



October 17, 2014

Mr. Kevin Ellis, President  
AFGE Local 2338  
1500 N. Westwood Blvd.  
Poplar Bluff, MO 63901

Case Number: 510-6001192  
LM Number: 502256

Dear Mr. Ellis:

This office has recently completed an audit of AFGE Local 2338 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. 7120, and the Department's regulations, 29 CFR 458. As discussed during the exit interview with you on October 1, 2014, 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 of the LMRDA and Title 29 of the Code of Federal Regulations (C.F.R.) Section 403.7 require, among other things, that labor organizations maintain adequate records for at least five years after reports are filed by which the information on the reports can be verified, explained and clarified. Pursuant to 29 C.F.R. Section 458.3, this recordkeeping provision of the LMRDA applies to labor organizations subject to the requirements of the Civil Service Reform Act of 1978 (CSRA) as well. Therefore, as a general rule, labor organization must retain 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 2338's 2013 records revealed the following recordkeeping violations:

#### General Reimbursed Expenses

Local 2338 did not retain adequate documentation for reimbursed expenses incurred by Kevin Ellis totaling at least \$3,416.10. For example, the local did not maintain invoices or receipts to adequately explain and clarify a reimbursement to Ellis for \$1,781.94 on September 20, 2013, for the "National Leadership Conference;" a \$348.94 reimbursement to Ellis on October 9, 2012 for a hotel stay; a \$446.52 reimbursement to Ellis on April 13, 2013; a hotel stay; and a \$838.70 reimbursement to Ellis on July 12, 2013 for "LSA Training."

The local did not retain adequate documentation for expenses incurred by the local totaling at least \$5,067.74. For example, the local did not maintain invoices or receipts to adequately explain and clarify a \$3,300 check disbursement to Tasteful Creations on December 4, 2012; a \$500 check disbursement to Sound Connection on December 4, 2012; a \$596 check disbursement to AAD Groto on December 5, 2012; four cash disbursements for pizza lunches totaling \$171.74 dated January 13, 2013, January 17, 2013, April 13, 2013, and April 18, 2013, respectively; a \$500 check disbursement to MO Bond Busters on March 1, 2013; and a \$1,500 cash disbursement to [REDACTED] for holiday gifts in December 2013.

In addition to the \$1,500 check disbursed to [REDACTED] on March 1, 2013, receipts show the purchase of gift cards for the holiday party. There was no record of how the gift cards were used or distributed. There was also no record of who may have received the gift cards.

As previously 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.

Based on your assurance that Local 2338 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

#### Reporting Violations

Pursuant to 29 C.F.R., Section 458.3, the reporting requirement under 29 C.F.R. Section 403.2 (see Section 201(b) of the Labor-Management Reporting and Disclosure Act (LMRDA)) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file annual financial reports that accurately disclose their financial condition and operations. The audit disclosed a violation of this requirement. The Labor Organization Annual Report Form LM-3 filed by Local 2338 for fiscal year ending October 31, 2013, was deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 2338 did not include reimbursements to officers totaling at least \$6,216.10 Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 Other Disbursement

The union must report most direct disbursements to Local 2338 officers and some indirect disbursements made on behalf of its officers in Item 24. A "direct disbursement" to an officer is a payment made to an officer in the form of cash, property, goods, services, or other things of value. See the instructions for Item 24 for a discussion of certain direct disbursements to officers that do not have to be reported in Item 24. An "indirect disbursement" to an officer is a payment to another party (including a credit card company) for cash, property, goods, services, or other things of value received by or on behalf of an officer. However, indirect disbursements for temporary lodging (such as a union check issued to a hotel) or for transportation by a public carrier (such as an airline) for an officer traveling on union business should be reported in Item 48 (Office and Administrative Expense).

2. Certificates of Deposit Reported As Investments

Local 2338 improperly included the value of a certificate of deposit as an investment in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers a certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

3. Reporting Incorrect Amount of Receipts and Disbursements

Local 2338 reported dues and per capita tax which it did not directly receive into its bank account during the fiscal year. The local's dues were deducted via checkoff from member's paychecks and sent directly to the AFGC parent body. The parent body subsequently subtracted its per capita tax from the dues, sending the local the remaining dues in a check. It appears the local reported all dues transmitted via checkoff to the parent body on its LM-3. It appears the local reported on its LM-3 all per capita tax the parent body deducted from the dues. The LM-3 Instructions state the union is required to report only the receipts that are actually transmitted from a parent body to the local. The local is not to report per capita tax that is retained by the parent body.

4. \$5,000 Bond Reported on LM-3

The local reported having a \$5,000 bond on its LM-3 report for the fiscal year ending October 31, 2013. The local was unable to verify it had bonding coverage.

Local 2338 must file an amended Form LM-3 for fiscal year ending October 31, 2013, to correct the deficient items discussed above. I advised you that the reporting forms and instructions are

available on the OLMS website ([www.olms.dol.gov](http://www.olms.dol.gov)). The amended Form LM-3 should be submitted to this office at the above address as soon as possible, but not later than November 30, 2014. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Violations

The audit disclosed the following other violation(s):

**Inadequate Bonding**

Pursuant to 29 C.F.R. Section 458.35, officers and employees of any labor organization subject to the CSRA are required to be bonded in accordance with Section 502(a) of the LMRDA. This provision requires that union officers and employees be bonded for no less than 10% of the total funds those individuals or their predecessors handled during the preceding fiscal year. The local could not provide documentation that the officers and employees of Local 2338 are currently bonded.

Local 2338 could not provide documentation of bond for its officers and employees. They must be bonded for the appropriate amount determined at the end of the fiscal year October 31, 2013, which is at least \$8,634. Local 2338 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than November 30, 2014.

I want to extend my personal appreciation to AFGE Local 2338 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,



Investigator