



April 8, 2019

Mr. John Palovcik, President  
Government Employees, AFGE AFL-CIO  
Local 2499

Case Number: 320-6014903 [REDACTED]  
LM Number: 530-409

Dear Mr. Palovcik:

This office has recently completed an audit of Government Employees, AFGE Local 2499 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 Wesley Pierce on March 21, 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 2499's 2017 records revealed the following recordkeeping violations:

1. Failure to Retain Voided Checks

The audit revealed that Local 2499 failed to retain some voided checks during 2017. As a general rule, all types of records created or used in the normal course of doing union business must be maintained by the union for five years.

2. General Reimbursed Expenses

Local 2499 did not retain adequate documentation for reimbursed expenses incurred by you, former Treasurer Devin Micallef, and Steward John Rodgers totaling at least \$900 in 2017. Supporting documentation for a \$340 check to Mr. Micallef for "FMCS filings" and a \$230 check to you for "domain registration and privacy" were insufficient. The union retained only expense vouchers for these disbursements, but failed to retain any additional supporting documentation, such as a receipt, in the union's records. In another example, Steward John Rodgers was paid \$339 in February 2017 for data, mileage, and "LegiCon" registration; however, Local 2499 did not retain any supporting documentation for the expenses, such as an expense voucher or receipts, which is not sufficient.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. For mileage expenses, the union, must maintain records which identify the dates of travel, locations traveled to and from, and number of miles driven. The record must also show the business purpose of each use of a personal vehicle for business travel by an officer or employee who was reimbursed for mileage expenses. 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.

3. Disposition of Property

During the audit year, Local 2499 purchased men's woven shirts totaling at least \$475. During the audit, you advised that approximately 20 men's Polo and button-up shirts were given away at the National Border Patrol Conference in 2017. However, Local 2499 did not maintain adequate records to show that those items were given away or the identity of the members that received these items. Records must be retained which account for all union property. In the case of Polo and button-up shirts sold or given away, records must be maintained to clarify and support information required to be reported by Local 2499 in Statements A (Assets and Liabilities) and B (Receipts and Disbursements) of the Labor Organization Annual Report (Form LM-3).

The Union must report the value of any property on hand at the beginning and end of the year in Item 30 (Other Assets). The union must retain an inventory or similar record of property on hand to verify, clarify, and explain the information that must be reported in Item 30. In addition, in the case of items given away to members, the union must retain records that identify the date the items were given away and the recipients of those items.

Based on your assurance that Local 2499 will retain 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-3) filed by Local 2499 for the fiscal year ended December 31, 2017, was deficient in the following areas:

#### 1. Dues Receipts

The audit found that Local 2499 failed to report all dues receipts received during the audit year in Item 38 (Dues). Specifically, Local 2499 received dues reimbursements from the AFGE National totaling \$68,253 during 2017; however, Local 2499 reported dues receipts totaling only \$38,944 in Item 38. Mr. Micallef explained during the opening interview that he erroneously reported the AFGE National dues reimbursement totaling \$29,309 in Item 43 (Other Receipts).

All dues received during the fiscal year must be reported in Item 38, regardless of when the union actually deposited the funds and regardless of how they were transmitted to the local.

#### 2. Disbursements to Officers

Local 2499 did not include disbursements for wages paid to you, Mr. Micallef, and former President Jason Anderson totaling at least \$1,300 in the amounts reported in Item 24 (All Officers and Disbursements to Officers), Column D (Gross Salary). The audit revealed that Local 2499 paid wages to you, Mr. Micallef, and Mr. Anderson for the purpose of reimbursing lost annual leave or leave without pay that had to be taken at the union's employer, Customs and Border Patrol, to attend to union business. All disbursements for the purpose of gross salary and "lost time" or time devoted to union activities must be reported in Column D. These payments were erroneously reported in Column E (Allowances and Other Disbursements) of Item 24.

The union must report most direct disbursements to Local 2499 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. Acquire/Dispose of Property

Item 13 (During the reporting period did your organization acquire or dispose of any assets in any manner other than by purchase or sale?) should have been answered "Yes", because the union gave away t-shirts totaling at least \$475 during the year. The union must identify the type and value of any property received or given away in Item 56 (Additional Information) of the LM-3 report along with the identity of the recipient(s) or donor(s) of such property. The union does not have to itemize every recipient of such giveaways by name, and can describe the recipients by broad categories such as "members" or "new retirees", if appropriate. In addition, the union must report the cost, book value, and trade-in allowance for assets that it traded in.

I am not requiring that Local 2499 file an amended LM report for 2017 to correct the deficient items, but Local 2499 has agreed to properly report the deficient items on all future reports it files with OLMS.

#### Other Issues

##### 1. Expense Policy

The audit revealed that Local 2499 has no written policy regarding reimbursement of travel expenses. During the opening interview, the officers advised that they are entitled to receive per diem and lodging expenses consistent with the federal government rate for all union related travel. This includes paying only  $\frac{3}{4}$  day per diem for meal and incidental expenses on the first and last dates of travel per trip. The audit found that Local 2499 paid the full per diem rate for meal and incidental expenses for each date of travel for all officers. In addition, Local 2499 reimbursed the full cost of lodging for all union travel regardless if the lodging rate exceeded the government allowable rate for a specific travel locale to which the officers traveled.

To ensure proper internal financial controls over union disbursements, OLMS recommends that each union: (1) adopt a clear policy on reimbursed travel expenses; (2) establish what documentation is needed for an official or member to be reimbursed; and (3) establish a procedure that provides for approval of travel expense claims. During the exit interview, a compliance tip regarding reimbursed travel expenses was provided.

OLMS recommends that union policies and procedures for expenses be reduced to writing and added to your union's bylaws or discussed at an executive board or membership meeting where they can be supported by entries in the meeting minutes. Once established, it is important that your union consistently follows its procedures for handling payments for expenses.

## 2. Lost Wage Policy

The audit also revealed that Local 2499 disbursed funds totaling at least \$1,370 to officers for reimbursement of annual leave or leave without pay (LWOP) for time officers took off work to attend to union business during the audit period. However, Local 2499 does not have written policies that document its lost wage reimbursement policies for the reimbursement of annual leave or LWOP.

To ensure compliance with the LMRDA and to safeguard union assets by promoting transparency and accountability, labor organizations should establish best practices for administering lost time payments. OLMS recommends that unions (1) adopt clear policies and procedures for making lost time or similar payments and (2) use vouchers that require detailed information to support lost time payments. These practices will allow the union to properly report lost time payments on the Labor Organization Annual Report Form LM-3.

As noted above, OLMS recommends that union policies and procedures for lost wages be reduced to writing and added to your union's bylaws or discussed at an executive board or membership meeting where they can be supported by entries in the meeting minutes. Once established, it is important that your union consistently follow its procedures for handling payments for lost time and other expenses.

I want to extend my personal appreciation to AFGE Local 2499 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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[REDACTED]

Investigator

cc: Mr. Wesley Pierce, Treasurer