU employs fewer than five full-time employees, the SEU must have a fully compliant, broad outreach recruitment program.

3. The Equal Employment Opportunity and Anti-Discrimination Rule

A. The General Rule

The EEO Rule re-codifies the FCC’s long-held requirements that the licensees and permittees of all commercial and noncommercial AM, FM, TV, Class A TV, low power television (“LPTV”), Low Power FM, and international broadcast stations afford equal opportunity in employment to all qualified persons and ensure that no person shall be discriminated against in employment on the basis of race, color, religion, national origin or sex. The Commission has stated that a station that discriminates against minorities or women is not responsive to the needs and interests of the entire community and thus will not be able to fulfill its responsibilities as a public trustee, and that, furthermore, unlawful discrimination raises an issue as to the basic character of a licensee. All broadcast permittees and licensees, regardless of staff size, are

⁴ An employee who is also an owner holding a 20% or greater voting interest in a licensee is not considered a station “employee” for EEO purposes as long as no single owner has greater than 50% voting control of the licensee.

subject to the rule requiring equal employment opportunity and prohibiting unlawful employment discrimination.

In addition, all broadcast permittees and licensees are required by Section 1.65 of the FCC's Rules to report to the FCC, on an annual basis, any adverse findings or adverse final actions involving discrimination complaints. Such reports, if required, should be filed by the annual anniversary date of the filing of the station's license renewal application.

The EEO Rule also retains the FCC's policy of generally deferring action on individual discrimination complaints pending final action by the EEOC or a court of competent jurisdiction. But, the Commission will consider final determinations of employment discrimination in making licensing decisions, and reserves the discretion to consider allegations of discrimination prior to final determination such as where there are "well-documented allegations of discrimination made by a large number of individuals" or "well-supported allegations of discrimination that shock the conscience or are particularly egregious."

The Commission's concern is not limited to intentional discrimination. According to the FCC, the public interest standard of the Communications Act is sufficiently broad to also cover discrimination that may arise as a result of practices and policies that are unintentionally discriminatory.

B. The Application of the Equal Employment Opportunity/Anti-Discrimination Rule to Religious Broadcasters

Under the EEO Rule, religious broadcasters may establish religious belief or affiliation as a job qualification for all station employees or for only particular job positions. However, they may not discriminate on the basis of race, color, national origin or sex from among those who share their religious belief or affiliation, and they are expected to make reasonable good faith efforts to recruit widely among their co-religionists. The EEO Rule defines a religious broadcaster as a licensee which is, or is closely affiliated with, a church, synagogue, or other religious entity, including a subsidiary of such an entity.

4. Broadcast EEO Program Requirements

A. General EEO Program

In addition to the general equal employment opportunity and anti-discrimination provisions described above, the EEO Rule requires certain broadcasters to adhere to a general Equal Employment Opportunity Program ("EEO Program"). Broadcasters that are exempt from this requirement are Low Power FM station permittees and licensees and other licensees whose SEUs employ fewer than five full time employees.⁵ All other, that is "nonexempt," SEUs must establish and maintain an EEO Program under which the SEU does the following:

- (1) Defines the responsibility of each level of management to ensure vigorous enforcement of its policy of equal opportunity, and establishes a procedure to review and control managerial and supervisory performance;
- (2) Informs its employees and recognized employee organizations of the equal employment opportunity policy and program and enlists their cooperation;

⁵ See *In the Matter of Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies*, *supra* note 2 at ¶ 1, n. 1.

- (3) (Communicates its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicits their recruitment assistance on a continuing basis;
- (4) Conducts a continuing program to exclude all unlawful forms of prejudice or discrimination based upon race, color, religion, national origin, or sex from its personnel policies and practices and working conditions; and
- (5) Conducts a continuing review of job structure and employment practices and adopts positive recruitment, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.

Nonexempt SEUs must also undertake the following specific measures, and periodically analyze the success of their efforts pursuant to them:

- (1) Disseminate the station's equal employment opportunity program to job applicants and employees;
- (2) Review seniority practices to ensure that such practices are nondiscriminatory;
- (3) Examine rates of pay and fringe benefits for employees having the same duties, and eliminate any inequities based upon race, national origin, color, religion or sex discrimination;
- (4) Utilize media for recruitment purposes in a manner that will contain no indication, either explicit or implicit, of a preference for one race, national origin, color, religion or sex over another;
- (5) Ensure that promotions to positions of greater responsibility are made in a nondiscriminatory manner;
- (6) Where union agreements exist, cooperate with the union or unions in the development of programs to ensure all persons of equal opportunity for employment, irrespective of race, national origin, color, religion, or sex, and include an effective nondiscrimination clause in new or renegotiated union agreements; and
- (7) Avoid the use of selection techniques or tests that have the effect of discriminating against any person based on race, national origin, color, religion, or sex.

It is very important that every SEU with five or more full-time employees not only implements an effective EEO Program as the FCC contemplates above, but also maintains an adequate paper trail demonstrating that each of the elements and tasks identified above is being carried out in a meaningful way. The point-person for EEO at such SEUs should have meaningful input into the design of the station's EEO program and meaningful oversight and responsibility for implementation and enforcement of that EEO program.

B. Three Outreach Prongs

In addition to the above, the EEO Rule contains a three-prong EEO outreach requirement designed to ensure that nonexempt SEUs engage in broad outreach to potential male and female applicants of all races and ethnicities.

1. Outreach Prong 1 – Recruitment for All Full-Time Vacancies

Nonexempt SEUs, that is those with five or more full-time employees, must recruit for all full-time vacancies, except in exigent circumstances. The crux of the recruitment obligation is wide dissemination of information concerning each and every job vacancy.

a. Exigent Circumstances

In circumstances where recruitment may not be feasible, such as where there is an immediate need to replace an employee who departs without notice and whose duties cannot be filled, even briefly, by other station employees, the Commission has stated that the broadcaster is excused from the obligation to widely recruit before hiring. However, the Commission has stated that it expects such hiring without recruitment to be rare, that most circumstances do not meet its definition of “exigent.” If an SEU is considering hiring a full-time employee without the benefit of broad recruitment, the SEU should seek the advice of communications counsel before moving forward. This is because there is a high likelihood that the Commission and public advocacy and civil rights groups will frown upon any full-time hire that was not the subject of broad recruitment.

b. Broad Outreach

The Commission contemplates that broadcasters will recruit using “sources designed to achieve broad outreach” in order “to insure that all segments of the population have an equal opportunity to compete for broadcast ... employment and that no segment is subjected to intentional or unintentional discrimination.” The EEO Rule requires broadcasters to develop, and use for each full-time job vacancy, a list containing a variety of recruitment sources that can be reasonably expected, collectively, to reach “the entire community.” “A broadcaster may widely disseminate job postings through any combination of methods sufficient to ensure that its recruitment efforts are inclusive.” Also note that the FCC expects that “[s]ources which subsequently prove to be nonproductive should not be relied on and new sources should be sought.”

c. Definition of Community

For purposes of this outreach requirement, the definition of “community” is left to a licensee’s good faith discretion, but the licensee should consider “community” as encompassing, at a minimum, its community of license. Depending upon the technical coverage of the station, the geographic scope of its marketing, promotional and advertising practices, Nielsen and Arbitron market definitions, and the locations of locally-based community groups which have requested notice of job vacancies, “community” may for a particular station also include the entire county in which the station is licensed. For radio stations, “community” may also include the Arbitron market and Metropolitan Statistical Area (“MSA”) to which they are assigned, and for television stations, the Nielsen DMA to which they are assigned. To minimize the risk of second guessing by third parties and the Commission, stations should use as geographically broad a definition of “community” as is realistic for the particular station and its operations.

d. Prohibition on Internet-Only Recruitment

The State Broadcasters Associations have twice sought, in 1999 and in 2002, to have the Commission accept the Internet as a universal standard for the wide dissemination of job vacancy information. Their “Internet Plus” proposal was comprised of well publicized use of the Internet for job vacancy postings and “safety valve” notices to locally-based referral organizations that request to be placed on a station’s “mailing list” of job vacancy notices. The State Associations’ dual proposal was intended (i) to remove the uncertainty inherent in the Commission’s goal of “inclusiveness,” through the use of intermediate referral

organizations, and (ii) to promote increased effectiveness and efficiency in the recruitment process through direct Internet-based communications between broadcasters and potential applicants. Under the “Internet Plus” approach, every broadcaster would know what would truly constitute compliance with the wide dissemination requirement.

The fact that the Commission has, to date, rejected the “Internet Plus” proposal means that there is no clear, unambiguous standard against which to measure a station’s compliance with the wide dissemination requirement. What is known is that Internet-only dissemination is not enough. That being said, the Commission has stated that stations have the discretion to determine which combination of recruitment sources or methods will produce the widest and most inclusive outreach.

e. Periodic Review of Sources

There also should be a periodic review of the sources/methods used for recruitment to determine which sources are producing applicants, including women and minorities. Stations should work with non-productive sources to try to make them productive. New sources should be added as they become known. The more sources/methods used on a usual and customary basis, the less risk there will be that a station’s efforts could be second-guessed in a serious way. On the other hand, the more sources used, the greater the burden on stations to evaluate their productivity and to make sure that contact information remains current. *All advertisements and job vacancy notices, regardless of the manner in which they are distributed, should contain a statement that the broadcaster is an equal opportunity employer (“EOE”) in order to emphasize to the public the employer’s commitment to nondiscrimination and equal employment opportunities.*

The Commission has made it clear that “word-of-mouth” recruitment is neither unlawful nor inappropriate so long as it is accompanied by broad recruitment efforts as well: “broadcasters are free to use non-public recruitment sources and to interview and hire persons referred by such sources, so long as they also use public recruitment sources sufficient to achieve broad outreach and fairly consider the applications generated by those sources.” Where it is common that most of a station’s hires originate from “word-of-mouth” or employee referrals, the station should re-double its efforts to include public recruitment sources and to document those efforts thoroughly.

f. Shared Recruitment Resources

Broadcasters may also engage in joint recruitment efforts, but each broadcaster remains individually, legally responsible for meeting the broad outreach obligation. For example, it would be permissible for a station to arrange with its State Broadcasters Association or another reputable third party to routinely mail, fax or e-mail notices of job openings for stations to a long list of referral organizations.

g. Leaving the Vacancy Open a Sufficient Length of Time

A broadcaster must afford “reasonable time after recruitment is initiated for applications to be filed before the position is filled.” The Commission has stated that it would have concerns where there is “evidence that an entity has pre-selected a successful candidate without considering the applications of other applicants....” Where applications were received as the result of prior vacancy-specific recruitment efforts conducted in accordance with the EEO Rule, the FCC has accepted as compliant the decision by a broadcaster to use applications generated three months prior to the hire at issue.

h. Temporary and Part Time Hires; Promotions

Temporary hires, interns, and part time positions are not subject to the recruitment requirement of the EEO Rule. However, if a temporary hire, part time employee, or an intern were subsequently considered for a permanent position, the permanent position would first have to be subject to broad recruitment. Such recruitment must also take place where a former employee is being considered for re-hire. Recruitment is not necessary for internal promotions unless the job position from which the person is being promoted was not previously the subject of broad recruitment. Recruitment is not required for non-employee volunteers.

