



February 22, 2011

Mr. Brett Keller, President
Government Employees Local 4040
1016 Douglas Avenue
Yankton, SD 57078

Case Number: [REDACTED]
LM Number: 519-287

Dear Mr. Keller:

This office has recently completed an audit of Government Employees Local 4040 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 Secretary-Treasurer Shandra Thygeson and Vice President Tony Kunkel on February 10, 2011, 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 Violation

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 4040's 2009 and 2010 records revealed the following recordkeeping violation:

Meals and Expenses Charged to the Credit Card

Local 4040 did not retain adequate documentation for credit card expenses incurred by officers and employees totaling at least \$375. For example, officers traveled to Peoria, IL to attend a training seminar and charged gas in the amount of \$38.93 to the union's credit card, but did not retain a receipt. In another example, officers went out to dinner at Phinney's for Cheryl Luden's retirement and charged \$74.25 to the union credit card. However, the receipt retained was not itemized and no record was kept that identified the persons who incurred the charge.

As noted above, labor organizations must retain original receipts, bills, and vouchers for all disbursements. The president and treasurer (or corresponding principal officers), who are required to sign your union's LM report, are responsible for properly maintaining union records.

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.

Based on your assurance that Local 4040 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violation

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 (LM-3) filed by Local 4040 for the fiscal year ended December 31, 2009, was deficient in that:

Disbursements to Officers

Local 4040 did not include some direct and indirect reimbursements to officers totaling at least \$6,400 in the amounts reported Item 24 (All Officers and Disbursements to Officers). Local 4040's check register indicated that officers received payments totaling at least \$6,200 for per diem and mileage to attend union conventions and trainings. However, the local did not report any disbursements in Column E (Allowances and Other Disbursements) of Item 24. Most reimbursed and other expenses incurred by union officers are required to be reported in Column E of Item 24. It appears these payments were erroneously reported in Item 48 (Office and Administrative Expenses).

Most direct disbursements to Local 4040 officers and some indirect disbursements made on behalf of its officers must be reported 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 4040 file an amended LM report for 2009 to correct the deficient items, but Local 4040 has agreed to properly report the deficient items on all future reports it files with OLMS.

I want to extend my personal appreciation to Government Employees Local 4040 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: Ms. Shandra Thygeson, Secretary-Treasurer