



The Broadcast Radio Local Public File

What are the local public file requirements?

Each radio station must maintain a file containing documents to be made available for review by any member of the public. The file must be available for inspection at the main studio at any time during regular business hours and the station must permit the documents in the file to be photocopied, although it may require that larger photocopying projects be performed by an outside service at the requesting party's expense.

Staff knowledge of the file's existence and location is essential

All station employees should be aware of the existence and location of the public file. It helps, however, to establish a single point of contact through which all requests to inspect or copy the public file should be routed. A backup plan should be in place so that a member of the public will have access to the file even if the primary contact person is at lunch, sick or otherwise unavailable. The file should be in a secure location, but not behind a locked door unless arrangements to unlock the door can be made on a moment's notice. Failure to provide the public with access to the file because the file is in the GM's locked office and the GM is out on a sales call or away at lunch will usually result in a sanction from the Commission.

It can be helpful to keep a short list of instructions on public file do's and don't's taped to the top of the receptionist's desk. **A sample set of instructions is attached.**

A sign-in sheet can be useful in helping to ensure that the station promptly responds to requests for the photocopying of public file materials inasmuch as such a log provides a readily-accessible record of contact information. It might also help to track down public file items that have been misplaced. **A sample of a sign-in sheet is attached.**

Where does the local public file need to be kept?

At the main studio.

Reference Memo is published by Garvey Schubert Barer. It contains information necessarily of a general nature that cannot be regarded as legal advice. The firm will be pleased to provide additional details and to discuss matters contained in *Reference Memo* as they may apply in specific situations.

Must a station provide documents requested over the telephone or in an e-mail?

If the station's main studio is located outside the station's community of license, the station must provide people who live within the station's service area with copies of local public file documents other than the materials in the political file. The station must pay the postage. Because the main studio of many, if not most, clusters is located outside of the community of license of at least one station in the cluster, chances are that a member of the public will be able to require the cluster to provide public file materials via mail in response to a telephone request. The rule does not address requests for documents made by e-mail.

Because a member of the public will be unlikely to know what materials might be included in the public file, the Commission expects that stations will train their staffs to be able to describe the contents of the public file to telephone callers. Usually, the best procedure is to make sure that the station's designated public file contact person is sufficiently familiar with the public file as to be able to walk a caller through the file's contents. Again, however, a backup plan should be in place for those instances in which the contact person is unavailable.

A log of telephone requests for public file items can be helpful in ensuring that the station promptly responds to such requests. A sample of such a log is attached.

Can the station place the contents of the public file on a hard drive in lieu of maintaining a paper public file?

Yes. All or part of the file may be kept in a computer database as long as a computer is made available for public use.

What Must the Local Public File Contain?

Each broadcast station local public file must contain the materials shown in the attached charts.

We receive, at the most, one request to inspect the public file every two or three years. Is the FCC serious about the local public file?

Yes. Very.

Many of the fines issued by the Commission against stations filing renewal applications during the last renewal cycle were levied against stations that had failed to maintain their public files properly and thus were unable to provide as part of their renewal applications a certification that they had complied with the public file requirements.

My cluster consists of five stations, all of which use the same main studio. How many public files should I maintain?

In addition, if a member of the public is not promptly given access to a station's public file, the Commission will almost assuredly issue a fine or other sanction against the offending station.

Must I keep a copy of the public file on our website

Five. The rule requires that a separate file be maintained for each station.

Do I need to maintain a public file for each of my digital subchannels?

Not yet for radio.

In 2012, the Commission required TV stations to post their public file materials online on the FCC's website. Explicitly exempted from the requirement that TV stations maintain documents on the FCC-hosted online public are letters and email correspondence from the public. TV stations that are in the top 50 markets and affiliated with the top four networks must post their political file on the FCC-hosted online public file, but all other TV stations will not need to post political materials on the FCC-hosted public file until February 2014. We expect that after the FCC has transitioned TV station public files to its website, it will require radio stations to do the same.