2. Outreach Prong 2 – Notification to Community Groups

So that “no segment of the community is inadvertently omitted from recruitment efforts,” the FCC also requires broadcasters, as a “safety valve,” to provide notification of full-time job vacancies to organizations involved in assisting job seekers which have specifically requested to be notified of openings.

Broadcasters must make reasonable efforts to publicize the fact that qualifying referral organizations may ask to be placed on a “mailing list” for information about all or certain types of job openings at the station(s). Publicity may be accomplished through the use of over-the-air announcements and/or newspaper advertisements, either individually sponsored or sponsored jointly by in-market broadcasters and/or State Broadcasters Associations. We continue to advise stations, long after the 2003 effective date of the EEO Rule, to air periodic announcements inviting eligible organizations to contact the station so that stations can add them to their “mailing list” for notices of job openings.

An organization that wants to be notified of job vacancies need only notify a broadcaster once, and then it is entitled to notification of all future full-time vacancies. If a broadcaster wishes to ascertain a group’s continuing interest, it may contact the group; if the group indicates a continuing interest in receiving notifications, or does not respond, the broadcaster should continue notifying the organization of any vacancies absent clear proof that the organization has gone out of business or has moved and its forwarding address information is unavailable.

According to the Commission, the obligation to notify recruitment sources that request notice of job openings is a supplement to, not a substitute for, a licensee’s core obligation to widely disseminate information about job vacancies. If a licensee does not receive any requests for notice of vacancies, it is still responsible for ensuring that notices of openings are widely disseminated.

There is no limit to the number of organizations that may request notification. Broadcasters must maintain a list of all these organizations and make certain that they are sent notice of all such vacancies. Stations have the right to determine how they will provide notice to requesting parties, e.g. by e-mail, fax or letter.

As mentioned above, stations may use third-parties to disseminate such notices to these referral organizations so long as each station remembers that it remains legally responsible for full compliance with the requirement. Accordingly, broadcasters should only rely upon reputable organizations to perform the ministerial function of sending the notices and require adequate proof of *which announcements were sent to which referral organizations on which date*. Furthermore, because records of the contact data for each such organization, including the name and telephone number of the contact person at each organization, must be maintained by stations and will have to be disclosed in each Annual EEO Public File Report, third party organizations need to provide that information to stations on a regular basis.

3. Outreach Prong 3 – Menu Option Initiatives

The EEO Rule requires a third effort by broadcasters to “further broaden outreach efforts to reach segments of the labor force who may be inadvertently omitted from vacancy-specific recruitment.” The

activities contained in this third prong of the EEO Rule are to be undertaken independently of any specific opening at the station, with the idea that educating the public as to opportunities that the broadcasting industry as a whole offers will help establish a continuing pipeline of people interested in broadcast employment.

Under this prong, SEUs with five to ten full-time employees and SEUs with larger full-time staffs but whose stations are located in “smaller markets,” must earn two credits from the following menu of initiatives during each two-year segment of its eight-year license term. SEUs with more than ten full-time employees and whose stations are not located in “smaller markets” must earn at least four credits within each two-year period. A “smaller market” SEU is defined as any SEU consisting solely of a station or stations licensed to a community that is in a county outside of all metropolitan areas or is in a metropolitan area with a population of less than 250,000.

The non-vacancy specific menu options include:

- (i) participation in at least four job fairs by station personnel who have substantial responsibility in the making of hiring decisions;
- (ii) hosting of at least one job fair;
- (iii) co-sponsoring at least one job fair with organizations in the business and professional community whose membership includes substantial participation of women and minorities;
- (iv) participation in at least four events sponsored by organizations representing groups present in the community interested in broadcast employment issues, including conventions, career days, workshops and similar activities;
- (v) establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;
- (vi) participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., that are not primarily directed to providing notification of specific job vacancies);
- (vii) participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;
- (viii) establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;

⁶ Note that some menu items involve participation in multiple events. For example, to receive one full credit for participating in job fairs, the SEU must participate in four job fairs. If an SEU participates in only one job fair, it appears that the Commission will give partial credit for that effort. Thus, the station will have to identify another item on the menu to participate in to earn an additional $\frac{3}{4}$ credit. In its Petition for Reconsideration of the *Second R & O*, the State Associations specifically asked the Commission whether this interpretation is correct. The FCC has not ruled on that Petition, but its processing of applications and EEO audit responses leads to the presumption that it is.

⁷ Currently, the FCC is using the definitions of classes of Metropolitan Statistical Areas (“MSAs”) available at http://www.whitehouse.gov/omb/bulletins_b99-04. MSAs with populations of fewer than 250,000 people are defined as Level C and D MSAs or PMSAs, and would qualify as “smaller markets.” To determine whether a station is a “smaller market” station, consult the 2010 Census population data for that station’s area, available at <http://2010.census.gov/2010census/data/>.

- (ix) establishment of a mentoring program for station personnel;
- (x) participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;
- (xi) sponsorship of at least two events in the community designed to inform and educate members of the public as to employment opportunities in broadcasting;
- (xii) listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation of women and minorities;
- (xiii) provision of assistance to unaffiliated non-profit entities in the maintenance of websites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;
- (xiv) provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;
- (xv) provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;
- (xvi) participation in other activities designed by the station employment unit reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.

The specific steps and details regarding the implementation of these menu options are left to the reasonable discretion of the broadcaster. While the Commission has declined to quantify the amount of effort that a broadcaster must devote to any particular menu option initiative, it has cautioned that token efforts will be found inadequate.

Joint participation in outreach efforts is permitted so long as each station's participation shows "meaningful involvement in the activity for which credit is sought." Simply lending a station's name or providing money in a joint undertaking will not be viewed as adequate participation. If credit is sought for the joint hosting of a job fair, the broadcasters must also participate in a meaningful way in the "planning and implementation of the event." Stations involved in joint efforts should consult with communications counsel as to the credit eligibility of a particular activity in order to reduce the risk that a particular activity will be found not eligible for regulatory credit.

Broadcasters must, of course, retain sufficient documentation to verify that they have engaged in the specific activities, including records identifying the scope of their participation and the names and titles of the station personnel involved. Inadequate documentation may cause the FCC to reject a station's participation in an activity altogether.

The various State Broadcasters Associations are aware of these requirements and have taken, and continue to take, steps to help SEUs generate the necessary credits, such as scholarship programs, internship programs, etc. SEUs should contact their respective State Associations and ask what programs

currently exist or are in development in which the SEU may participate in a meaningful way, so that the SEU could appropriately claim a credit under this aspect of the Commission's EEO requirements.

A cautious and recommended approach is to practice "overachievement" in this area because there is always the risk that the Commission may decline for any number of reasons, to accept a credit for a particular activity.

4. Outreach Requirements for Religious Broadcasters

Religious broadcasters who elect to apply a religious qualification to a particular position are not required to strictly comply with the broad outreach requirement or the menu options with respect to that position. Rather they must make reasonable, good faith efforts to recruit applicants for that position, without regard to race, color, national origin or gender, from among those who are qualified based on their religious belief or affiliation. However, with respect to positions that are not subject to a religious qualification, religious broadcaster SEUs that employ five or more full-time employees must fully comply with Prongs 1 and 2 of the EEO Rule described above with respect to those positions, as well as comply with Prong 3.

5. Recordkeeping

A. General Obligations

All SEUs, *regardless of staff size*, must provide equal opportunities to all qualified persons and comply with the Commission's prohibition against unlawful employment discrimination. However, according to the EEO Rule, only SEUs that employ five or more full-time employees must maintain documentation of their compliance with the general EEO Program requirements as well as with the three outreach prong requirements.

Specifically, every nonexempt SEU must retain documentation showing that it has reviewed and acted upon those elements and tasks of its EEO Program described in Section III.A. above. In addition, each nonexempt SEU must maintain a list of each vacancy for a full-time permanent position that was filled during the pertinent review period, identified by job title, along with documentation demonstrating the specific steps taken, including sources used, to recruit for each such vacancy. Documentation of those efforts would include copies of over-the-air announcements, newspaper advertisements, trade periodical ads, web page announcements, as well as e-mails, letters and faxes to specific recruitment sources, which were used. In order to be deemed sufficient, the records must show the dates/times when the job vacancy notices were publicized or sent, as the case may be. Such records should also contain the name of the media/Internet source used as well as the recruitment organizations to which the notice was sent, including the address, telephone number, e-mail address if applicable, contact person and the method by which the source received its notification, e.g., by e-mail, fax, U.S. mail, overnight courier, etc., as appropriate. Such records may be maintained in an electronic form.

NOTE - Absent a showing of extraordinary circumstances, the Commission will not give credit to any activity that cannot be supported by adequate records.

B. Specific Recordkeeping

Nonexempt SEUs have to collect and retain the following information:

- (1) listings of all full-time job vacancies filled by the station employment unit, identified by job title;

- (2) the recruitment sources used to fill each vacancy, including any organizations that requested notification (such organizations should be separately identified) and the name, address, contact person and telephone number of each recruitment source contacted to fill each position;
- (3) dated copies of all advertisements, letters, e-mails, faxes, etc., announcing each vacancy;
- (4) documentation necessary to demonstrate performance of the Prong 3 menu options – such as job fairs and mentoring programs – including sufficient information to disclose fully the nature of the initiative and the scope of the SEU's participation, including the station personnel involved;
- (5) the total number of interviewees for each vacancy and the referral source for each interviewee; and
- (6) the date each vacancy was filled and the recruitment source that referred the hiree.

