



Federal Communications Commission
Washington, D.C. 20554

RECEIVED
MAR 17 2021

February 25, 2021

KBIM-FM, ROSWELL, NM, Fac ID 34854
NOALMARK BROADCASTING CORPORATION
202 WEST 19TH ST.
EL DORADO, AR 71730

Dear Licensee:

1. In accordance with 47 CFR § 73.2080(f)(4), the station employment unit (the Unit) that includes the station identified above (the Station) has been randomly selected for an audit of its Equal Employment Opportunity (EEO) program. A copy of section 73.2080 of the Federal Communications Commission (FCC or Commission) rules can be found here: <https://www.fcc.gov/enforcement/eb-eeo/equal-employment-opportunity-rules>

2. Audit Data Requested.

(a) If the Unit has fewer than five full-time employees (defined by Section 73.2080(e)(1) as employees regularly assigned to work 30 hours a week or more), submit with the response only a list of the Unit's full-time employees identified by job title (no personal names should be provided), the number of hours each is regularly assigned to work per week, and a response to Question 2(b)(v) below. In formulating the response, please see Question 3 below for guidance regarding brokers and brokered stations with fewer than five full-time employees.

(b) If the Unit employs five or more full-time employees, provide the following information, including an explanation regarding any information that you are unable to provide:

(i) Copies of the Unit's two most recent EEO Public File Reports, described in section 73.2080(c)(6). For each station in the Unit that maintains a website, provide the website address. If the Unit's most recent EEO Public File Report is not posted on each website as required by section 73.2080(c)(6), identify that website and explain why the report is not so posted. If the Unit does not maintain a website, but its corporate site contains a link to a site pertaining to the Unit, identify the corporate website address where the Unit's most recent EEO Public File Report is linked pursuant to section 73.2080(c)(6).

(ii) For each of the Unit's full-time positions filled during the period covered by the EEO Public File Reports noted above, or since acquisition of the Station (if during that period), provide the date of hire as required by section 73.2080(c)(5)(vi) as well as 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). However, to reduce the burden of responding to this audit, if you have sent a job notice to multiple sources, you may include in your response: (1) documentation showing one such notice was sent, (2) a list of the additional sources to which the notice was distributed, and (3) a statement confirming notices to all additional sources used

to announce the vacancy were retained, as required by section 73.2080(c)(5)(iii).¹⁴⁹ Include, however, 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 the Unit's job openings, as described in section 73.2080(c)(1)(ii).

(iii) As required by section 73.2080(c)(5)(v), the total number of interviewees for each vacancy and the referral source for each interviewee for all of the Unit's full-time vacancies filled during the period covered by the above-noted EEO Public File Reports.

(iv) Dated documentation of the Unit's recruitment initiatives described in section 73.2080(c)(2) during the period covered by the above-noted EEO Public File Reports, such as participation in job fairs, events with educational institutions, and mentoring or training programs for staff. Specify the Unit personnel involved in each recruitment initiative. In addition, provide the Unit's total number of full-time employees and state whether the population of the market in which any of the Unit's stations operates is 250,000 or more. Based upon these two factors and as required by sections 73.2080(c)(2) and (e)(3) of the Commission's rules, state whether the Unit is required to perform two or four points worth of initiative activities within a two-year period (measured from the date the stations in the Unit file their renewal applications and the second, fourth and sixth anniversaries of that date). If the Unit performed more than the required number of initiative activities, it may provide documentation for only the required amount in its response, i.e., two or four points worth. If any documentation that you provide appears inadequate, e.g., it is not dated or does not clearly prove the Unit's participation, the Commission may ask you for additional verification.

(v) 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 you must report all complaints, regardless of their status or disposition.

(vi) In accordance with section 73.2080(b), from the first day of the Station's current license term (or the date the licensee acquired the Station, 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.

(vii) In accordance with section 73.2080(c)(3), from the first day of the Station's current license term (or the date the licensee acquired the Station, if after that date) until the date of this

¹⁴⁹ For on-air announcements that aired multiple times to advertise the position, you may send a traffic log summary documenting the timeframe during which the announcements aired (in lieu of the log in its entirety). The log showing all air dates and times may be required for additional verification, but the Unit need not provide with its initial response.

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.

(viii) As required by section 73.2080(c)(4), from the first day of the Station's current license term (or the date the licensee acquired the Station, 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.