That is unclear. The Commission has held that stations operating in digital mode are required to abide by the local public file requirements. At this point, however, the Commission has not provided guidance as to whether a separate public file must be maintained for each subchannel. Informal discussions with the Commission staff indicate, however, that the staff does not expect that a separate file be maintained for each digital stream.



ITEMS REQUIRED IN LOCAL PUBLIC FILE

Commercial Radio Stations:

Item (Commercial Radio Stations)	Retention Period
(1) A copy of the current version of the FCC’s “ The Public and Broadcasting. ” The current version is dated July 2008.	Until a new version is published by the FCC.
(2) The current FCC authorization. Because the Commission usually issues new authorizations only when there has been a change in the station’s technical facilities, the current authorization may consist of an old license, plus whatever documentation is needed to bring it current, such as the post card reflecting a grant of the last renewal, the Form 732 reflecting the grant of the assignments of license that have occurred since the issuance of the license and the consummation notices filed with the Commission. Try to obtain copies of these documents, but if these documents are no longer available, print out the version of the license that is available on the Commission’s website. That version will usually bear the correct licensee name, the correct technical facilities and, more often than not, will reflect the correct license expiration date.	Until such authorization is superseded by a subsequent FCC grant that correctly reflects the name of the licensee, the authorized facilities and the license’s expiration date.
(3) The most recent contour map submitted to FCC as part of an application, plus any information in the application indicating the location of the transmitter or the main studio. Most applications for new facilities or for modification of existing facilities will include an engineering section providing at least the geographic coordinates of the transmitter site and a coverage map. This engineering section should be retained in the public file. Sales contour maps are not a suitable substitute. Contrary to the prior practice, FCC applications no longer ask for the location of the main studio. If the application contains an exhibit setting forth the address of the main studio, however, that exhibit should be kept in the public file.	As long as the map and location information remain correct.
(4) For AM stations, recertification of directional antenna pattern if the station is licensed pursuant to a proof of performance using moment method modeling and internal array parameters.	Until superseded.
(5) Pending applications and related materials (including information concerning any petitions to deny filed against the applications). If a petition to deny is filed against an application, the file must include a statement that a petition to deny has been filed. The statement must provide the name and address of the party filing the petition to deny. A copy of any Initial Decision or Final Decision in those very rare cases in which a hearing is conducted with respect to the application.	Usually, the application must be kept in the file until the FCC has taken final action on the application. Except in the case of an application that is contested, finality usually occurs approximately 45 days after grant. There are three exceptions to the general rule that an application must be kept in the file until FCC action on the application has become final: (a) As is explained in (3) above, the engineering portion, including the contour map, of the most recent facilities application must be kept in the file until it is superseded; (b) Construction Permit Applications and Assignment/Transfer Applications that have been granted pursuant to a waiver showing must be kept in the file as long as the waiver is in effect; and