This Guide does not contain a suggested recordkeeping form for ensuring compliance with the general EEO Program requirements identified at Section III.A. because each station's approach to achieving compliance with those requirements will be very different. However, attached hereto as **Attachment B** is a set of recordkeeping forms which, subject to appropriate tailoring, can be used to help stations document their compliance with the Outreach Prongs and assist them in preparing their Annual EEO Public File Report discussed below.

Specifically, four forms are provided. The first form, **Form B-1**, is a sample text of a broadcast or print notice that stations can use to notify organizations that assist job seekers that such organizations may request to receive notices of job vacancies at the station. The second form, **Form B-2**, is a sample form for collecting information about those organizations that have requested to receive information about job openings at the station on a routine basis. The third form, **Form B-3**, is to be used in connection with each specific job opening and provides a checklist for compliance with both the outreach and the recordkeeping requirements applicable to each specific opening. *It is recommended that a separate file folder be opened for each job vacancy at the station and that a separate Form B-3 be placed in the folder and completed for each opening.* The final form, **Form B-4**, is a form on which information regarding the Prong 3 Menu Option efforts can be recorded. The data/information from **Forms B-3** and **B-4** will be needed each year to complete the Annual EEO Public File Report.

C. Recordkeeping for Religious Broadcasters

The EEO recordkeeping requirements for secular broadcasters are applicable to the non-religious qualified full-time positions of religious broadcasters. As relates to religious qualified full-time positions, religious broadcasters must still retain documentation as to each such vacancy, the recruitment sources used, the date the vacancy was filled and the recruitment source of the hiree. The FCC states that it needs this information to monitor whether the religious broadcaster is making reasonable, good faith efforts to recruit among persons who meet the applicable religious qualification. The forms provided at **Attachment B** may, **subject to appropriate tailoring**, be used for this purpose.

D. Retention Period for EEO Outreach Records

The Commission requires licensees to retain all records documenting their outreach efforts until the final grant of the renewal application covering the license term during which the recruitment effort/activity took place.

6. FCC EEO Reporting/Filing Requirements

The FCC's EEO Rule places special emphasis on making EEO information readily available to the public and to the FCC.

A. The "Annual EEO Public File Report"

The EEO Rule requires every nonexempt SEU to prepare on an annual basis, an "Annual EEO Public File Report" comprised of the following:

- (i) a list of all full-time vacancies filled by the station employment unit during the preceding year, identified by job title;
- (ii) the recruitment sources used to fill each vacancy, (including organizations entitled to notification of vacancies which should be separately identified), as well as the address, contact person, and telephone number of each source;
- (iii) a list of the recruitment source that referred the hiree for each full-time vacancy;
- (iv) data reflecting the total number of persons interviewed for each full-time job vacancy in the preceding year;
- (v) the total number of interviewees referred by each recruitment source; and
- (vi) a list and brief description of the Outreach Prong 3 menu options implemented during the preceding year.

Attached hereto as **Attachment C** is a sample form of annual "EEO Public File Report." The contents of the report should be derived from the data/information gathered using **Forms B-3** and **B-4** hereto.

1. Annual EEO Public File Report for Religious Broadcasters

Religious broadcasters with full-time hires subject to a religious qualification only need to include the information contemplated in the first three items listed above.

2. Filing and Posting of Annual EEO Public File Report

Annually, on the anniversary of the date on which its license renewal application is due to be filed, each nonexempt SEU must (i) place in the public inspection file of each of the stations comprising the SEU and (ii) post on each such station's website (if it has one), the station's most recent "Annual EEO Public File Report."⁸

⁸ If the stations in the SEU are in different renewal cycles, the SEU has the discretion to select the renewal cycle applicable to any one of the stations in the SEU and use it for reporting purposes.

The period of time covered by these reports is the preceding year, except that SEUs may end the period covered by their Reports up to 10 days prior to the due date, e.g., May 22 for the June 1 Report. The Media Bureau is allowing this earlier cut-off so that nonexempt SEUs will have adequate time to prepare, review and finalize their Reports, place them in their public inspection files, and post them on their websites. So that there are no gaps in days covered from one Annual EEO Public File Report to the next, SEUs choosing to “cut-off” their reporting period should add the days cut off to the period covered by the next Annual EEO Public File Report.

While the Reports must be kept in the public inspection file for the full license term, *only* the most current Annual EEO Public File Report need be posted on the website. Accordingly, a station may (and should) remove from its website the immediately preceding Annual EEO Public File Report once the current one has been posted.

B. “Broadcast Mid-Term Report” on FCC Form 397

All television station SEUs with five or more full-time employees, and all radio station SEUs with eleven or more full-time employees must file a “Broadcast Mid-Term Report” on FCC Form 397 with the Commission by the first day of the month that constitutes the mid-point of their license terms. A copy of that report form is attached hereto as **Attachment D**. The two Annual EEO Public File Reports for the two annual periods preceding the date of filing must accompany the Form 397 filing.

C. “Broadcast Equal Employment Opportunity Program Report” on FCC Form 396

In addition, all stations, regardless of staff size, must file with their license renewal applications a “Broadcast Equal Employment Opportunity Program Report” on FCC Form 396, a copy of which is attached as **Attachment E**. Licensees must attach to the Form 396 copies of the station’s two Annual EEO Public File Reports covering the preceding two annual periods, and provide a narrative statement describing how the station achieved “broad and inclusive” outreach during those two years. If the licensee experienced any difficulties in its outreach efforts, it has the opportunity to explain those difficulties in the narrative statement. The FCC has clarified that Form 396 also requires the reporting of each complaint filed against a station alleging unlawful employment discrimination during the most recent license term, whether the complaint is pending or was adjudicated and whether the complaint was resolved in favor of or adverse to the licensee. Stations should be aware that they may be required to report complaints of unlawful employment discrimination not just based on race, national origin, color, religion or gender, but also on other unlawful grounds such as age. All types of discrimination complaints should be disclosed to communications counsel for assessment under this requirement.

D. “Broadcast Equal Employment Opportunity Model Program Report” on FCC Form 396-A

Any Form 301 construction permit application, Form 314 assignment application, or Form 315 transfer application involving an SEU that will employ five or more full-time employees must include a “Broadcast Equal Employment Opportunity Model Program Report” on FCC Form 396-A, a copy of which is attached hereto as **Attachment F**. Form 396-A requires the identification of the recruitment sources that the applicant, proposed assignee or proposed transferee intends to contact as part of its broad recruitment efforts.

7. Time Brokerage Agreements

If a station is being operated under a Time Brokerage Agreement, a Local Marketing Agreement, or the equivalent, the licensee should complete the above reports only with regard to the recruitment efforts it

undertook for its own full-time employees, and not report information concerning the broker's efforts for its employees. A broker who is also the licensee of another station or stations in the market should include recruitment activity concerning full-time positions at the station it brokers in the reports it prepares for its own station(s) that is (are) most closely affiliated with and in the same market as the brokered station. If a licensee-broker does not own a station in the same market as the brokered station, it should include the information for the brokered station in the reports for the station it owns that is geographically the closest to the brokered station.

8. EEO Enforcement

A. Audit Process

In addition to review at mid-term and license renewal, the Commission conducts random audits and targeted investigations of licensees' EEO efforts. The Commission randomly audits approximately five percent of all licensees each year. The Commission may conduct an inquiry whenever it finds evidence of a possible violation of the EEO Rule. A paper inquiry by the Commission could range from a request for documentation of a station's recruitment efforts to a request for the EEO-related contents of a station's public inspection file. Depending on the circumstances of the case, the inquiry could also include a request for EEO data covering any period during the license term, as well as witness interviews regarding the station's EEO conduct. The Commission has also indicated that the public may bring to its attention any problems that they find with a station's Annual EEO public file reports.

Copies of the most recent EEO Random Audit Public Notice and a sample EEO Audit Letter are attached as **Attachment G**. The letter well illustrates the seriousness of such an audit, as well as the importance of adequate record keeping and detailed compliance with each of the sub-sections of the Commission's EEO regulations. It is recommended that any licensee that is subject to an EEO audit or other inquiry or investigation, seek the advice of communications counsel early enough in the process so there is sufficient time for such counsel to evaluate all pertinent issues relative to the particular licensee or station, to assist in determining what documents and other information should be provided, and to review in advance any draft response to the FCC.

B. Sanctions

The following types of action and inaction could constitute **violations** of the EEO Rule: (1) engaging in any type of unlawful employment discrimination; (2) failing to maintain an effective EEO Program (token efforts are not enough); (3) failing to send out notices of all full-time openings to all referral organizations which have requested such information; (4) failing to recruit for all full-time vacancies absent exigent circumstances; (5) failing to *broadly/widely* recruit throughout the community for all full-time vacancies absent exigent circumstances; (6) failing to adequately substantiate that exigent circumstances actually existed; (7) failing to fully and accurately document recruitment efforts for each job hire; (8) failing to engage in the requisite number of non-vacancy menu option activities during each of the two year periods which comprise the license term; (9) failing to self-assess by routinely reviewing the EEO Program for effectiveness and to implement efforts to improve the program; (10) failing to timely file with the FCC a complete and accurate mid-term report; (11) failing to timely place in the public file and post on a station website the required Annual EEO Public File Report; (12) failing to timely file with the FCC a complete and accurate Form 396; (13) not timely or fully responding to a Commission inquiry; (14) engaging in misrepresentation or lack of candor regarding outreach efforts or other EEO-related information.

FCC sanctions for deficiencies in a licensee's EEO compliance include admonishments, imposition of reporting conditions (possibly with goals and timetables), monetary forfeitures, short term renewal of

license, designation for a license renewal hearing, designation for license revocation hearing, and loss of license. In late December 2008, the FCC released a series of six Notices of Apparent Liability for Forfeiture against broadcasters asserting violations of the FCC's EEO Rule discovered during the FCC's routine EEO audit process.⁹ In a joint statement appended to each of the six cases, two FCC Commissioners signaled their strong desire that enforcement of EEO matters be stepped up by the Commission. The Commissioners noted that "Commission enforcement of EEO rules has been inconsistent and, as one consequence, employment in broadcasting does not reflect America." Specifically, the Commissioners noted that while 251 cases resulted in 86 forfeitures between 1994 and 1997, only 10 cases resulting in 8 forfeitures were released between 2004 and 2007. Of the six Notices issued, four stem from EEO audits conducted by the Commission and two stem from disclosures made in conjunction with license renewal applications. The majority of these asserted violations result from failure to widely recruit for employees, failure to retain EEO records, and failure to maintain proper records in station public inspection files.

