



June 5, 2019

Mr. Chad Chapman, President
Association of Civilian Technicians (ACT) Chapter 59

Case Number: 450-6012730-
LM Number: 517-527

Dear Mr. Chapman:

This office has recently completed an audit of Association of Civilian Technicians (ACT) Chapter 59 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 President Chad Chapman on April 4, 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 (CFR) 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 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 Chapter 59's 2014 through 2017 records revealed the following recordkeeping

violations:

1. General Reimbursed Expenses

Chapter 59 did not retain adequate documentation for reimbursed expenses incurred by union officers. For example, the union did not retain receipts for meals and supplies for union officers.

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

Chapter 59 did not require officers and employees to submit itemized receipts for meal expenses. 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.

Chapter 59 records of meal expenses did not always include written explanation of union business conducted or the names and titles of the persons incurring the restaurant charges. Union records of meal expenses must include written explanations of the union business conducted and the full names and titles of all person 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. Employers Check-off Reports

Chapter 59 failed to maintain the employer dues check-off reports. Union receipts records must include an adequate identification of all money the union receives. The records should show the exact date that the money was received, the identity of the source of the money, and the individual amount received from each source.

4. Insufficient Descriptions

There were some disbursements in which the union business purpose was not sufficiently descriptive. For example, there were several checks written to members or officers and some checks made payable to officers for bank withdrawals in all instances the union business purpose was not sufficiently descriptive such as "going away gift", "working lunch", and etc. All disbursement records, including check card

receipts and bank withdrawals must contain an adequate description of the nature of the union business requiring the disbursement.

Based on your assurance that Chapter 59 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Chapter 59'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-4 filed by Chapter 59 for the fiscal years ending December 31, 2014 through December 31, 2017 were deficient in the following areas:

1. Assets

Chapter 59's ending cash balances reported in Item 14 for fiscal years ending December 31, 2014 through December 31, 2017 on the LM-4 report did not match the total figures from the bank statements. The audit revealed that the ending cash balance reported on the Form LM-4 reports were not correctly reported.

The LM-4 instructions state Item 14 (Assets) enter the total value of all the labor organization's assets at the end of the reporting period including, for example, cash on hand and in banks, property, loans owed to the labor organization, investments, office furniture, automobiles, and anything else owned by the labor organization. Enter "0" if the labor organization had no assets at the end of the reporting period.

2. Total Receipts

The total receipts reported in Item 16 (Total Receipts) do not match the total figures from the bank statements. The local must accurately report the total receipts on its LM-4 report.

The instructions on the LM-4 Form states the receipts must be recorded when money is actually received by the union. Transfers between separate bank accounts or between special funds of your organization, such as vacation or strike funds, do not represent the flow of cash in and out of your organization. Therefore, these transfers should not be reported as receipts and disbursements of your organization.

3. Total Disbursements

The total disbursements reported in Items 17 (Total Disbursements) do not match the total figures from the bank statements. The local must accurately report the total disbursements on its LM-4 report.

The instructions on the LM-4 Form states the disbursements must be recorded when money is actually paid out by the union. Transfers between separate bank accounts or between special funds of your organization, such as vacation or strike funds, do not represent the flow of cash in and out of your organization. Therefore, these transfers should not be reported as receipts and disbursements of your organization.

4. Disbursements to Officers

Chapter 59 did not include all the reimbursements to officers in the amounts reported in Item 18 (All Officers and Disbursements to Officers). Several union officers incurred meals, office expenses, and other expenses during the audit year, but these expenses were not reported in Item 18.

The union must report most direct disbursements to Chapter 59's officers and some indirect disbursements made on behalf of its officers in Item 18. Enter the total amount of all payments to officers and employees made by the labor organization during the reporting period. The amount should include, for example, gross salaries (before tax withholdings and other payroll deductions); lost time pay; monthly, weekly, or daily allowances; and disbursements for conducting official business of the labor organization as well as disbursements which were essentially for the personal benefit of the officer or employee. Enter "0" if the labor organization made no payments to officers or employees during the reporting period.

5. 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 organization 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. As agreed, Chapter 59 will file a copy of its current constitution and bylaws with OLMS as soon as possible but not later than June 26, 2019.

I am not requiring that Chapter 59 file an amended LM report for 2014 through 2017 to correct the deficient items, but Chapter 59 has agreed to properly report the deficient items on all future reports it files with OLMS.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Chapter 59'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.

Other Issues

The audit revealed that the union failed to hold its last regular election of officers within the maximum time frame specified by the LMRDA, in violation of 29 U.S.C. 481(b).

The LMRDA, establishes democratic standards for conducting regular elections of union officers and delegates who elect officers. These standards require use of a secret ballot, reasonable opportunity to nominate candidates and vote, mailed notice of election, and other safeguards to ensure a fair election. The LMRDA requires local unions to hold officers elections at least every three years.

I want to extend my personal appreciation to Association of Civilian Technicians (ACT) Chapter 59 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,

A solid black rectangular box used to redact the signature of the auditor.

Auditor