Item (Commercial Radio Stations)	Retention Period
	(c) Renewal Applications that are granted for less than a full license term (a so-called, "short-term renewal") must be kept in the file until final action has been taken on the renewal application filed immediately after the shortened license term. In other words, if the Commission grants a renewal application for a four-year term, rather than the normal eight year term, the file must contain the renewal application that led to the issuance of the four-year license until there is a final decision on the renewal application filed at the end of the four-year term.
(6) Local Public Notice announcements relating to the station's renewal.	For as long as the renewal application for which the announcement is made must remain in the file.
(7) Ownership Reports and associated documents (such as exhibits and letters).	Until the next Ownership Report is filed with the FCC.
<p>(8) Either copies of formation materials and contracts filed with the Commission pursuant to § 73.3615(a)(4)(i) and § 73.3613 or a list of those documents.</p> <p>The documents that must be filed with the Commission pursuant to § 73.3615(a)(4)(i) and § 73.3613 consist of entity formation documents, such as Articles of Incorporation, By-laws, Partnership Agreements and Operating Agreements, and documents relating to the future ownership of the licensee or the stations, such as pledge agreements and options. Loan agreements that contain provisions restricting the licensee's or permittee's freedom of operation (most do) must also be filed.</p> <p>Although the better procedure is to maintain in the public file either copies of the documents or a stand-alone list of the documents, the last Ownership Report should include a list of the documents that have been filed with the Commission and can be used as a guide to the documents that have been filed with the Commission. The problem with relying exclusively on the listing of documents in the last Ownership Report is that the list may not be current and the Commission's public file rule requires that the list of documents be up-to-date.</p> <p>If the licensee opts to maintain in the public file a list of the documents that have been filed with the Commission, rather than the documents themselves, the licensee must be prepared to provide copies of the documents, as filed with the Commission, within seven days.</p>	The documents must be retained in the file as long as they are in effect. If a list is used in lieu of the documents themselves, the list must be retained in the file until it has been superseded.
(9) Time brokerage agreements or LMAs (confidential or proprietary information may be redacted).	As long as the agreement is in force.
(10) Joint sales agreements (confidential or proprietary information may be redacted).	As long as the agreement is in force.
(11) Written agreements with citizens groups .	For the term of the agreement.
<p>(12) Equal employment opportunity file pursuant to § 73.2080:</p> <ul style="list-style-type: none"> • Form 396 (filed with renewal) • Form 396A (filed with assignment, transfer or new station applications) 	Until final action on next renewal application.

Item (Commercial Radio Stations)	Retention Period
<ul style="list-style-type: none"> • Form 397 (mid-term review for Radio stations with more than 10 fulltime employees, and all TV stations) • Annual EEO Public File Reports (for employment units with five or more fulltime employees) • FCC audit letter, station response and the FCC's finding regarding its review if the station was audited 	
(13) Quarterly Issues/Programs lists.	Until final action on next renewal application.
(14) Letters and e-mails (directed to published station e-mail account or station management) from the public regarding operation of the station. TV stations must categorize the letters as programming or non-programming-related. E-mails can be kept in paper form, on a computer at the main studio to which the public has access, or on disks provided to members of the public on request.	Three years from receipt of letter or e-mail.
(15) Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint of which the station has been advised.	Until the FCC notifies station that the material may be removed.
(16) A Political file pursuant to § 73.1943. The political file must contain: <ul style="list-style-type: none"> • All requests for time by or on behalf of candidates. • All requests for time by non-candidates to advertise on a national legislative issue or about a federal political candidate. • Disposition of the request (e.g., schedule of time purchased, when spots actually aired, rates charged, and classes of time purchased) • A record of any free time provided to candidates. Federal candidate certifications under the Bipartisan Campaign Reform Act (that the spot does not refer to an opponent or, if it does, the spot states that the candidate approved the spot).	All records required to be placed in the political file must, in the absence of unusual circumstances, be placed there immediately and retained in the file for two years.
(17) If the station airs a matter involving politics or a controversial issue of public importance and a corporation, committee, association, unincorporated group or other entity pays for or furnishes the matter, or furnishes any material or service of any kind as an inducement to broadcast the matter, a list of the chief executive officers or members of the executive committee or board of directors of such entity pursuant to § 73.1212(e). In addition, if the station receives time requests by non-candidates to advertise concerning a national legislative issue or a federal political candidate; the station must keep the name of the person purchasing the time, the name, address, and phone number of a contact person, and list of the chief executive officers or governing board.	Two years.

Noncommercial Radio Stations:

Item (Non-commercial educational radio station)	Retention Period
(1) A copy of the current version of the FCC’s “ The Public and Broadcasting. ” The current version is dated July 2008.	Until a new version is published by the FCC.
(2) The current FCC authorizations. Because the Commission usually issues new authorizations only when there has been a change in the station’s technical facilities, the current authorization may consist of an old license, plus whatever documentation is needed to bring it current, such as the post card reflecting a grant of the last renewal, the Form 732 reflecting the grant of the assignments of license that have occurred since the issuance of the license and the consummation notices filed with the Commission. Try to obtain copies of these documents, but if these documents are no longer available, print out the version of the license that is available on the Commission’s website. That version will usually bear the correct licensee name, the correct technical facilities and, more often than not, will reflect the correct license expiration date.	Until such authorization is superseded by a subsequent FCC grant that correctly reflects the name of the licensee, the authorized facilities and the license’s expiration date.
(3) The most recent contour map submitted to FCC as part of an application, plus any information in the application indicating the location of the transmitter or the main studio. Most applications for new facilities or for modification of existing facilities will include an engineering section providing at least the geographic coordinates of the transmitter site and a coverage map. This engineering section should be retained in the public file. Sales contour maps are not a suitable substitute. Contrary to the prior practice, FCC applications no longer ask for the location of the main studio. If the application contains an exhibit setting forth the address of the main studio, however, that exhibit should be kept in the public file.	As long as the map and location information remain correct.
(4) For AM stations, recertification of directional antenna pattern if the station is licensed pursuant to a proof of performance using moment method modeling and internal array parameters.	Until superseded.
(5) Pending applications and related materials (including information concerning any petitions to deny filed against the applications). If the application made a claim for points to be used to decide among mutually-exclusive applications (such as a claim for points for being local or for not having an interest in other stations in the market), the public file must include documentation supporting the applicant’s claim to those points. If the FCC issues a decision with respect to an application filed by the licensee, the file must include a copy of the decision. If a petition to deny is filed against an application, the file must include a statement that a petition to deny has been filed. The statement must provide the name and address of the party filing the petition to deny.	Usually, the application must be kept in the file until the FCC has taken final action on the application. Except in the case of an application that is contested, finality usually occurs approximately 45 days after grant. There are three exceptions to the general rule that an application must be kept in the file until FCC action on the application has become final: (a) As is explained in (3) above, the engineering portion, including the contour map, of the most recent facilities application must be kept in the file until it is superseded; (b) Construction Permit Applications and Assignment/Transfer Applica-



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	<p>tions that have been granted pursuant to a waiver showing must be kept in the file as long as the waiver is in effect; and</p> <p>(c) Renewal Applications that are granted for less than a full license term (a so-called “short-term renewal”) must be kept in the file until final action has been taken on the renewal application filed immediately after the shortened license term. In other words, if the Commission grants a renewal application for a four-year term, rather than the normal eight year term, the file must contain the renewal application that led to the issuance of the four-year license until there is a final decision on the renewal application filed at the end of the four-year term.</p>
(6) Local Public Notice announcements relating to the station’s renewal.	For as long as the renewal application for which the announcement is made must remain in the file.
(7) Ownership Reports and associated documents (such as exhibits and letters).	Until the next ownership report is filed with the FCC.
<p>(8) Either copies of formation materials and contracts filed with the Commission pursuant to § 73.3615(a)(4)(i) and § 73.3613 or a list of those documents.</p> <p>The documents that must be filed with the Commission pursuant to § 73.3615(a)(4)(i) and § 73.3613 consist of entity formation documents, such as Articles of Incorporation, By-laws, Operating Agreements, Partnership Agreements and Association Agreements, and documents relating to the future ownership of the licensee or the stations, such as pledge agreements and options. Loan agreements that contain provisions restricting the licensee’s or permittee’s freedom of operation (most do) must also be filed.</p> <p>Although the better procedure is to maintain in the public file either copies of the documents or a stand-alone list of the documents, the last Ownership Report should include a list of the documents that have been filed with the Commission and can be used as a guide to the documents that have been filed with the Commission. The problem with relying exclusively on the listing of documents in the last Ownership Report is that the list may not be current and the Commission’s public file rule requires that the list of documents be up-to-date.</p> <p>If the licensee opts to maintain in the public file a list of the documents that have been filed with the Commission, rather than the documents themselves, the licensee must be prepared to provide copies of the</p>	The documents must be retained in the file as long as they are in effect. If a list is used in lieu of the documents themselves, the list must be retained in the file until it has been superseded.