C. Examples

Below is a discussion of some of the practices that various stations have engaged in that have led the FCC to issue forfeitures, impose reporting conditions, or take other enforcement actions against them. In reading these examples, stations should be alert to whether similar practices are in place at their facilities, and take steps now to avoid the enforcement results identified below.

- (1) **Opus Broadcasting Systems (2010).** Forfeiture of \$20,000 and reporting conditions for three years imposed where FCC found the licensee failed to publicly recruit for 28 of 29 (97%) of vacancies between 2003 and 2009. For six of these vacancies Opus Broadcasting's stations used only walk-in recruiting; for seven it used only Internet methods; and for 15 it used only on-air advertisements. The Commission assessed another \$1,000 liability, each, for (1) failing to self-assess EEO compliance over the six-year period, (2) failing to record the number or referral sources of interviewees, (3) failing to include the number or referral sources of interviewees in the public file, and (4) failing to maintain EEO materials in the public file.¹⁰
- (2) **Entravision Holdings, LLC (2008).** Admonishment and reporting conditions for three years imposed for relying only on the licensee's corporate website, station on-air advertisements, word-of-mouth, walk-ins, unsolicited job applications, or internal job postings to recruit for all but one of the SEU's full-time openings.¹¹ In parsing through the various types of efforts engaged in by the licensee, the Commission said that relying on a station's own employees or on the station's own contacts does not constitute recruitment for purposes of the Commission's EEO rules because such efforts are not "public outreach." The Commission also stated that a "walk-in" may be a "source" of an interviewee or hiree, but it is not a recruitment effort.¹² In addition, the Commission again emphasized that a station may not rely exclusively on the Internet as a recruitment effort and thus must use non-Internet sources at

⁹ See *Cumulus Licensing, LLC*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 18433 (rel. Dec. 30, 2008); *Puerto Rico Public Broadcasting Corp.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 18418 (rel. Dec. 30, 2008); *Dickey Broadcasting Co.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 18448 (rel. Dec. 30, 2008); *W.S. Communications, L.L.C.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 18425 (rel. Dec. 30, 2008); *Urban Radio I, LLC*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 18453 (rel. Dec. 30, 2008); *Fox Television Stations, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 18527 (rel. Dec. 30, 2008).

¹⁰ See *Opus Broadcasting Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 17674 (rel. Dec. 29, 2010).

¹¹ See *Entravision Holdings, LLC*, Letter to Barry Friedman from Lewis Pulley, Assistant Chief, Policy Division, 23 FCC Rcd 4477 (rel. Mar. 25, 2008). It is noted that the FCC could not issue a forfeiture in this case because the stations had just been granted renewal of their licenses, which cut off the Commission's ability to issue a fine.

¹² *Id.*

the same time. Lastly, the FCC held that as a result of licensee's failure to recruit properly for all of its full-time vacancies, the broadcaster also failed to adequately analyze its recruitment program on an ongoing basis to ensure that it was effective in achieving "broad outreach." The FCC stated that it expected the licensee to "take the steps necessary to ensure that its staff understands and complies with" the Commission's EEO rules and "caution[ed]...that we will not hesitate to impose appropriate sanctions...for any further violations."¹³

- (3) **Emmis Television License, LLC, Licensee of KGMB(TV), Honolulu HI KHON-TV, Honolulu, HI (2005).** Forfeiture of \$18,000 imposed where the Commission found that the licensee failed to engage in any recruiting for 11 of 51 (22%) full-time vacancies, failed to keep interviewee or referral data for any hires, failed to include required information in two annual public file reports, and failed to self-assess adequately.¹⁴
- (4) **Applications for Renewal of License for Stations KDAY(FM), Redondo Beach, CA, etc. (2005).** Forfeiture of \$20,000 imposed where the Commission found that the licensee failed to recruit at all for 21 of 54 (39%) vacancies, failed to recruit "adequately" for 27 of 54 (50%) vacancies, and failed to self-assess its EEO program.¹⁵ Recruitment was "inadequate" because the licensee only used one of the following recruitment sources for each of the 27 job vacancies: the Internet, a college, flyers, a group interview, a broadcast association, on-air advertisements, an accounting firm, a communications institute, a single job fair, and a seminar.¹⁶
- (5) **Viper Communications (2005).** Forfeiture of \$8,000 imposed where the Commission found that the station failed to engage in the required Prong 3 outreach initiatives.¹⁷
- (6) **Applications of New Northwest Broadcasters LLC For Renewal of Licenses for Stations KFAT(FM), Anchorage, Alaska, KRPM(FM), Houston, Alaska, KDBZ(FM), Anchorage, Alaska (2006).** A total forfeiture of \$12,000 imposed where the Commission found that the licensee failed to recruit or recruit widely for 13 of 25 (52%) vacancies, keep adequate records for 5 of 25 (20%) vacancies, and self-assess its EEO program.¹⁸ Recruitment was not broad enough because the licensee relied solely on walk-ins, the Internet, and referrals by other employees. Of the total forfeiture, \$5,000 corresponded to the failure to recruit, \$5,000 for failing to recruit widely, \$1,000 to the failure to keep adequate records, and \$1,000 to the failure to self-assess.¹⁹
- (7) **Inland Empire Broadcasting Corporation (2007).** Forfeiture of \$5,000 imposed where the Commission found that the licensee failed to broadly recruit for four of ten (40%) full-time



¹³ *Id.*

¹⁴ See *Emmis Television License, LLC, Licensee of KGMB(TV), Honolulu HI KHON-TV, Honolulu, HI*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 13860 (rel. Aug. 26, 2005).

¹⁵ See *Applications for Renewal of License for Stations KDAY(FM), Redondo Beach, CA, etc.*, Notice of Apparent Liability for Forfeiture, 20 FCC Rcd 20130 (rel. Dec. 20, 2005).

¹⁶ *Id.* at ¶ 3.

¹⁷ See *Viper Communications*, Memorandum Opinion and Order and Notice of Apparent Liability, 20 FCC Rcd 20254 (rel. Dec. 22, 2005).

¹⁸ See *Applications of New Northwest Broadcasters LLC For Renewal of Licenses for Stations KFAT(FM), Anchorage, Alaska, KRPM(FM), Houston, Alaska, KDBZ(FM), Anchorage, Alaska*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 21 FCC Rcd 10748 (rel. Sep. 27, 2006).

¹⁹ *Id.*

vacancies, instead relying on referrals from advertising clients, salespeople, and other individuals to fill those vacancies.²⁰

- (8) **Three Trees Communications, Inc.(2007)**. Forfeiture of \$13,000 imposed where the Commission found that the licensee failed to engage in any Prong 3 outreach initiatives and place EEO public file reports in its public file.²¹
- (9) **Liberman Television of Dallas License Corp. (2007)**. Forfeiture of \$20,000 imposed where the FCC found that the station failed to properly recruit for 30 of its 54 (55.6%) full-time vacancies because the station relied solely on walk-ins to fill 11 of those vacancies and on referrals from employees and other individuals to fill 19 of those vacancies; failed to maintain all documentation necessary to support the data in its EEO Public File Report; failed to list the total number of interviewees for full-time vacancies and the number of interviewees referred by each recruitment source; and failed to place its EEO public file report in its public inspection file.²² In assessing the fine, the Commission noted that “although we do not require a specific number of recruitment sources, if a source or sources cannot reasonably be expected, collectively, to reach the entire community, the licensee may be found in noncompliance with the Commission’s EEO Rule....”²³

9. Conclusion

The EEO Rule requires very broad and detailed efforts, documentation, and reporting. A violation can result in serious penalties. Therefore, broadcasters should treat this aspect of FCC rule compliance with the same diligence, truthfulness and careful recordkeeping and reporting that they devote to their filings with the FCC, the Internal Revenue Service and other agencies.

The FCC has not acted on the several petitions for reconsideration and clarification of its EEO regulations which have been pending before the FCC since 2003. Consequently, subsequent actions by the Commission could result in changes to those regulations. It is the responsibility of each individual reading this publication, including those involved in station recruiting and hiring, to remain fully abreast of developments in this area.

²⁰ See *Inland Empire Broadcasting Corp.; SBR Broadcasting Corp.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd. 2656 (rel. Feb. 12, 2007).

²¹ See *Three Trees Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd. 2027 (rel. Feb. 8, 2007).

²² See *Liberman Television of Dallas License Corp.*, Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 2032 (rel. Feb. 9, 2007).

²³ *Id.* at ¶ 5.

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ATTACHMENT A

**Section 73.2080 of the Commission's Rules and Regulations
The Broadcast EEO Rule**

I. Part 73 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

Subpart H - Rules Applicable to All Broadcast Stations

Section 73.2080 is amended to delete the present language in its entirety and replace it with the following:

§ 73.2080. Equal employment opportunities (“EEO”).

- (a) **General EEO policy.** Equal opportunity in employment shall be afforded by all licensees or permittees of commercially or noncommercially operated AM, FM, TV, Class A TV or international broadcast stations (as defined in this part) to all qualified persons, and no person shall be discriminated against in employment by such stations because of race, color, religion, national origin, or sex. Religious radio broadcasters may establish religious belief or affiliation as a job qualification for all station employees. However, they cannot discriminate on the basis of race, color, national origin or gender from among those who share their religious affiliation or belief. For purposes of this rule, a religious broadcaster is a licensee which is, or is closely affiliated with, a church, synagogue, or other religious entity, including a subsidiary of such an entity.
- (b) **General EEO program requirements.** Each broadcast station shall establish, maintain, and carry out a positive continuing program of specific practices designed to ensure equal opportunity and nondiscrimination in every aspect of station employment policy and practice. Under the terms of its program, a station shall:
- (1) Define the responsibility of each level of management to ensure vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;
 - (2) Inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;
 - (3) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, or sex, and solicit their recruitment assistance on a continuing basis;
 - (4) Conduct a continuing program to exclude all unlawful forms of prejudice or discrimination based upon race, color, religion, national origin, or sex from its personnel policies and practices and working conditions; and
 - (5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all organizational units, occupations, and levels of responsibility.
- (c) **Specific EEO program requirements.** Under the terms of its program, a station employment unit must:
- (1) Recruit for every full-time job vacancy in its operation. A job filled by an internal promotion is not considered a vacancy for which recruitment is necessary. Religious radio broadcasters who establish religious affiliation as a qualification for a job position are not required to comply

with these recruitment requirements with respect to that job position or positions, but will be expected to make reasonable, good faith efforts to recruit applicants who are qualified based on their religious affiliation. Nothing in this section shall be interpreted to require a broadcaster to grant preferential treatment to any individual or group based on race, color, national origin, religion, or gender.

