



January 24, 2019

Rita Mason, President
AFGE Local 42

Case Number: 130-6014981 [REDACTED]
LM Number: 517395

Dear Ms. Mason:

This office has recently completed an audit of AFGE Local 42 (Local 42) 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 Secretary-Treasurer Derrick Thomas and you on January 18, 2019, 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 42's financial records revealed the following recordkeeping violations:

1. Failure to Maintain Employer Checkoff List

Local 42 was not in possession of all the 2017 employer checkoff list for the Department of Homeland Security National Security Technology Laboratory (NUSTL). Local 42 was unable to obtain the

employer checkoff list during the audit because the employer was unresponsive due to government shutdown. The AFGE National (AFGE) provided the membership roster which was compared to the bank statements provided by Local 42 to verify receipt of employer dues checkoff. The review resulted in the discovery of higher membership numbers because Local 42 failed to drop members who were deceased or terminated for nonpayment of dues. Therefore, Local 42's failure to update its membership roster on a monthly basis, as required by AFGE, resulted in higher Per Capita Tax (PCT) payments totaling at least \$417.24 for the audit year ending December 31, 2017. Also, Local 42 failed to properly categorize members who transferred from active to retired status which led to incorrect collection of membership dues totaling at least \$1,797.95 for the audit year.

It was recommended that Local 42 review its membership roster to confirm the eligibility status of all members. The membership roster should also be updated on a monthly basis to ensure accuracy for the purpose of PCT payments to AFGE.

You agreed to contact NUSTL and obtain employer checkoff list once the government shutdown ends. Secretary-Treasurer Derrick Thomas agreed to review the membership roster for eligibility and provide an updated list to AGFE 2nd District Office Manager Christina Salazar. Salazar agreed to schedule the roster with the membership dues payments going forward. You also agreed to reimburse members who overpaid membership dues totaling at least \$1,797.95.

Based on your assurance that Local 42 will maintain accurate and 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-2 / LM-3) filed by Local 42 for the fiscal year ended December 31, 2017, was deficient in the following areas:

1. Disbursements to Officers

Local 42 did not include reimbursements to officers totaling at least \$1,893.11 in the amounts reported in Item 24 (All Officers and Disbursements to Officers) to President Rita Mason and Secretary-Treasurer Derrick Thomas. It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 42 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).

Local 42 must file an amended Form LM-3 for the fiscal year ended December 31, 2017, 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-3 must be filed no later than February 8, 2019. Before filing, review the report thoroughly to be sure it is complete and accurate.

2. Failure to File Bylaws

Pursuant to 29 C.F.R. Section 458.3, the requirement under 29 C.F.R. Section 402.4 implementing LMRDA Section 201(a) is made applicable to labor organizations subject to the requirements of the CSRA. This provision requires labor organizations to file copies of any revised constitution and bylaws when it files its annual financial report. The audit disclosed a violation of this requirement. Local 42 has not filed its updated constitution and bylaws with OLMS. You advised that the local will submit a copy of its amended constitution and bylaws which reflects an increase in retiree and active member's dues payments authorized during the 2018 AFGGE National Convention. During the exit interview, you provided a copy of the local's amended 2019 constitution and bylaws.

I want to extend my personal appreciation to AFGGE Local 42 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,



District Director

cc: Derrick Thomas, Secretary-Treasurer,
Christina Salazar, Office Manager, AFGGE 2nd District