Item (Non-commercial educational radio station)	Retention Period
documents, as filed with the Commission, within seven days.	
(9) Lists of donors supporting specific programs.	Two years from date of broadcast of program.
(10) Equal employment opportunity file pursuant to § 73.2080: <ul style="list-style-type: none"> • Form 396 (filed with renewal) • Form 396A (filed with assignment or transfer or new station) • Form 397 (mid-term review for Radio stations with more than 10 fulltime employees, and TV stations) • Annual EEO Public File Reports (for employment units with five or more full time employees) • FCC audit letter, station response and the FCC's finding regarding its review if the station was audited 	Until final action on next renewal application.
(11) Quarterly Issues/Programs lists.	Until final action on next renewal application.
(12) Material having a substantial bearing on a matter which is the subject of an FCC investigation or complaint of which the station has been advised.	Until the FCC notifies station that the material may be removed.
(13) A Political file pursuant to § 73.1943: <ul style="list-style-type: none"> • All requests for time by or on behalf of candidates • Disposition of the request • A record of any free time provided to candidates 	All records required to be placed in the political file must, in the absence of unusual circumstances, be placed there immediately and retained in the file for two years.
(14) For any political matter or program discussing controversial issues of public importance furnished or paid for by a corporation, association, unincorporated association, or other entity, a list of the chief executive officers or members of the executive committee or board of directors of such entity pursuant to § 73.1212(e).	Two years.

If you have any questions regarding any of the above items, please call Garvey Schubert Barer at 202-965-7880.

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Instruction Sheet to be kept at Receptionist's Desk:

**LOCAL PUBLIC INSPECTION FILE:
RIGHTS AND RESPONSIBILITIES**

The Rules and Regulations of the Federal Communications Commission require every broadcast station to maintain a Local Public Inspection File.

The purpose of the public file is to allow members of the public to have access to a variety of applications, reports, letters and similar matters affecting a broadcast station's operation in the public interest. Generally, materials not contained in the public file are proprietary and not available for inspection.

The public file is available for inspection by any member of the general public upon providing his/her name, address and suitable identification. The station cannot insist that the person requesting to inspect the file identify the party on whose behalf it is acting or require that the inspecting party explain why he or she is asking to view the file.

The public file is available for inspection at any time during normal business hours Monday through Friday, excluding holidays. The file is not available on weekends.

No public file item may be removed from the premises for any purpose. Cooperation of the examiner is requested in not marking, pulling apart, or otherwise disassembling or defacing public file materials.

Notes may be taken of specific file materials. Photocopies of file materials can be provided by the station at a nominal cost. If extensive photocopying is requested, such materials will be provided within seven days.

The goal is to provide an opportunity for review of public file materials and to enhance the opportunity for such review.



SAMPLE SIGN-IN SHEET

WELCOME TO THE STATION

The station's public file is available for inspection during regular business hours, Monday through Friday, 9 a.m. to 5 p.m. Please sign in below.

Once you have done so, the receptionist will notify a member of the station's staff to escort you to the file. Only station representatives are authorized to remove public file materials.

Indicate below any public file documents you wish to have photocopied. Your copies will be available for pickup within seven days, or they will be mailed to you at the address you list below. A fee of __ cents per copy will be imposed.

Date: _____

Time In: _____

Time Out: _____

Name (please print): _____

Address: _____

Affiliation (optional): _____

Copies Requested: _____ No _____ Yes/list materials below:

Phone number (optional, should you prefer to be notified when copies are completed): (____) _____.

SPECIAL NOTE REGARDING POLITICAL FILE: If an invoice is not yet available with respect to a particular political advertising buy and you wish to learn whether the candidate's advertisements have run as ordered, inform the staff member who is assisting you. He or she will check the relevant program log(s).



TELEPHONE REQUESTS FOR PUBLIC FILE DOCUMENTS

(Keep this form in the business files not the public file)

DOCUMENTS REQUESTED BY TELEPHONE

DATE	CALLER'S NAME	CALLER'S TELEPHONE NO.	ADDRESS OF RECIPIENT	DOCUMENTS REQUESTED