- (i) A station employment unit shall use recruitment sources for each vacancy sufficient in its reasonable, good faith judgment to widely disseminate information concerning the vacancy.
 - (ii) In addition to such recruitment sources, a station employment unit shall provide notification of each full-time vacancy to any organization that distributes information about employment opportunities to job seekers or refers job seekers to employers, upon request by such organization. To be entitled to notice of vacancies, the requesting organization must provide the station employment unit with its name, mailing address, e-mail address (if applicable), telephone number, and contact person, and identify the category or categories of vacancies of which it requests notice. (An organization may request notice of all vacancies).
- (2) Engage in at least four (if the station employment unit has more than ten full-time employees and is not located in a smaller market) or two (if it has five to ten full-time employees and/or is located entirely in a smaller market) of the following initiatives during each two-year period beginning with the date stations in the station employment unit are required to file renewal applications, or the second, fourth or sixth anniversaries of that date.
- (i) participation in at least four job fairs by station personnel who have substantial responsibility in the making of hiring decisions;
 - (ii) hosting of at least one job fair;
 - (iii) co-sponsoring at least one job fair with organizations in the business and professional community whose membership includes substantial participation of women and minorities;
 - (iv) participation in at least four events sponsored by organizations representing groups present in the community interested in broadcast employment issues, including conventions, career days, workshops, and similar activities;
 - (v) establishment of an internship program designed to assist members of the community to acquire skills needed for broadcast employment;
 - (vi) participation in job banks, Internet programs, and other programs designed to promote outreach generally (i.e., that are not primarily directed to providing notification of specific job vacancies);
 - (vii) participation in scholarship programs designed to assist students interested in pursuing a career in broadcasting;

- (viii) establishment of training programs designed to enable station personnel to acquire skills that could qualify them for higher level positions;
 - (ix) establishment of a mentoring program for station personnel;
 - (x) participation in at least four events or programs sponsored by educational institutions relating to career opportunities in broadcasting;
 - (xi) sponsorship of at least two events in the community designed to inform and educate members of the public as to employment opportunities in broadcasting;
 - (xii) listing of each upper-level category opening in a job bank or newsletter of media trade groups whose membership includes substantial participation of women and minorities;
 - (xiii) provision of assistance to unaffiliated non-profit entities in the maintenance of websites that provide counseling on the process of searching for broadcast employment and/or other career development assistance pertinent to broadcasting;
 - (xiv) provision of training to management level personnel as to methods of ensuring equal employment opportunity and preventing discrimination;
 - (xv) provision of training to personnel of unaffiliated non-profit organizations interested in broadcast employment opportunities that would enable them to better refer job candidates for broadcast positions;
 - (xvi) participation in other activities designed by the station employment unit reasonably calculated to further the goal of disseminating information as to employment opportunities in broadcasting to job candidates who might otherwise be unaware of such opportunities.
- (3) Analyze its recruitment program on an ongoing basis to ensure that it is effective in achieving broad outreach to potential applicants, and address any problems found as a result of its analysis.
- (4) Periodically analyze measures taken to:
- (i) Disseminate the station's equal employment opportunity program to job applicants and employees;
 - (ii) Review seniority practices to ensure that such practices are nondiscriminatory;
 - (iii) Examine rates of pay and fringe benefits for employees having the same duties, and eliminate any inequities based upon race, national origin, color, religion, or sex discrimination;
 - (iv) Utilize media for recruitment purposes in a manner that will contain no indication, either explicit or implicit, of a preference for one race, national origin, color, religion or sex over another;

- (v) Ensure that promotions to positions of greater responsibility are made in a nondiscriminatory manner;
 - (vi) Where union agreements exist, cooperate with the union or unions in the development of programs to ensure all persons of equal opportunity for employment, irrespective of race, national origin, color, religion, or sex, and include an effective nondiscrimination clause in new or renegotiated union agreements; and
 - (vii) Avoid the use of selection techniques or tests that have the effect of discriminating against any person based on race, national origin, color, religion, or sex.
- (5) Retain records to document that it has satisfied the requirements of paragraphs (c)(1) and (2) of this section. Such records, which may be maintained in an electronic format, shall be retained until after grant of the renewal application for the term during which the vacancy was filled or the initiative occurred. Such records need not be submitted to the FCC unless specifically requested. The following records shall be maintained:
- (i) listings of all full-time job vacancies filled by the station employment unit, identified by job title;
 - (ii) for each such vacancy, the recruitment sources utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number;
 - (iii) dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing vacancies;
 - (iv) documentation necessary to demonstrate performance of the initiatives required by paragraph (c)(2) of this section, including sufficient information to fully disclose the nature of the initiative and the scope of the station's participation, including the station personnel involved;
 - (v) the total number of interviewees for each vacancy and the referral source for each interviewee; and
 - (vi) the date each vacancy was filled and the recruitment source that referred the hiree.
- (6) Annually, on the anniversary of the date a station is due to file its renewal application, the station shall place in its public file, maintained pursuant to § 73.3526 or § 73.3527, and on its website, if it has one, an EEO public file report containing the following information (although if any broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the twelve months covered by the EEO public file report, its EEO public file report shall cover the period starting with the date it acquired the station):
- (i) a list of all full-time vacancies filled by the station's employment unit during the preceding year, identified by job title;

- (ii) for each such vacancy, the recruitment source(s) utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to paragraph (c)(1)(ii) of this section, which should be separately identified), identified by name, address, contact person and telephone number;
 - (iii) the recruitment source that referred the hiree for each full-time vacancy during the preceding year;
 - (iv) data reflecting the total number of persons interviewed for full-time vacancies during the preceding year and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and
 - (v) a list and brief description of initiatives undertaken pursuant to paragraph (c)(2) of this section during the preceding year.
- (d) **Small Station Exemption.** The provisions of paragraphs (b) and (c) of this section shall not apply to station employment units that have fewer than five full-time employees.
- (e) **Definitions.** For the purposes of this Rule:
- (1) a full-time employee is a permanent employee whose regular work schedule is 30 hours per week or more.
 - (2) a station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee.
 - (3) a smaller market includes metropolitan areas as defined by the Office of Management and Budget with a population of fewer than 250,000 persons and areas outside of all metropolitan areas as defined by the Office of Management and Budget.
- (f) **Enforcement.** The following provisions apply to employment activity concerning full-time positions at each broadcast station employment unit (defined in this part) employing five or more persons in full-time positions, except where noted.
- (1) All broadcast stations, including those that are part of an employment unit with fewer than five full-time employees, shall file a Broadcast Equal Employment Opportunity Program Report (Form 396) with their renewal application. Form 396 is filed on the date the station is due to file its application for renewal of license. If a broadcast licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the Form 396, information provided on its Form 396 should cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station. Stations are required to maintain a copy of their Form 396 in the station's public file in accordance with the provisions of §§ 73.3526 and 73.3527.
 - (2) The Commission will conduct a mid-term review of the employment practices of each broadcast television station and each radio station that is part of an employment unit of more than ten full-time employees four years following the station's most recent license expiration date as specified in § 73.1020. Each such licensee is required to file with the Commission the Broadcast Mid-Term Report (FCC Form 397) four months prior to that date. If a broadcast

licensee acquires a station pursuant to FCC Form 314 or FCC Form 315 during the period that is to form the basis for the Form 397, its Report should cover the licensee's EEO recruitment activity during the period starting with the date it acquired the station.

- (3) If a station is subject to a time brokerage agreement, the licensee shall file Forms 396, Forms 397, and EEO public file reports concerning only its own recruitment activity. If a licensee is a broker of another station or stations, the licensee-broker shall include its recruitment activity for the brokered station(s) in determining the bases of Forms 396, Forms 397 and the EEO public file reports for its own station. If a licensee-broker owns more than one station, it shall include its recruitment activity for the brokered station in the Forms 396, Forms 397, and EEO public file reports filed for its own station that is most closely affiliated with, and in the same market as, the brokered station. If a licensee-broker does not own a station in the same market as the brokered station, then it shall include its recruitment activity for the brokered station in the Forms 396, Forms 397, and EEO public file reports filed for its own station that is geographically closest to the brokered station.
 - (4) Broadcast stations subject to this section shall maintain records of their recruitment activity necessary to demonstrate that they are in compliance with the EEO Rule. Stations shall ensure that they maintain records sufficient to verify the accuracy of information provided in Forms 396, Forms 397, and EEO public file reports. To determine compliance with the EEO Rule, the Commission may conduct inquiries of licensees at random or if it has evidence of a possible violation of the EEO Rule. In addition, the Commission will conduct random audits. Specifically, each year approximately five percent of all licensees in the television and radio services will be randomly selected for audit, ensuring that, even though the number of radio licensees is significantly larger than television licensees, both services are represented in the audit process. Upon request, stations shall make records available to the Commission for its review.
 - (5) The public may file complaints throughout the license term based on a station's Form 397 or the contents of a station's public file. Provisions concerning filing, withdrawing, or non-filing of informal objections or petitions to deny license renewal, assignment, or transfer applications are delineated in §§73.3584 and 73.3587-3589 of the Commission's Rules.
- (g) **Sanctions and Remedies.** The Commission may issue appropriate sanctions and remedies for any violation of this Rule.

