



The

Broadcasters' Desktop Resource

www.theBDR.net

... edited by Barry Mishkind – the Eclectic Engineer

Focus on Regulation

The Public Inspection File

What the FCC Expects and Why – and How to Get it Right

[February 2012] Almost everyone agrees the FCC Public Inspection File is like handling a skunk –you do it very carefully or you will have long-lasting consequences. This is the first of a series of articles to help you get your Public File right, so you will feel more confident about not being smacked with a huge fine for missing something.

For many stations, the Public Inspection File is little more than a file drawer that someone updates from time to time as it collects dust. According to one survey, the average number of requests to review a stations' Public File is approximately one ... every four years.

Some stations have never had a visitor request to see the Public File, except for the FCC Enforcement Specialist or the Alternate Broadcast Inspector.

This leads to a sort of benign neglect, which ends up costing a lot of money if the FCC does come and ask to see the Public File. Often, [as shown in the Notices of Apparent Liability](#), fines routinely range in the \$10,000 range – and higher. However, as we shall see, with some guidance and planning it is not that hard to avoid problems.

INFORMATION YOU CAN TRUST

Although some of this series may be authored by a communications attorney, it is always possible that, over time, the FCC will change some of the requirements.

In fact, as this is written in February 2012, there is a push to put all Public Files on the Internet so the public can inspect without even visiting your station. To be clear: this is *not* required as of now, but it has been proposed.

The point of this is to say, it never hurts to check with your DC attorney from time to time, to make sure there have not been any adjustments you need to make in the way you care for the Public File requirements.

THE PUBLIC INSPECTION FILE

With such little exhibited public interest, many wonder why we are required to maintain this file. In terms of the FCC Policy, it is essentially explained by its name: Public Inspection File. *It is for the public to inspect your files.* That is not everything in your building, just the files the FCC mandates.

First and foremost, a properly maintained Public Inspection File serves to clearly illustrate the station's responsiveness to its community of license and its dedication to serve the public interest, convenience and necessity.

It also serves to provide a standardized means for defending the licensee in the event of a challenge to the license during the application or renewal process.

Please note: each and every broadcast station *must* have a complete Public Inspection File even if it is part of a multiple station cluster

operating from the same computer in the broom closet.

WHO IS THE “PUBLIC” AND HOW MUCH ACCESS ARE THEY ALLOWED?

The “public” is any person who comes through your door. Several stations have gotten themselves in trouble by trying to limit FCC sanctioned access to the Public Inspection File, or make demands of persons seeking materials.

An FCC Public Notice in 1998 stated that access had to be granted *"without requiring that they identify themselves, their organization, or the particular documents they wish to inspect."*

The *entire* Public Inspection File must be made available without undue delay during business hours. This means not telling someone to come back later, when “so-and-so” is back from lunch, not requiring them to explain what they want to see in the Public Inspection File, and not even requiring them to identify themselves.

If you do not believe the above paragraphs, take a look at the [Commission’s response to KCET-TV](#), when that station demanded a member of the public make an appointment to see the Public Inspection File – it was a \$10,000 fine.

Or, perhaps it is instructive to note in *Isothermal Community College (16 FCC Red 21360, 2001)* that the station received an admonishment for delaying the member of the public by 30 minutes for “security concerns.” The Commission said that was not reasonable. And *Gaston College (EB-05-1H-0219)* was told it was totally out of bounds for the college attorney to demand a prior appointment to inspect the Public Information File – or he would call the police and have the member of the public arrested.

THE PIF IS NOT A “CATCHALL”

Some stations tend to put a copy of anything and everything in their Public Inspection File. This can end up getting them in trouble because inappropriate information relating to operations

or personnel that should remain confidential may end being displayed.

For this reason, stations should maintain four separate files.

1. The Public Information File
2. A General Manager’s File – There are all sorts of things that might go here: confidential materials relating to staff and operations, business decisions, etc. Also, files that were in the Public File but are no longer required there, either by date or completion of an application, can be placed here, the Engineering file, or in the Station History File as appropriate.
3. An Engineering File – No, this is not the Station Log. These would be files relating to the station equipment and operations – information to help maintain the site, but not required to be in the Public File.
4. A Station History File (newspaper clippings, samples of letterheads, ads, bumper stickers, etc. It can be in file folders, graphic images, or in scrapbook style)

THE PIF BASICS

Here is the basic foundation of a Public File.

The section of the FCC Rules that governs the Public Inspection File is found at 73.3526 and 73.3527

To make sure you have everything required on hand, start by downloading the latest version of the FCC’s *"Broadcast Station Self-inspection Checklist"* at <http://www.fcc.gov/eb/bc-chklsts/> The most recent versions as of this writing appear to be dated September 2009 (LPFM and Translator checklists are dated June 2008).

Next, go to: download ["EEO Regulations for Broadcasters - A Primer on Current FCC Requirements"](#) written by one of the DC Law Firms, Womble Carlyle, and print it out. Now you have all you need to produce and understand a proper Public File.

Now we will build the file and explain it.

FILE FOLDER CITY

To build a Public Inspection File from scratch, or to rebuild one that is not well organized and filled, start with sixteen folders individually tabbed as follows:

- (1) WELCOME TO OUR PUBLIC FILE
- (2) AUTHORIZATIONS
- (3) APPLICATIONS
- (4) CITIZEN AGREEMENTS
- (5) CONTOUR MAPS
- (6) OWNERSHIP REPORTS POLITICAL
- (7) NON-CANDIDATE/ISSUE
ADVERTISEMENTS
- (8) EEO FILE
- (9) PUBLIC AND BROADCASTING
- (10) LETTERS FROM THE PUBLIC
- (11) INVESTIGATIVE MATERIAL
- (12) ISSUES-PROGRAM LISTS
- (13) DONOR LISTS
- (14) TIME BROKERAGE AGREEMENTS
- (15) LOCAL ANNOUNCEMENTS

These are based on the specifics of 73.3526 (e) and the similar categories in the FCC Checklist.

It has been suggested that a good way to explain what is in each folder – both for your staff's benefit and that of the public – print out the questions or a summary of the questions asked on the FCC Checklist as to each section. We will discuss this further in the next installment, as we consider what to put on each folder.

On the other hand, it is quite likely some of these files *will be empty* some or all of the time.

As an example, there will be nothing in the folders marked "Applications" and "Local Announcements" if there are no applications pending. Similarly, "Donor Lists" would be empty for commercial stations as well as – in most cases – "Investigative Material" and "Time Brokerage Agreements."

For such unused folders, it is appropriate simply to place a single letterhead sheet that reads in big bold print:

***"This file folder is not applicable
to this station at this time."***

In Part 2, we start with the Welcome and the Station Authorization folders, and what belongs in each folder.

Want to know when Part 2 is ready? [Sign up here](#) for the one-time-a-week BDR Newsletter. It takes just 30 seconds.

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