

**U.S. Department of Labor**

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July 9, 2008

Ms. Priscilla O'Dell, Treasurer  
Government Employees AFGE AFL-CIO  
Local 2198  
200 Veterans Ave.  
Beckley, WV 25801

LM File Number 503-605

Case Number: [REDACTED]

Dear Ms. O'Dell:

This office has recently completed an audit of AFGE Local 2198 under the Compliance Audit Program (CAP) to determine your organization's compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you and President Melissa Miklos on June 27, 2008, 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 2198's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Debit Card Expenses

Local 2198 did not retain adequate documentation for reimbursed expenses and debit card expenses incurred by President Melissa Miklos totaling at least \$1,725.98. For example, President Miklos was reimbursed for purchasing red bracelets for the membership to wear during contract negotiations, but failed to secure and retain an invoice for this purchase. President Miklos also used the local's debit card for her stay at the Hyatt Regency in Washington, D.C. during a legislative conference, but failed to retain the invoice for this stay.

As previously 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 2198 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$281.34. 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 2198 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 receipt from Lone Star dated August 8, 2007, was not itemized, did not list the attendees, and failed to note the union business

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. Receipt Dates not Recorded

Entries in Local 2198's general ledger reflect the date the union deposited money, but not the date money was received. Union receipts records must show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

4. Failure to Record Receipts

Local 2198 did not record in its receipts records bank interest received totaling at least \$103.57. For example, Local 2198 received interest on their savings account with the Raleigh County Federal Credit Union but failed to record the interest on the books. Union receipts records must include an adequate identification of all money the union receives. The records should show the date and amount received, and the source of the money.

5. Disbursement Dates not Recorded

Multiple purchases made with the local's debit card are often combined into one single entry on the local's general ledger. For example, the local made 17 different purchases for the annual union picnic, but recorded these 17 purchases as one single entry in the local's general ledger. The date, amount, and vendor information of each individual disbursement must be recorded in the local's general ledger. The date of the disbursement is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3. The LM-3 instructions for Statement B state that the labor organization must record disbursements when it actually pays out money. Failure to record the date money was disbursed could result in the union reporting some disbursements for a different year than when it actually disbursed them.

6. Dues Deduction Reports

The local failed to maintain all dues deduction reports it received from the VA Medical Center in Beckley, WV. Six dues deduction reports were missing for the audit period. Dues deduction reports are required to be maintained in order to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-3.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 2198'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 2198 for fiscal year ending October 31, 2007, was deficient in the following areas:

Disbursements to Officers

Local 2198 did not include some reimbursements to officers totaling at least \$1,166.42 in the amounts reported Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 2198 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).

I am not requiring that Local 2198 file an amended LM report for 2007 to correct the deficient items, but Local 2198 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. Officers and employees of Local 2198 are currently bonded for \$10,000; however, they must be bonded for at least \$20,000.

Local 2198 should obtain adequate bonding coverage for its officers and employees immediately. Please provide proof of bonding coverage to this office as soon as possible, but not later than July 25, 2008.

I want to extend my personal appreciation to AFGE Local 2198 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

Ms. Priscilla O'Dell  
July 9, 2008  
Page 6 of 6

to future officers. If we can provide any additional assistance, please do not hesitate to call.

Sincerely,

[REDACTED]

Investigator

cc: Melissa Miklos, President