

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Pittsburgh District Office
1000 Liberty Avenue
Room 1411
Pittsburgh, PA 15222
(412)395-6925 Fax: (412)395-5409



April 15, 2008

Mr. Kevin Franco, President
Government Employees AFGE AFL-CIO
Local 404
P.O. Box 271
Beaver, WV 25813

LM File Number 542-663
Case Number: [REDACTED]

Dear Mr. Franco:

This office has recently completed an audit of AFGE Local 404 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 Treasurer Laura Weaver on April 3, 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 404's 2007 records revealed the following recordkeeping violations:

1. General Reimbursed and Debit Card Expenses

Local 404 did not retain adequate documentation for reimbursed expenses and debit card expenses incurred by union officers totaling at least \$680. For example, a receipt was missing for a purchase made January 17, 2007, at Domino's Pizza for \$83.56. The pizza was for the union meeting, but the receipt could not be located. Also, check number [REDACTED], dated January 9, 2007, made payable to [REDACTED] in the amount of \$55, did not have any supporting documentation. [REDACTED] rented a Santa suit for the children's Christmas party but failed to submit a receipt when she was reimbursed.

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 404 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$745. 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 404 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 for a meal purchased at Padrino's Italian Restaurant on January 18, 2007 was not itemized and the names of attendees were not noted. 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. Failure to Record Receipts

Local 404 did not record in its receipts records some interest earned on savings accounts totaling at least \$444.42. 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.

Based on your assurance that Local 404 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

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 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 404 amended its constitution and bylaws in 2004, but did not file the required copies with its LM report for that year.

Local 404 has now filed a copy of its constitution and bylaws.

Other Violations

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 404 are currently bonded for \$5,000; however, they must be bonded for at least \$10,000.

The audit revealed that Local 404's officers and employees were not bonded for the minimum amount required at the time of the audit. However, the union obtained adequate bonding coverage and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

I want to extend my personal appreciation to AFGE Local 404 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