(ix) If your entity is a religious broadcaster and any of the Unit's full-time employees are subject to a religious qualification as described in section 73.2080(a) of the rules, the Unit should indicate that status in its response and provide data as applicable to its EEO program. For example, for those full-time hires subject to a religious qualification, you must provide only a record of the hire listed by job title and date filled, the recruitment sources used for the opening, and the source that referred the person hired. 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.

(x) Among items you need not provide in response to this letter are resumes, company training manuals, posters, employee handbooks, or corporate guidebooks. If you believe any of the information in these materials is relevant to any part of this audit letter, you may provide a summary of any content if you so wish. If this audit requires you to provide an unusually burdensome volume of documentation, you may contact EEO staff at (202) 418-1450 prior to the response deadline to discuss alternative ways of condensing the information.

3. 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, the licensee must immediately forward a copy of this letter to the broker under each such agreement, which must respond to Question 3(b) below. The licensee must also respond by providing a list of the Unit's full-time employees listed by job title, the number of hours each employee is assigned to work, and a response to Question 2(b)(v) above. If the Unit employs five or more full-time employees, the licensee must respond fully to paragraph 2(b), and also forward the letter to the broker so the broker may respond to Question 3(b) below.

(b) **Broker receiving audit letter from brokered station licensee.** As noted above, if a brokered station receives an audit letter, the brokered station must forward the audit letter to the broker. The broker should then respond to the audit letter concerning EEO information relating only to its own full-time employees at the brokered station, as required by section 73.2080(f)(3) of the Commission's rules.

(c) **Broker receiving audit letter directly from Commission.** If you are a broker, but the Station is licensed to you, you must submit information requested in 2(b) above for the EEO program at the Station (or Unit) only. If EEO data for a station you are brokering is maintained with that of the Station, and you lack the ability to separate the information, submit information pertaining to the Station and your full-time employees at the station(s) you broker.

(d) **Broker described in 3(b) or 3(c).** If full-time employees at the station you broker, combined with full-time employees at the Station (or Unit), total fewer than five, you need only respond to this letter by submitting a list of full-time employees (identified by job title and number of hours regularly assigned to work per week) for both the brokered station(s) and subject Station as well as a response to Question 2(b)(v).

4. Procedures.

(a) **The response to this audit letter must be uploaded to the FCC-hosted online public inspection file (<https://publicfiles.fcc.gov/>) belonging to each station in the Unit by no later than April 26, 2021.** The response should be placed in the EEO Audits, Investigations, and Complaints subfolder in the online public file (found at EEO Records>>Additional Documents>> EEO Audits, Investigations, and Complaints). Include in the response the Station's Facility ID Number and an e-mail address of a Station representative.

(b) In recognition of the ongoing COVID-19 pandemic and the potential for limited station access to staffing and/or required records, the Commission is extending the timeframe for responding to 60 days, April 26, 2021. As a result, any extensions of time must be requested at least five days prior to aforementioned deadline (via email to Elizabeth.Goldin@fcc.gov), indicate the additional time the Station believes it needs to complete its response (not to exceed 45 days) and will be granted only upon a showing of extraordinary circumstances. Unless and until an extension is granted, the original deadline remains in effect.

(c) If the Station was included in an EEO audit response submitted in 2019 or 2020 and/or the Station's most recent license renewal application was granted after October 1, 2019, send an email to Elizabeth.Goldin@fcc.gov for additional guidance on whether a response is required. In the email, provide a reference to the relevant filings/applications before the Commission.

(d) 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 47 CFR § 1.16.). 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; 47 CFR § 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). Failure to respond to this audit letter by the deadline is punishable by sanctions in accordance with section 73.2080(g).

(e) As required by sections 73.3526(e)(10) (commercial stations) and 73.3527(e)(11) (noncommercial educational stations), a copy of this letter and your response must be placed in the FCC-hosted online public inspection file belonging to each station in the Unit.

Consequently, the response should not include personal information about individuals, such as social security numbers, home addresses, or other personally identifiable information. The FCC does not require that employment units retain such information in their records, or that such information be provided in response to this letter.

Should you have any questions, please contact EEO Staff at (202) 418-1450. Thank you for your cooperation.

Sincerely,

Elizabeth E. Goldin
Assistant Chief, Investigations & Hearings Division
Enforcement Bureau