ATTACHMENT B

Sample Recordkeeping Forms

For Internal Station Use**Text for Advising Organizations that Assist Job Seekers That They May Request to Be Placed on a List to Receive All Job Notices From The Station****SAMPLE BROADCAST/PRINT NOTICE SEEKING ORGANIZATIONS**

Station(s) _____ is/are looking for organizations that regularly distribute information about employment opportunities to job applicants or have job applicants to refer. If your organization would like to receive notification of job vacancies at our station(s), please notify:

_____ [person] _____ at _____ [address] _____ [e-mail] _____

_____ [phone no.] _____. Station(s) _____ is/are an Equal Opportunity Employer [and

encourages minorities and females to apply]

For Internal Station Use

Organizations Which Request to Receive Job Vacancy Notices From The Station Should Be Listed Here and Be Advised of Each Opening at the Station(s)

Use This Information In Completing Appendix 2 of the EEO Public File Report

ORGANIZATIONS REQUESTING NOTIFICATION

1. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

2. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

3. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

4. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

- 5. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

- 6. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

- 7. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

- 8. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

- 9. Recruitment Source: _____ Date Source Initially Requested
Contact Person: _____ Notification:
Address: _____ Date Source Requested
Phone: _____ Fax: _____ Notification Cease:
e-mail address: _____

For Internal Station Use

This Form Should Be Used to Create a Job Vacancy Folder For Each Vacancy At the Station(s)

Use This Information In Completing Appendices 1 and 2 of the EEO Public File Report

NEW JOB VACANCY

Part A

I. General Information

Job Title: _____

Station: _____

Date Position Opened: _____

Date Position Filled: _____

Documentation of Dissemination of Notice: Has Part B of this form detailing recruitment efforts undertaken been completed and dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing this vacancy attached hereto?

Yes [] No []

II. Interviewees

1. List of people interviewed for this position:

Name	Date	Recruitment Source
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. Total number of people interviewed for this position: _____

III. Hiree

Person ultimately hired for this position:

Name: _____

Recruitment Source: _____

Approval:

General Manager: _____ Date: _____

Part B Recruitment Sources Utilized

1. Was a copy of the job notice for this vacancy posted in a place where employees would easily see it at the station(s) and at other stations in the group?

Yes [] No []

Date posted: _____

Attach a copy of notice posted.

2. Was a copy of the job notice for this vacancy sent to any third party for distribution to its list of referral organizations (i.e. state broadcasters association)?

Yes [] No []

Name of Third Party: _____

Date sent: _____

Attach proof of sending to third party.

Attach copy of third party's proof of distribution.

3. Was a copy of the job notice for this vacancy sent to all of the organizations on the station's list of organizations entitled to receive copies of such notices (Form B-2)?

Yes [] No []

Date sent: _____

Attach a copy of the current list of such organizations.

Attach proof of sending to such organizations.

4. Was a copy of the job notice posted on the station(s) website or on any other websites?

Yes [] No []

Dates posted: _____

Attach copies of notices posted _____ and identify websites by URL's

5. Was a copy of the job notice for this vacancy sent to any additional organizations or advertised in any additional media outlets?

Yes [] No []

Complete the following information for each additional source utilized for advertising the vacancy. Attach copies of newspaper advertisements and scripts of radio/television advertisements. Attach proof of publication.

a) Name of Source: _____

Contact Person: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

How was notification given to this source? _____

b) Name of Source: _____

Contact Person: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

How was notification given to this source? _____

c) Name of Source: _____

Contact Person: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

How was notification given to this source? _____

d) Name of Source: _____

Contact Person: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

How was notification given to this source? _____

e) Name of Source: _____

Contact Person: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

How was notification given to this source? _____

f) Name of Source: _____

Contact Person: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

How was notification given to this source? _____

g) Name of Source: _____

Contact Person: _____

Address: _____

Telephone: _____ Fax: _____

E-mail: _____

How was notification given to this source? _____

ATTACHMENT C

Sample “Annual EEO Public File Report Form”

Sample Annual EEO Public File Report Form

[Station Call Signs]

Annual EEO Public File Report

The purpose of this EEO Public File Report (“Report”) is to comply with Section 73.2080(c)(6) of the FCC’s EEO Rule. This Report has been prepared on behalf of the Station Employment Unit that is comprised of the following station(s): [Station Call Sign(s) and Communities of License] and is required to be placed in the public inspection files of these stations, and posted on their websites, if they have websites.

The information contained in this Report covers the time period beginning _____ to and including _____ (the “Applicable Period”).

The FCC’s EEO Rule requires that this Report contain the following information:

1. A list of all full-time vacancies filled by the Station(s) comprising the Station Employment Unit during the Applicable Period;
2. For each such vacancy, the recruitment source(s) utilized to fill the vacancy (including, if applicable, organizations entitled to notification pursuant to Section 73.2080(c)(1)(ii) of the EEO Rule, which should be separately identified), identified by name, address, contact person and telephone number;
3. The recruitment source that referred the hiree for each full-time vacancy during the Applicable Period;
4. Data reflecting the total number of persons interviewed for full-time vacancies during the Applicable Period and the total number of interviewees referred by each recruitment source utilized in connection with such vacancies; and
5. A list and brief description of the initiatives undertaken pursuant to Section 73.2080(c)(2) of the FCC rules.

Appendices 1, 2 and 3 which follow have been designed, in the aggregate, to provide the required information. Please note that the numbers listed on Appendix 2 under the column entitled “Full-time Positions for Which This Source Was Utilized” refer to the number of the full-time job positions listed on Appendix 1.

For purposes of this Report, a vacancy was deemed “filled” not when the offer was extended but when the hiree accepted the job offer.

Appendix 1 to Sample "Annual EEO Public File Report" Form

Covering the Period from _____ to _____

Station(s) Comprising Station Employment Unit: [Station Call Sign(s)]

Section 1: Vacancy Information

	Full-time Positions Filled by Job Title	Recruitment Source of Hiree
1		
2		
3		
4		
5		

Total Number of Persons Interviewed During Applicable Period: _____

Appendix 2 to Sample "Annual EEO Public File Report" Form

Covering the Period from _____ to _____

Station(s) Comprising Station Employment Unit: [Station Call Sign(s)]

Section 2: Recruitment Source Information

	Recruitment Source (Name, Address, Telephone Number, Contact Person)	Total Number of Interviewees This Source Has Provided During This Period (If Any)	Full-time Positions for Which This Source Was Utilized
A			
B			
C			
D			
E			
F			
G			
H			

* Indicates sources that have requested notification of job openings.

Appendix 3 to Sample “Annual EEO Public File Report” Form

Covering the Period from _____ to _____

Station(s) Comprising Station Employment Unit: [Station Call Sign(s)]

Section 3: Supplemental (Non-Vacancy Specific) Recruitment Activities Undertaken by [Station Call Sign(s)]

[Description of the activities.]

ATTACHMENT D

Broadcast Mid-Term Report FCC Form 397

BROADCAST MID-TERM REPORT

(For FCC Use Only)
Code No.

Legal Name of the Licensee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)		E-Mail Address (if available)
FCC Registration Number (FRN)	Facility ID Number	Call Sign

TYPE OF BROADCAST STATION:

Commercial Broadcast Station

Noncommercial Broadcast Station

- | | | |
|--|---|--|
| <input type="checkbox"/> Radio | <input type="checkbox"/> TV | <input type="checkbox"/> Educational Radio |
| <input type="checkbox"/> Low Power TV | <input type="checkbox"/> Educational TV | |
| <input type="checkbox"/> International | | |

List call sign and location of all stations included on this report. List commonly owned stations that share one or more employees. Also list stations operated by the licensee pursuant to a time brokerage agreement. Indicate on the table below which stations are operated pursuant to a time brokerage agreement. To the extent that licensees include stations operated pursuant to a time brokerage agreement on this report, responses or information provided in Sections I through III should take into consideration the licensee's EEO compliance efforts at brokered stations, as well as any other stations, included on this form. For purposes of this form, a station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee.

Call Sign	Facility ID Number	Type (check applicable box)	Location (city, state)	Time Brokerage Agreement (check applicable box)
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No

SEND NOTICES AND COMMUNICATIONS TO THE FOLLOWING NAMED PERSON AT THE ADDRESS INDICATED BELOW:

Name		Street Address	
City	State	Zip Code	Telephone No. ()

FILING INSTRUCTIONS

Broadcast station licensees are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, national origin, religion, and sex. See 47 C.F.R. Section 73.2080. Pursuant to these requirements, a television station employment unit that employs five or more full-time station employees must file a full and complete Broadcast Mid-Term Report. If a television station employment unit employs fewer than five full-time employees, only the first two pages of this report need be filed.

A copy of this Mid-Term Report must be kept in the station's public file. Failure to meet these requirements may result in sanctions or remedies. These requirements are contained in 47 C.F.R. Section 73.2080 and are authorized by the Communications Act of 1934, as amended.

Consider as "full-time" employees all those permanently working 30 or more hours a week.

SECTION I.

Does your station employment unit employ fewer than five full-time employees, if television, or fewer than eleven full-time employees, if radio? Yes No

If yes, you do not have to file this form with the FCC. However, you have the option to complete the certification below, return the form to the FCC, and place a copy in your station(s) public file. You do not have to complete the rest of this form. If your station employment unit employs five or more full-time employees, if television, or eleven or more full-time employees, if radio, you must complete all of this form and follow all instructions.

CERTIFICATION

This report must be certified, as follows:

- A. By licensee, if an individual;
- B. By a partner, if a partnership (general partner, if a limited partnership);
- C. By an officer, if a corporation or an association; or
- D. By an attorney of the licensee, in case of physical disability or absence from the United States of the licensee.

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify to the best of my knowledge, information and belief, all statements contained in this report are true and correct.

Signed	Name of Respondent
Title	Telephone No. (include area code)
Date	

GENERAL POLICY

A broadcast station must provide equal employment opportunity to all qualified individuals without regard to their race, color, national origin, religion or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

SECTION II.

RESPONSIBILITY FOR IMPLEMENTATION

A broadcast station must assign a particular official overall responsibility for equal employment opportunity at the station. That official's name and title are:

NAME	TITLE

It is also the responsibility of all persons at a broadcast station making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that no person is discriminated against in employment because of race, color, religion, national origin or sex.

SECTION III.

MID-TERM REPORT

Television station employment units with five or more full-time employees and radio station employment units with more than ten full-time employees filing in the middle of the license term must attach a copy of each of the two most recent EEO public file reports (the reports from this year and last year). Stations are required to place annually such information as is required by 47 C.F.R. Section 73.2080 in their public files.

EXHIBIT 1

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

We have estimated that each response to this collection of information will average 30 minutes. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0922), Washington, D.C. 20554. We will also accept your comments via the Internet if you send them to PRA@fcc.gov. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0922.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

ATTACHMENT E

Broadcast Equal Employment Opportunity Program Report: FCC Form 396

BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGRAM REPORT

(To be filed with broadcast license renewal application)

(For FCC Use Only)

Code No.

