



January 29, 2019

Mr. Jon Aquilina, Secretary Treasurer
AFGE LU 1005
[Redacted]
Corpus Christi, TX 78414

Case Number: 420-6014897 [Redacted]
LM Number: 543655

Dear Mr. Aquilina:

This office has recently completed an audit of the American Federation of Government Employees (AFGE) Local 1005 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 Vice President Jeff Frawley on January 25, 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.

Recording 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 1005's 2017 records revealed the following recordkeeping violations:

1. Debit Card Cash Withdrawals and Expenses

Local 1005 did not retain adequate documentation for debit card cash withdrawals and expenses incurred by former president Cynthia Roberts totaling at least \$5,808. For example, Roberts withdrew \$5,720 in cash from the union's checking account, but failed to maintain sufficient documentation to explain how this cash was used. Local 1005 also failed to maintain a receipt for an \$88 charge made at Gossip Nails and Spa in Corpus Christi, Texas.

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

2. Meal Expenses

Local 1005 did not always require officers and employees to submit itemized receipts for meal expenses, such as a \$143.98 meal purchase at Vic and Anthony's Steakhouse in Houston, Texas by Roberts. 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 1005 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, a \$78.53 meal purchase at Hooters in Corpus Christi, Texas failed to identify who incurred this charge and what specific union business was conducted. 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.

3. General Expenses

Local 1005 did not retain adequate documentation for a \$3,600 payment made to Arbitrator Ed Bankston. Labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers) of your union, who are required to sign your union's LM report, are responsible for properly maintaining union records.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 1005's LM report. You should be aware that 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 a violation of this requirement. The Labor Organization Annual Report (Form LM-3) filed by Local 1005 for the fiscal year ended December 31, 2017, was deficient in the following areas:

1. Disbursements to Officers (LM-3)

Local 1005 did not report the names of some officers and the total amounts of payments to them or on their behalf in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union. Local 1005 failed to report former president Cynthia Roberts and former vice president Javier Morales as officers serving during the audit year.

The union must report most direct disbursements to Local 1005 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 1005 did not include payments to officers totaling at least \$8,183.87 in the amounts reported Item 24 (All Officers and Disbursements to Officers). Specifically, Local 1005 failed to properly report Roberts' \$5,720 in ATM cash withdrawals, \$1,319.87 in per diem payments and reimbursements, and \$88 at Gossip Nails and Spa. Local 1005 also failed to properly report per diem payments of \$224 to former vice president Javier Morales, \$416 to former president Shawn Kotal, and \$416 to then-chief steward Ray Aranda during the audit year. It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

2. Professional Fees

Local 1005 erroneously reported \$6,346 for arbitration fees in Item 54 (Other Disbursements) instead of Item 49 (Professional Fees). The instructions for Item 49 state that the union should report total disbursements for “outside” legal and other professional services (auditing, economic research, computer consulting, arbitration, etc.) in this item.

I am not requiring that Local 1005 file an amended LM report for 2017 to correct the deficient items, but Local 1005 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Violation

The audit disclosed the following other violation:

Inadequate Bonding

Pursuant to 29 C.F.R. Section 458.35, officers and employees of any labor organization subject to the CSRA are required to be bonded in accordance with Section 502(a) of the LMRDA. This provision requires that union officers and employees be bonded for no less than 10% of the total funds those individuals or their predecessors handled during the preceding fiscal year.

The audit revealed that Local 1005’s officers are not bonded. Local 1005 should obtain adequate bonding coverage for its officers immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than February 25, 2019.

I want to extend my personal appreciation to AFGE LU 1005 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