



August 18, 2017

Mr. Cynthia Sanders, Trustee
AFGE Local 1044
PO Box 841355
Pearland, TX 77584

Case Number: 420-6011829 [REDACTED]
LM Number: 544666

Dear Mr. Sanders:

This office has recently completed an audit of AFGE Local 1044 under the Compliance Audit Program (CAP) to determine this union'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 August 17, 2017, 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 1044's 2016 records revealed the following recordkeeping violations:

1. General Expenses

Local 1044 did not retain any documentation for 13 debit card and check purchases totaling at least \$693.98, and five cash and debit card withdrawals totaling at least \$2,654.54, that were incurred by former AFGE Local president [REDACTED].

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

As we discussed during the exit interview, Local 1044 will begin maintaining all disbursement documentation.

2. Meal Expenses

Local 1044 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, Jimmy John's Sandwiches and Pollo Tropical meal expenses lacked any explanation regarding the reasons for these purchases. 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.

You advised during the exit interview that the union has begun maintaining this information for meal expenses and the union's future officers will be made aware of this requirement when the trusteeship is terminated.

3. Failure to Record Receipts

Local 1044 did not record the nature of a \$600.00 cash deposit into the union's account on June 21, 2016, in its receipt records. 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.

You agreed during the exit interview that the union will begin maintaining this information for all union receipts.

4. Lost Wages

Local 1044 did not retain adequate documentation for lost wage reimbursement payments to union officers in at least four instances. 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 Local 1044 failed to identify any of the required information in most of these instances.

During the exit interview, I provided a compliance tip sheet, Union Lost Time Payments, that contained a sample of an expense voucher Local 1044 may use to satisfy this requirement. The sample identifies the type of information and documentation that the local must maintain for lost wages and other officer expenses.

You advised that the union began maintaining this information under the trusteeship and the union's future officers will be instructed to continue this practice.

5. Lack of Salary or Stipend Authorization

Local 1044 did not maintain records to verify that the salaries or stipends reported in Schedule 11 (All Officers and Disbursements to Officers) of the LM-2 was the authorized amount and therefore was correctly reported. The union must keep a record, such as meeting minutes, to show the current salary and stipends authorized by the entity or individual in the union with the authority to establish this.

You advised that the union's future officers will be instructed to create a document that records the authorization of each officer's salary and stipend amounts.

6. Membership Recruitment Bonuses

Local 1044 failed to maintain sufficient records regarding the cash paid to new members and their recruiters as a part of the union's Bonus Bucks program. The amount, date, reason, and identity of the members and their recruiters must be documented in the union's records. Also, as we discussed during the exit interview, the use of cash to make these payments violates the AFGE's requirements that all union checks be signed by two union officers. As we agreed, the union's new officers will be made aware of the need to create and maintain this documentation as a part of its Bonus Bucks program.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 1044's LM report. Under the provisions of Section 209(a) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful failure to maintain records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. Under the provisions of Section 209(c) of the LMRDA and Section 3571 of Title 18 of the U.S. Code, willful destruction or falsification of records can result in a fine of up to \$100,000 or imprisonment for not more than one year, or both. The penalties provided in Section 209(c) and Section 3571 of Title 18 apply to any person who caused the violations, not just the individuals who are responsible for filing the union's LM report.

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 violations of this requirement. The Labor Organization Annual Report (Form LM-2) filed by Local 1044 for the fiscal year ended December 31, 2016, was deficient in the following areas:

1. Disbursements to Officers and Employees

Local 1044 did not report cash and ATM withdrawals made by former president [REDACTED], totaling at least \$9,294.54, in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

As agreed during the exit interview, the union will report, in Schedule 11, Column F, all direct and indirect disbursements that officers incurred in order to conduct union business.

2. Cash Reconciliation

Local 1044's cash reconciliation on its Labor Organization Annual Report (Form LM-2) does not balance. It appears that the union entered an incorrect amount for its beginning of year cash, over-reported the union's receipts for the fiscal year, and under-reported the amount of disbursements for the fiscal year.

Local 1044 must file an amended Form LM-2 for the fiscal year ended December 31, 2016, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-2 must be filed no later than September 30, 2016. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issues

1. Expense Policy

As I discussed during the exit interview with you, the audit revealed that Local 1044 does not have a clear policy regarding the types of expenses officers may claim for reimbursement and the types of expenses that officers are authorized to incur. OLMS recommends that unions adopt written guidelines concerning such matters.

2. Use of Debit Card and Cash Withdrawals

During the audit, you advised that former president [REDACTED] used a debit card and made cash withdrawals. AFGE's Constitution, Article V, Section 2 requires 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, the use of a debit card and making cash withdrawals negates the purpose of the two signature requirement. OLMS recommends that Local 1044 review these procedures to improve internal control of union disbursements.

I want to extend my personal appreciation to AFGE Local 1044 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,

[REDACTED]

Senior Investigator