

U.S. Department of Labor

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May 16, 2008

Mr. Vance Schauer, President
Government Employees AFGE AFL-CIO
Local 2228 DOD
1064 Ziebach Street
Rapid City, SD 57703

LM File Number: 502-068
Case Number: [REDACTED]

Dear Mr. Schauer:

This office has recently completed an audit of AFGE Local 2228 under the Compliance Audit Program (CAP) to determine your organization's compliance with the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). As discussed during the exit interview with you and Secretary-Treasurer Bob Yensko on April 29, 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 2228's 2007 records revealed the following recordkeeping violations:

1. General Recordkeeping

Local 2228 recorded its receipts and disbursements in QuickBooks accounting software. Although the QuickBooks records clarify how information was reported in the cash receipts and disbursements sections of the Labor Organization Annual Report (Form LM-3) filed by Local 228, as noted above, Section 206 requires that additional records be maintained. In the case of Local 2228, the audit revealed that at least 46 employer dues check-off reports, some cell phone bills, per capita tax statements, and supporting documentation for a disbursement to the Legislative Action Fund (LAF) were not retained.

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. Receipt Dates not Recorded

Receipts recorded in Local 2228's records 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.

Based on your assurance that Local 2228 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 2228 for fiscal year ending June 30, 2007, was deficient in the following areas:

1. Item 24 - All Officers and Disbursements to Officers

Local 2228 did not include reimbursements to officers totaling at least \$1,368 in Item 24 (All Officers and Disbursements to Officers). It appears the union erroneously reported these payments in Item 48 (Office and Administrative Expense) and Item 54 (Other Disbursements).

The union must report most direct disbursements to Local 2228 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).

2. Item 52 – Purchase of Investments and Fixed Assets

Local 2228 reported disbursements of \$780 in Item 52. However, the audit revealed there were no disbursements to purchase investments or fixed assets during the fiscal year ending June 30, 2007. A receipt was located for the purchase of a computer and software made in August 2007 for \$780. You advised that you believed that the amount reported in Item 52 of the LM-3 filed for fiscal year ending June 30, 2007, was for the August 2007 purchase. LM-3 instructions require that disbursements be reported when the money is actually paid out by the organization. Therefore, the disbursement for fixed assets should be included on Local 2228's 2008 LM-3 report.

3. Item 55 – Total Disbursements

Local 2228 did not correctly report disbursements on the union's 2007 LM-3 report. A review of Local 2228's records, including cancelled checks and the QuickBooks ledger, showed that the dates recorded in QuickBooks are the dates a check cleared the bank, not the date the check was written. Disbursements must be reported based on when a check is written, not when the check clears the bank. As noted above, the LM instructions require that disbursements be reported when the money is actually paid out by the organization.

I am not requiring that Local 2228 file an amended LM report for 2007 to correct the deficient items, but Local 2228 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

Expense Policy

As I discussed during the exit interview with you and Secretary-Treasurer Bob Yensko, the audit revealed that Local 2228 does not have a written policy regarding the types of expenses officers or members may claim for reimbursement or the types of expenses that may be charged to union credit cards. Mr. Yensko and you advised during the audit that officers and members are reimbursed the actual cost for hotels, received per diem for meals, and are reimbursed for mileage at the IRS rate. OLMS strongly recommends that Local 2228 establish written guidelines that identify the circumstances and the types and amounts of expenses that are authorized to be incurred. Written guidelines can help ensure effective internal controls and safeguard union assets.

Mr. Vance Schauer
May 16, 2008
Page 5 of 5

I want to extend my personal appreciation to AFGE Local 2228 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,



Investigator

cc: Secretary-Treasurer Bob Yensko