

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
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December 18, 2008

Mr. Wayne Urffer, Treasurer
State County & Muni Empls (AFSCME), AFL-CIO
Local 3397
1606 Walnut Street
Philadelphia, PA 19103

LM File Number: 530-749

Case Number: [REDACTED]

Dear Mr. Urffer:

This office has recently completed an audit of AFSCME Local 3397 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 on December 18, 2008, 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 3397's 2008 records revealed the following recordkeeping violations:

1. Meal Expenses

Local 3397 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$169.64. The union must maintain itemized receipts provided by restaurants to officers and employees. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to sufficiently fulfill the recordkeeping requirement of LMRDA Section 206.

Local 3397 records of meal expenses did not always include written explanations of union business conducted or the names and titles of the persons incurring the restaurant charges. For example, check number [REDACTED] dated 11/29/07 made out to Jay Pastelak for reimbursement for a steward meeting expense and Executive Committee meeting expense. The receipts were maintained however, information regarding the purpose of the Steward Meeting and who attended the meeting was not provided. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all persons who incurred the restaurant charges. Also, the records retained must identify the names of the restaurants where the officers or employees incurred meal expenses.

2. Voided Checks Not Maintained

Local 3397 did not maintain voided checks. Records show check number [REDACTED] and check number [REDACTED] were voided and not maintained. The labor organization must retain all bank records.

Based on your assurance that Local 3397 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

The audit disclosed violations of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report Form LM-3 filed by Local 3397 for fiscal year ending April 30, 2008 was deficient in the following areas:

1. Disbursements to Officers

Local 3397 did not include reimbursements to officers totaling at least \$8,666.41 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office & Administrative Expense).

The union must report most direct disbursements to Local 3397 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. Professional Fee Expenses

Local 3397 incorrectly reported \$1,389.00 in IRS penalties in Item 49 (Professional Fees). Such penalties should be entered in either Item 48 (Office and Administrative Expense) or Item 54 (Other Disbursements). The instructions state to report in Item 48 "all taxes assessed against and paid by your organization." Item 54 is to include "all disbursements made by your organization not reported in Items 45 through 53, including fees, fines, assessments, supplies for resale, repayments of loans obtained, transmittals of funds collected for third parties, educational and publicity expenses, withholding taxes, and payments for the account of affiliates and other third parties" with an explanation in Item 56 (Additional Information).

3. Per Capita Tax Payments

Local 3397 incorrectly reported \$45,573.00 in per capita payments in Item 54 (Other Disbursements). Payments for per capita are to entered in Item 47 (Per Capita Tax).

Local 3397 must file an amended Form LM-3 for fiscal year ending April 30, 2008, to correct the deficient items discussed above. I provided you with a blank form and

instructions, and advised you that the reporting forms and instructions are available on the OLMS website (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 January 8, 2009. Before filing, review the report thoroughly to be sure it is complete, accurate, and signed properly with original signatures.

Other Issues

The audit disclosed the following other violation:

1. Signing Blank Checks

During the audit, you advised that President Cheryl Leon occasionally signs blank checks. Your union's bylaws require that all checks be signed by the president and treasurer. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that Local 3397 review these procedures to improve internal control of union funds.

2. Fixed Asset Inventory

The audit revealed that Local 3397 does not maintain a fixed asset inventory. A fixed asset inventory should be maintained to identify each asset, the value of each asset and to document the purchase, sale or distribution of each asset. OLMS recommends that unions establish and maintain a fixed asset inventory to adequately account for all property that is purchased, sold or given away.

I want to extend my personal appreciation 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

Letter/Mr. Wayne Urffer
December 18, 2008
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cc: Cheryl Leone, President