



January 2, 2013

Mr. David L. Boyd, President
AFGE Local 53
1650 Gilbert Street
Norfolk, VA 23511

Case Number: [REDACTED]
LM Number: 501858

Dear Mr. Boyd:

This office has recently completed an audit of American Federation of Government Employees (AFGE) Local 53 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 AFGE District 4 National Representative Michael A. Castelle Sr. and you on December 18, 2012, 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.

Record Keeping 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, a 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 53's 2010 records revealed the following recordkeeping violations:

1. Expenses for Bonus Bucks

Local 53 did not retain adequate documentation for expenses paid to officers and members for bonus bucks. When an officer or member is paid for signing up a new member in a bonus bucks membership drive, the union records should include the name of the officer or member that received the money and the name of the new member that joined the union.

2. Lost Wages

Local 53 did not retain adequate documentation for several lost wage reimbursement payments to Local 53 President David Boyd. The union must maintain records in support of lost wage claims that identify each date lost wages were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted. The OLMS audit found that the Local 53 records for some lost wage reimbursement payments did not include the date lost wages were incurred, the number of hours lost on each date, and/or the reason for the lost time.

Based on your assurance that Local 53 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 in that:

1. Chronically Delinquent Filings

The Labor Organization Annual Report, Form LM-3, is required to be filed within 90 of the end of a labor organization's fiscal year. Local 53 failed to file its LM-3 report by this deadline in each of the past five years. The president and secretary-treasurer are personally responsible for timely filing the union's LM-3 report. Local 53's future failure to timely file the LM-3 report could result in the initiation of enforcement proceedings.

2. Deficient 2010 LM Report

Local 53's 2010 LM report was due March 31, 2011. When OLMS initiated the audit in June 2011, Local 53 had not yet filed its report. Local 53 later filed its 2010 LM report. However, this report did not meet OLMS' acceptability standards and therefore was not accepted. The 2010 LM report that the union attempted to file was deficient in that:

a. Disbursements to Officers

Local 53 did not include lost time payments to Local 53 President David Boyd totaling \$1,497 in Gross Salary and reimbursements to him totaling \$4,710 in Allowances and Other Disbursements in Item 24 (All Offices and Disbursements to Officers). In addition, disbursements to several officers for bonus bucks were not reported in Allowances and Other Disbursements in Item 24.

The union must report most direct disbursements to Local 53 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).

b. Disbursements to Employees

Local 53 did not include salary and reimbursed expense payments to its employee totaling at least \$5,022 in Item 46 (To Employees). Local 53 must report all net salary and reimbursed expense payments to its employees in Item 46.

c. Receipts for Bonus Bucks

Local 53 did not correctly report receipts from the National for the reimbursement of bonus bucks that Local 53 paid to officers and members. The receipts that Local 53 receives from the National for the reimbursement of bonus bucks should be reported in Item 43 (Other Receipts).

d. Dues Received and Per Capita Tax Disbursed

Local 53 failed to accurately report the amount of dues it received in Item 38 (Dues) and the amount of per capita tax it disbursed in Item 47 (Per Capita Tax). The audit revealed that the National received dues directly from the employer, deducted its portion of the per capita tax owed, and then disbursed the remainder to Local 53. On its LM-3 report, Local 53 reported the total amount of dues paid by the employer to the National in Item 38 and the money kept by the National in Item 47. Local 53 must report the receipts it received and the disbursements it made during the fiscal year in Statement B (Receipts and Disbursements). Local 53 should only report its portion of the dues received from the National on its LM-3 report and should not

report any of the funds that were kept by the National as a disbursement on its LM-3 report.

e. Cash Reconciliation

It appears that the cash figures reported in Item 25 (Cash) are not the figures according to Local 53's books after reconciliation to the bank statements. The instructions for Item 25 state that the union should obtain account balances from its books as reconciled to the balances shown on bank statements.

f. Signatures

The completed LM-3 report must be signed by both the president and treasurer or corresponding principal officers of the labor organization. Local 53 President David Boyd signed in the spaces for the president and treasurer on the 2010 Local 53 LM-3 report and no additional information was provided. If Local 53 did not have a treasurer at the time the report was signed, the report could have been signed by another officer. If the report is signed by another officer, he or she should cross out the printed title, enter the correct title, and explain in Item 56 why the treasurer did not sign the report.

Local 53 must file an amended Form LM-3 for the fiscal year ended December 31, 2010, to correct the deficient items discussed above. I encourage Local 53 to complete, sign, and file its report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. Reporting forms and instructions can be downloaded from the website, if you prefer not to file electronically. The amended Form LM-3 should be filed electronically no later than January 31, 2013 or submitted to this office at the above address by the same date. Before filing, review the report thoroughly to be sure it is complete and accurate. Paper reports must be signed with original signatures.

Other Issues

The audit revealed the following other issue:

Employee Salary

Local 53 records revealed that a union employee was paid a salary greater than the amount stated in the Local 53 bylaws. Local 53 should either pay the employee the salary stated in its bylaws or amend the bylaws if it wants to pay the employee a larger amount.

I want to extend my personal appreciation to AFGE Local 53 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,

A solid black rectangular box used to redact the signature of the investigator.

Investigator