



July 7, 2017

Mr. Jose R. Martinez, President  
AFGE Local 1616  
1450 Coleman Avenue  
Santa Clara, CA 95050

Case Number: 530-6010436 [REDACTED]  
LM Number: 501912

Dear Mr. Martinez:

This office has recently completed an audit of AFGE Local 1616 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 and Treasurer Elvia Cortez on June 23, 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 Violation

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 1616's 2015 records revealed the following recordkeeping violation:

#### Information not Recorded in Meeting Minutes

During the audit, President Martinez advised OLMS that the monthly membership meetings were not always held as required by the Article XI, Section 2(a) of the AFGE Local 1616 Bylaws and therefore, Article VIII, Section 3 of the AFGE Local 1616 Bylaws that required expenditures in excess of \$500 per month to have prior approval of the local's members either as authorized by the budget approved by the local or by a separate vote of the local's members may not have occurred. Local 1616 maintained no minutes of meetings. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings. However, as required by Article V, Section 2 of the AFGE Local 1616 Bylaws, authorization and approval by the President Martinez and Treasurer Elvia Cortez for each disbursement by check was received as evidenced by their signatures on each check.

Based on your assurance that Local 1616 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

#### 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 1616 for the fiscal year ended December 31, 2015, was deficient in the following area:

#### Disbursements to Officers

Local 1616 included some reimbursements to President Martinez totaling at least \$4,308 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments and should have reported these payments in Item 48 (Office and Administrative Expense).

The union must report most direct disbursements to Local 1616 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).

I am not requiring that Local 1616 file an amended LM report for 2015 to correct the deficient items, but Local 1616 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to AFGE Local 1616 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

cc: Ms. Elvia Cortez, Treasurer