

**U.S. Department of Labor**

Employment Standards Administration  
Office of Labor-Management Standards  
Denver District Office  
1999 Broadway, Suite 2435  
Denver, CO 80202-5712  
(720) 264-3232 Fax:(720) 264-3230



September 4, 2009

Mr. Mike Molina, President  
AFGE Local 2040  
PO Box 200157  
Denver, CO 80220-0157

LM File Number: 501-998  
Case Number: [REDACTED]

Dear Mr. Molina:

This office has recently completed an audit of AFGE Local 2040 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 on August 26, 2009, 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 2040's 2008 records revealed the following recordkeeping violations:

1. General Reimbursed and Credit Card Expenses

Local 2040 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers totaling at least \$3,100. For example, the union reimbursed officers for travel and office supply expenses but did not retain actual receipts or other adequate supporting documentation for the disbursements.

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 2040 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$462. 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 2040 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. 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. Reimbursed Auto Expenses

Union officers who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them totaling at least \$350 during 2008. 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.

4. Information not Recorded in Meeting Minutes

During the audit, Mr. Molina advised OLMS that the membership authorized legal representation for him in the amount of \$1,500 at its January 2009 meeting. The legal representation was a result of an altercation with agency management during a grievance meeting. Article VII Section 3 of the local's bylaws requires that expenditures in excess of \$500 per month be authorized by the membership prior to disbursing the funds. However, Local 2040 maintained no minutes of that meeting. Additionally, Local 2040 did not maintain executive board or membership meeting minutes for 5 of the 12 months of the 2008 fiscal year. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 2040 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 was not filed by Local 2040 for fiscal year ending December 31, 2009.

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 2040 amended its constitution and bylaws in 2000, but did not file the required copies with its LM report for that year.

Local 2040 has now filed a copy of its constitution and bylaws.

I want to extend my personal appreciation to AFGE Local 2040 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 investigator.

Investigator