



February 25, 2019

Ms. Yvonne Wheeler, National Representative
American Federation of Government Employees (AFGE)
Local 490
P.O. Box 24236
Los Angeles, CA 90024

Case Number: 520-6012621 [REDACTED]
LM Number: 502440

Dear Ms. Wheeler:

This office has recently completed an audit of AFGE Local 490 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 on February 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.

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 490's 2017 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 490 did not retain adequate documentation for reimbursed expenses incurred by officers. For example, there was at least \$6,714.53 in undocumented expenses paid to officers. The majority of this amount was for travel advances based on estimated vouchers that were not reconciled with receipts, if any, following completion of the travel. There were no records reflecting that excess travel advances had been repaid.

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

2. Lack of Authorization

Local 490 did not maintain adequate records to support proper authorization for expenditures totaling \$49,077 during the audit year. The union's constitution and bylaws, in Article VI, Section 2, provides that expenditures over \$250 per month must have prior approval of the membership. Treasurer Alberta Franklin stated that no membership meetings were held in 2017 due to the geographic dispersion of its members. However, officers or the executive board would meet to discuss union issues and authorize expenses. The union did not record minutes for these executive board meetings. The union must keep a record, such as meeting minutes, to show authorization of such payments by the entity or individual in the union with the authority to authorize such payments.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 490'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 (LM-3) filed by the Local 490 for the fiscal year ended December 31, 2017, was deficient in the following areas:

1. Failure to Accurately Report Receipts and Disbursements

Local 490 failed to report all receipts and all disbursements during the period on Statement B (Receipts and Disbursements) of the LM-3 report. The audit found that the union's books, after reconciliation to the bank statements, do not correspond to entries in Item 44 (Total Receipts) and Item 55 (Total Disbursements).

The union reported \$68,548 in total receipts in its 2017 LM-3 report. However, the reconciled amount determined in the audit was \$51,863, resulting in a difference of \$16,685. In addition, the union reported \$74,394 in total disbursements in 2017. However, the reconciled amount was \$49,394 resulting in a difference of \$25,317.

The instructions for Statement B state receipts must be recorded when money is actually received and disbursements must be recorded when money is actually paid out by the labor organization. The purpose of Statement B is to report the flow of cash in and out of the labor organization during the reporting period. Transfers between separate bank accounts do not represent the flow of cash in and out of the labor organization. Therefore, these transfers should not be reported as receipts and disbursements of the labor organization. The union should obtain account balances from its books as reconciled to the balances shown on bank statements to ensure all receipts and disbursements are properly reported.

2. Disbursements to Officers

Local 490 reported no payments to officers in Item 24 (All Officers and Disbursements to Officers) and Item 45 (Cash Disbursements to Officers). According to Treasurer Franklin, officers chose not to draw salaries due to the union's financial situation. However, President Emeka Nwachie received \$6,881.49 in expense reimbursements in 2017. Franklin received \$14,568.36 in expense reimbursements in the same year. Franklin also made \$2,700 in cash withdrawals during the year. There was no supporting documentation for the cash withdrawals.

The union must report most direct disbursements to the Local 490 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).

3. 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 490 has now filed a copy of its constitution and bylaws.

Local 490 must file an amended Form LM-3 for the fiscal year ended December 31, 2017, to correct the deficient items discussed above. Local 490 must file its report electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-3 should be filed electronically no later than March 29, 2019. Before filing, review the report thoroughly to be sure it is complete and accurate.

I want to extend my personal appreciation to AFGE Local 490 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,

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Investigator