Legal Name of the Licensee		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	
	Facility ID Number	Call Sign

TYPE OF BROADCAST STATION :

Commercial Broadcast Station

Noncommercial Broadcast Station

- Radio TV
 Low Power TV
 International

- Educational Radio
 Educational TV

List call sign and location of all stations included on this report. List commonly owned stations that share one or more employees. Also list stations operated by the licensee pursuant to a time brokerage agreement. Indicate on the table below which stations are operated pursuant to a time brokerage agreement. To the extent that licensees include stations operated pursuant to a time brokerage agreement on this report, responses or information provided in Sections I through IV should take into consideration the licensee's EEO compliance efforts at brokered stations, as well as any other stations, included on this form. For purposes of this form, a station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee.

Call Sign	Facility ID Number	Type (check applicable box)	Location (city, state)	Time Brokerage Agreement (check applicable box)
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> AM <input type="checkbox"/> FM <input type="checkbox"/> TV		<input type="checkbox"/> Yes <input type="checkbox"/> No

CONTACT PERSON IF OTHER THAN LICENSEE

Name		Street Address	
City	State	Zip Code	Telephone No. ()

FILING INSTRUCTIONS

Broadcast station licensees are required to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, national origin, religion, and sex. See 47 C.F.R. Section 73.2080. Pursuant to these requirements, a license renewal applicant whose station employment unit employs five or more full-time station employees must file a report of its activities to ensure equal employment opportunity. If a station employment unit employs fewer than five full-time employees, no equal employment opportunity program information need be filed. If a station employment unit is filing a combined report, a copy of the report must be filed with each station's renewal application.

A copy of this report must be kept in the station's public file. These actions are required to obtain license renewal. Failure to meet these requirements may result in sanctions or license renewal being delayed or denied. These requirements are contained in 47 C.F.R. Section 73.2080 and are authorized by the Communications Act of 1934, as amended.

DISCRIMINATION COMPLAINTS. Have any pending or resolved complaints been filed during this license term before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the station(s)? Yes No

If so, provide a brief description of the complaint(s), including the persons involved, the date of the filing, the court or agency, the file number (if any), and the disposition or current status of the matter.

--

Does your station employment unit employ fewer than five full-time employees? Yes No
Consider as "full-time" employees all those permanently working 30 or more hours a week.

If your station employment unit employs fewer than five full-time employees, complete the certification below, return the form to the FCC, and place a copy in your station(s) public file. You do not have to complete the rest of this form. If your station employment unit employs five or more full-time employees, you must complete all of this form and follow all instructions.

CERTIFICATION

This report must be certified, as follows:

- A. By licensee, if an individual;
- B. By a partner, if a partnership (general partner, if a limited partnership);
- C. By an officer, if a corporation or an association; or
- D. By an attorney of the licensee, in case of physical disability or absence from the United States of the licensee.

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT
(U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT
(U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

I certify to the best of my knowledge, information and belief, all statements contained in this report are true and correct.

Signed	Name of Respondent
Title	Telephone No. (include area code)
Date	

The purpose of this document is to provide broadcast licensees, the FCC, and the public with information about whether the station is meeting equal employment opportunity requirements.

GENERAL POLICY

A broadcast station must provide equal employment opportunity to all qualified individuals without regard to their race, color, national origin, religion or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

RESPONSIBILITY FOR IMPLEMENTATION

A broadcast station must assign a particular official overall responsibility for equal employment opportunity at the station. That official's name and title are:

NAME	TITLE

It is also the responsibility of all persons at a broadcast station making employment decisions with respect to recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that no person is discriminated against in employment because of race, color, religion, national origin or sex.

I. EEO PUBLIC FILE REPORT

Attach as an exhibit one copy of each of the EEO public file reports from the previous two years. Stations are required to place annually such information as is required by 47 C.F.R. Section 73.2080 in their public files.

Exhibit No.

II. NARRATIVE STATEMENT

Provide a statement in an exhibit which demonstrates how the station achieved broad and inclusive outreach during the two-year period prior to filing this application. Stations that have experienced difficulties in their outreach efforts should explain.

Exhibit No.

FCC NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT AND THE PAPERWORK REDUCTION ACT

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this report. We will use the information you provide to determine if the benefit requested is consistent with the public interest. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your request may be referred to the Federal, state or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your request may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding. In addition, all information provided in this form will be available for public inspection. If you owe a past due debt to the federal government, any information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized. If you do not provide the information requested on this report, the report may be returned without action having been taken upon it or its processing may be delayed while a request is made to provide the missing information. Your response is required to obtain the requested authority. We have estimated that each response to this collection of information will average 1 hour, 30 minutes. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0113), Washington, D. C. 20554. We will also accept your comments via the Internet if you send them to jboley@fcc.gov. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0113.

THE FOREGOING NOTICE IS REQUIRED BY THE PRIVACY ACT OF 1974, P.L. 93-579, DECEMBER 31, 1974, 5 U.S.C. 552a(e)(3), AND THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

ATTACHMENT F

Broadcast Equal Employment Opportunity Model Program Report: FCC Form 396-A

**BROADCAST EQUAL EMPLOYMENT OPPORTUNITY
 MODEL PROGRAM REPORT**

Legal Name of the Applicant		
Mailing Address		
City	State or Country (if foreign address)	ZIP Code
Telephone Number (include area code)	E-Mail Address (if available)	
	Facility ID Number	Call Sign

Application for Construction Permit for New Station
 Application for Assignment of License
 Application for Transfer of Control
 a. Service Type:
 AM
 FM
 TV
 Other (specify) _____
 b. Community of License:

City	State
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INSTRUCTIONS

Applicants seeking authority to construct a new commercial, noncommercial or international broadcast station, applicants seeking authority to obtain assignment of the construction permit or license of such a station, and applicants seeking authority to acquire control of an entity holding such construction permit or license are required to afford equal employment opportunity to all qualified persons and to refrain from discrimination in employment and related benefits on the basis of race, color, religion, national origin or sex. See 47 C.F.R. Section 73.2080. Pursuant to these requirements, an applicant who proposes to employ five or more full-time employees must establish a program designed to assure equal employment opportunity. This is submitted to the Commission as the Model EEO Program. For purposes of this form, a station employment unit is a station or a group of commonly owned stations in the same market that share at least one employee.

Guidelines for a Model EEO Program and a Model EEO Program are attached.

NOTE: Check appropriate box, sign the certification below and return to FCC:

- Station employment unit will employ fewer than 5 full-time employees; therefore no written program is being submitted.
- Station employment unit will employ 5 or more full-time employees. Our Model EEO Program is attached. (You must

I certify that the statements made herein are true, complete, and correct to the best of my knowledge and belief, and are made in

Signed	Name of Respondent
Title	Date

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

GUIDELINES TO THE MODEL EEO PROGRAM

The model EEO program adopted by the Commission for construction permit applicants, assignees, and transferees contains five sections designed to assist the applicant in establishing an effective EEO program for its station. The specific elements which should be addressed are as follows:

I. GENERAL POLICY

The first section of the program should contain a statement by the applicant that it will afford equal employment opportunity in all personnel actions without regard to race, color, religion, national origin or sex, and that it has adopted an EEO program which is designed to fully utilize the skills of qualified persons.

II. RESPONSIBILITY FOR IMPLEMENTATION

This section calls for the name (if known) and title of the official who will be designated by the applicant to have responsibility for implementing the station's program.

III. POLICY DISSEMINATION

The purpose of this section is to disclose the manner in which the station's EEO policy will be communicated to employees and prospective employees. The applicant's program should indicate whether it: (a) intends to utilize an employment application form which contains a notice informing job applicants that discrimination is prohibited and that persons who believe that they have been discriminated against may notify appropriate governmental agencies; (b) will post a notice which informs job applicants and employees that the applicant is an equal opportunity employer and that they may notify appropriate governmental authorities if they believe that they have been discriminated against; and (c) will seek the cooperation of labor unions, if represented at the station, in the implementation of its EEO program and in the inclusion of nondiscrimination provisions in union contracts. The applicant should also set forth any other methods it proposes to utilize in conveying its EEO policy (e.g., orientation materials, on-air announcements, station newsletter) to employees and prospective employees.

IV. RECRUITMENT

The applicant should specify the recruitment sources and other techniques it proposes to use to attract qualified job applicants. The purpose of the listing is to assist the applicant in developing specialized referral sources to ensure wide dissemination of vacancy information as job opportunities occur. Sources which subsequently prove to be nonproductive should not be relied on and new sources should be sought.

MODEL EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

I. GENERAL POLICY

It will be our policy to provide equal employment opportunity to all qualified individuals without regard to race, color, religion, national origin or sex in all personnel actions including recruitment, evaluation, selection, promotion, compensation, training and termination.

It will also be our policy to promote the realization of equal employment opportunity through a positive, continuing program of specific practices designed to ensure the full realization of equal employment opportunity without regard to race, color, religion, national origin or sex.

To make this policy effective, and to ensure conformance with the Rules and Regulations of the Federal Communications Commission, we have adopted an Equal Employment Opportunity Program which includes the following elements:

II. RESPONSIBILITY FOR IMPLEMENTATION

Name/Title

will be responsible for the administration and implementation of our Equal Employment Opportunity Program. It will also be the responsibility of all persons making employment decisions with respect to the recruitment, evaluation, selection, promotion, compensation, training and termination of employees to ensure that our policy and program is adhered to and that no person is discriminated against in employment because of race, color, religion, national origin or sex.

III. POLICY DISSEMINATION

To ensure that all members of the staff are cognizant of our equal employment opportunity policy and their individual responsibilities in carrying out this policy, the following communication efforts will be made:

- The station's employment application forms will contain a notice informing prospective employees that discrimination because of race, color, religion, national origin or sex is prohibited and that they may notify the appropriate local, State or Federal agency if they believe they have been the victims of discrimination.
- Appropriate notices will be posted informing applicants and employees that the station is an Equal Opportunity Employer and of their right to notify an appropriate local, State or Federal agency if they believe they have been the victims of discrimination.
- We will seek the cooperation of unions, if represented at the station, to help implement our EEO program and all union contracts will contain a nondiscrimination clause.
- Other (specify)

IV. RECRUITMENT

To ensure that information concerning each full-time vacancy is widely disseminated, we propose to use the following list of recruitment sources consistent with the requirements of 47 C.F.R. Section 73.2080:

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT

We have estimated that each response to this collection of information will take one (1) hour. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Paperwork Reduction Project (3060-0113), Washington, D. C. 20554. We will also accept your comments via the Internet if you send them to pra@fcc.gov. Remember - you are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0113.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, P.L. 104-13, OCTOBER 1, 1995, 44 U.S.C. 3507.

