



April 17, 2023

Mr. Bert Gonzales, Secretary/Treasurer  
SMART Local 857-TD  
227 Proctor Blvd  
San Antonio, TX 78221

Case Number: 420-6025930( )  
LM Number: 043295

Dear Mr. Gonzales:

This office has recently completed an audit of SMART Local 857-TD under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you and President Jean Dubose on April 13, 2023, the following problems were disclosed during the CAP. The matters listed below are not an exhaustive list of all possible problem areas since the audit conducted was limited in scope.

#### Recordkeeping Violations

Title II of the LMRDA establishes certain reporting and recordkeeping requirements. Section 206 requires, among other things, that labor organizations maintain adequate records for at least five years by which each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. As a general rule, labor organizations must maintain all records used or received in the course of union business.

For disbursements, this includes not only original bills, invoices, receipts, vouchers, and applicable resolutions, but also documentation showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipient(s) of the goods or services. In most instances, this documentation requirement can be satisfied with a sufficiently descriptive expense receipt or invoice. If an expense receipt is not sufficiently descriptive, a union officer or employee should write a note on it providing the additional information. For money it receives, the labor organization must keep at least one record showing the date, amount, purpose, and source of that money. The labor organization must also retain bank records for all accounts.

The audit of Local 857-TD's 2021 records revealed the following recordkeeping violations:

#### 1. General Disbursements

Local 857-TD did not retain adequate documentation for general disbursements totaling at least \$967.38 to purchase a retirement cake, small plates, and food for the Tamale Feed.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

2. Insufficient Receipts Records

Local 857-TD failed to keep adequate union records to support some direct dues payments received from member [REDACTED] totaling approximately \$1,840. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

3. Information not Recorded in Meeting Minutes

During the audit, you both advised OLMS that per Sections III and V of the local's bylaws, disbursements and additional general committee days be authorized by the membership. However, the meeting minutes did not provide authorization for at least 15 payments to officers totaling at least \$5,780.76. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 857-TD will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its constitution and bylaws with its LM report. Local 857-TD filed an initial LM-1 report on March 29, 1981, and subsequent annual financial reports, but never filed a copy of its local bylaws.

Local 857-TD has now filed a copy of its local bylaws, dated January 17, 2017.

I want to extend my personal appreciation to SMART Local 857-TD for the cooperation and courtesy extended during this compliance audit. I strongly recommend that you make sure this letter and the compliance assistance materials provided to you are passed on to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,



Senior Investigator

cc: Mr. Jean Dubose, President  
 Auditor