ATTACHMENT G**Public Notice**

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

DA 11-571

Released: March 31, 2011

FCC COMMENCES 2011 EEO AUDITS

On March 29, 2011, the Federal Communications Commission mailed the first of its Equal Employment Opportunity (EEO) audit letters for 2011 to randomly selected radio and television stations. In accordance with the provisions of Sections 73.2080(f)(4) and 76.77(d) of the Commission's EEO rules, the FCC annually audits the EEO programs of randomly selected broadcast licensees and multi-channel video programming distributors (MVPDs). Each year, approximately five percent of all radio and television stations and MVPDs are selected for these EEO audits.

Attached are a list of the radio and television stations to which the audit letters were sent, as well as the text of the March 29, 2011 audit letter. The list and the letter can also be viewed by accessing the Media Bureau's EEO page on the FCC website at <http://www.fcc.gov/mb/policy/eo>.

For stations that have a website and five or more full-time employees

We remind you that you must post your most recent EEO public file report on your website by the deadline by which it must be placed in the public file, in accordance with 47 C.F.R. § 73.2080(c)(6). This will be examined as part of the audit. Failure to post the required report on a station website is a violation of the EEO Rule and subject to sanctions, including a forfeiture.

News Media Contact: Janice Wise at 202-418-8165
Media Bureau Contact: Lewis Pulley at 202-418-1450

Federal Communications Commission
Washington, D.C. 20554

March 29, 2011

Dear Licensee:

1. In accordance with 47 C.F.R. § 73.2080(f)(4) of the Commission's rules, the station employment unit (the "Unit") that includes your above-referenced station (the "Station") has been randomly selected for an audit of its Equal Employment Opportunity ("EEO") program. A copy of Section 73.2080 of the Commission's rules is enclosed for your reference.
2. If the Unit is not required under our rules to have an EEO recruitment program due to the nature of its full-time workforce (having fewer than five full-time employees, defined as employees regularly assigned to work 30 hours a week or more), you must still respond to this audit letter. However, in your response, you are required only to provide a list of the Unit's full-time employees, each noted by job title, the number of hours each is regularly assigned to work per week, and a response to Question 3(e) below. Also, in formulating your response, please see Questions 4(a)-(d) below regarding brokers and brokered stations for instructions for situations in which the applicable employment unit has fewer than five full-time employees.
3. Audit Data Requested. If the Unit employs five or more full-time employees (and all units, for Question 3(e)), provide the following information in your response to this letter, including an explanation regarding any requested information that you are unable to provide:
 - a. Copies of the Unit's two most recent EEO public file reports, described in Section 73.2080(c)(6). For any stations in the Unit that have websites, provide each web address. If the Unit's most recent EEO public file report is not included on or linked to on each of these websites, indicate each station involved and provide an explanation of why the report is not so posted or linked, as required by Section 73.2080(c)(6). In accordance with Section 73.2080(c)(5)(vi), provide the date of each full-time hire listed in each report provided.
 - b. For each Unit full-time position filled during the period covered by the above EEO public file reports, or since your acquisition of the Station, if after that period, dated copies of all advertisements, bulletins, letters, faxes, e-mails, or other communications announcing the position, as described in Section 73.2080(c)(5)(iii). Include copies of all job announcements sent to any organization (identified separately from other sources) that has notified the Unit that it wants to be notified of Unit job openings, as described in Section 73.2080(c)(1)(ii).
 - c. In accordance with Section 73.2080(c)(5)(v), the total number of interviewees for each vacancy and the referral source for each interviewee for all full-time Unit vacancies filled during the period covered by the above-noted EEO public file reports.
 - d. Documentation of Unit recruitment initiatives described in Section 73.2080(c)(2) during the periods covered by the above-noted EEO public file reports, such as participation at job fairs, mentoring programs, and training for staff. Specify the Unit personnel involved in each such recruitment initiative. Also, provide the total number of full-time employees of the Unit and state whether the population of the market in which any station included in the Unit operates is 250,000 or more.

Based upon these two factors, determine and state whether the Unit is required to perform two or four initiatives within a two-year period, pursuant to Sections 73.2080(c)(2) and (e)(3).

- e. Disclose any pending or resolved complaints involving the Station filed during the Station's current license term before any body having competent jurisdiction under federal, state, territorial or local law, alleging unlawful discrimination in the employment practices of the Unit on the basis of race, color, religion, national origin, or sex. For each such complaint, provide: (1) a brief description of the allegations and issues involved; (2) the names of the complainant and other persons involved; (3) the date the complaint was filed; (4) the court or agency before which it is pending or by which it was resolved; (5) the file or case number; and (6) the disposition and date thereof or current status. Note that all complaints must be reported, regardless of their status or disposition.
 - f. In accordance with Section 73.2080(b), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the responsibilities of each level of Unit management responsible for implementing Unit EEO policies and describe how the Unit has informed employees and job applicants of its EEO policies and program.
 - g. In accordance with Section 73.2080(c)(3), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the Unit's efforts to analyze its EEO recruitment program to ensure that it is effective and to address any problems found as a result of such analysis.
 - h. In accordance with Section 73.2080(c)(4), from the first day of the Station's current license term (or the date the licensee became the owner, if after that date) until the date of this letter, describe the Unit's efforts to analyze periodically its measures taken to examine pay, benefits, seniority practices, promotions, and selection techniques and tests to ensure that they provide equal opportunity and do not have a discriminatory effect. If the Unit has one or more union agreements, describe how the Unit cooperates with each union to ensure EEO policies are followed for the Unit's union-member employees and job applicants.
 - i. If your entity is a religious broadcaster and any of its full-time employees are subject to a religious qualification as described in Section 73.2080(a) of the rules, so indicate in your response to this letter and provide data as applicable to the Unit's EEO program. For example, for full-time hires subject to a religious qualification, only a record of the hire listed by job title and date filled, the recruitment sources used for the opening, and the source of the hiree must be provided. No other records are required for those hires. If five or more full-time positions are not subject to a religious qualification, the licensee must maintain and provide all records for such hires and complete the initiatives required under Section 73.2080(c)(2). Otherwise, a religious broadcaster is not required to perform these initiatives.
4. Time Brokerage.
- a. Licensee of brokered station(s). If the Unit employs fewer than five full-time employees and any station included in it is subject to a time brokerage agreement, in addition to responding to this letter and providing us a list of the Unit's full-time employees listed by job title (and the number of hours each employee is assigned to work) and a response to Question 3(e) above, you must immediately forward a copy of this letter to the broker under each such agreement, which must respond to Question 4(b) below. If the Unit employs five or more full-time employees, the licensee

- must respond fully to paragraph 3 above, and also forward the letter to the broker so the broker may respond to Question 4(b) below.
- b. Broker receiving audit letter from brokered station licensee. If you are the broker of a station, and the station you are brokering receives an audit letter, the licensee of the brokered station must forward the audit letter to you. You should respond to the audit letter concerning EEO information relating only to your own full-time employees at the brokered station. See Section 73.2080(f)(3).
 - c. Broker receiving audit letter directly from Commission. If you are a broker, but the target station in this audit letter is a station licensed to you, you must submit information requested herein for the EEO program at your station (or employment unit). If you maintain EEO data for a station you are brokering with that for your own station that is the target of this audit letter, and lack the ability to separate the information, you must include in your response the information requested herein pertaining to your full-time employees at the station(s) you broker. See Section 73.2080(f)(3).
 - d. Broker described under 4(b) or 4(c) above. If your full-time employees at the station you are brokering, combined with your full-time employees at your owned station(s), total fewer than five, however, you need only respond to this letter by the deadline described below by submitting a list of your Unit's full-time employees (listed by job title and number of hours regularly assigned to work per week) and the same type of list for the full-time employees you employ at the brokered station(s), and a response to Question 3(e) above.
5. Procedures. Direct your response to EEO Staff, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554. The response must be received by the Commission by May 9, 2011. You need only submit your original response; no copies are needed. The accuracy and completeness of the response must be certified by an officer, partner or other principal of the Station licensee or broker (as appropriate) or, in the case of a noncommercial educational station, by an officer, member or other principal of the licensee. (See Section 1. 16.) The response may be in the form of a CD or other electronic medium, as long as the certification provided refers to the material submitted and is on paper with an original signature. To knowingly and willfully make any false statement or conceal any material fact in response to this audit is punishable by fine or imprisonment (see 18 U.S.C. § 1001; see also 47 C.F.R. § 1.17), revocation of any station license or construction permit (47 U.S.C. § 312(a)(1)), and/or forfeiture (47 U.S.C. § 503). Extensions of time must be requested in writing (or sent by e-mail to lewis.pulley@fcc.gov) and will be granted only upon a showing of extraordinary circumstances. Unless and until the EEO Staff grants such a request the original deadline remains in effect. Failure to respond to this audit letter by the deadline is punishable by sanctions in accordance with Section 73.2080(g).
 6. In accordance with Sections 73.3526(e)(10) (for commercial stations) and 73.3527(e)(11) (for noncommercial educational stations), copies of which are enclosed, you must place a copy of this letter and your response in the public inspection file of each affected station. Consequently, your response should not include personal information about individuals, such as social security numbers, home addresses, or other personally identifiable information. We do not require that employment units retain such information in their records, or that such information be provided in response to this letter.
 7. If our EEO random audits sent in 2009 or 2010 included the Station, or if the Station's most recent license renewal application was granted, by final order, within the past 18 months, you may not have to respond to this letter. If the Station falls within one of these categories, before responding, please tell us the dates of public file reports included in an audit response or the date of the Station's renewal,

in an e-mail sent to lewis.pulley@fcc.gov. We will then advise you if a response is necessary. Should you have any questions, please contact the EEO Staff at (202) 418-1450. Thank you for your cooperation.

Sincerely,

Lewis C. Pulley
Assistant Chief, Policy Division
Media Bureau

Enclosures