



March 11, 2015

Ms. Judith Wahlberg, President  
State County & Muni Empls, AFL-CIO, Council 5  
300 Hardman Avenue South  
South Saint Paul, MN 55075

Case Number: 320-6002259( )  
LM Number: 543153

Dear Ms. Wahlberg:

This office has recently completed an audit of State County & Muni Empls (AFSCME) Council 5 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 Executive Director Eliot Seide, Business Manager Diane Johnston, and CPA Gary Paulson on January 28, 2015, 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 requires, among other things, that labor organizations maintain adequate records for at least five years by which each receipt and disbursement of funds, as well as all account balances, can be verified, explained, and clarified. As a general rule, labor organizations must maintain 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 Council 5's 2013 records revealed the following recordkeeping violations:

1. Credit Card Expenses

Council 5 failed to retain any documentation for credit card expenses incurred by union officers and employees totaling at least \$1,177.69. For example, supporting documentation

was not retained for a \$51.30 charge made by Field Representative John Ewaldt to his union credit card at Jimmy Johns on June 6, 2013. In support of this expense, the only supporting documentation retained by Council 5 was the credit card statement, which is not sufficient.

As 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

Council 5 did not require Mr. Seide, Field Representative Charles Martin, Associate Director JoAnne Pels, Field Representative John Ewaldt, Field Staff Director John Westmoreland, IT Manager Lisa Altendorfer, and Assistant to the Director Michelle Stein to submit itemized receipts for meal expenses charged to union credit cards on 53 occasions totaling at least \$1,872.17. Council 5 only required officers and employees to retain the credit card signature receipt showing the name of the vendor, the date, and the amount of the expense. As an example, an itemized receipt was not retained for a \$49.50 meal expense at Keys Café & Bakery charged to the union credit card by Associate Director Pels on May 6, 2013. Itemized receipts provided by restaurants to officers and employees must be retained. 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.

Council 5 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 retained for a \$55.82 meal expense incurred by Field Representative Ewaldt at Duluth India Palace did not include the nature of the union business conducted on the receipt.

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 and employees who received reimbursement for business use of their personal vehicles did not retain adequate documentation to support payments to them totaling at least \$22,250.34 during 2013. Mileage reimbursements were claimed on expense vouchers that normally identified the dates of travel, the mileage rate claimed, the number of miles driven each day, and the total miles driven; however, the expense vouchers were not sufficient because they failed to identify the starting and ending locations and union business conducted.

Council 5 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.

Based on Mr. Seide's assurance that Council 5 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

### Reporting Violations

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report Form LM-2 filed by Council 5 for the fiscal year ended December 31, 2013, was deficient in the following areas:

#### 1. Disbursements to Officers and Employees

Council 5 did not include some indirect disbursements to officers and employees totaling at least \$7,935.04 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). Council 5's credit card statements indicate that officers and employees received reimbursed expenses and indirect disbursements for meal expenses and travel expenses charged to the union credit cards. During the opening interview, Business Manager Johnston stated that the indirect disbursements for meal and travel expenses charged to the union credit card were not reported in Schedule 11 and Schedule 12 because she believed that they were supposed to be reported in Schedules 15 through 19. Johnson confirmed this during the exit interview. It appears that Council 5 erroneously reported some of these payments in Schedules 15 through 19.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

#### 2. Fund Transfers Reported as Receipts

During the audit year, Council 5 reported per capita tax payments totaling approximately \$10,000 that were made by Local 3688 twice in Item 37 (Per Capita Tax). Council 5

initially recorded the per capita tax payments received from Local 3688 as a receipt in MAS90 when the payments were deposited in the DED Account. Council 5 subsequently recorded Local 3688's per capita tax payment as a receipt again in MAS90 when the funds were transferred from the DED Account into the MTF A Account.

The purpose of Statement B (Receipts and Disbursements) is to report the flow of cash in and out of your organization during the reporting period. Transfers between separate accounts do not represent the flow of cash in and out of your organization and should not be reported as receipts and disbursements of your organization.

I am not requiring that Council 5 file an amended LM report for 2013 to correct the deficient items, but Council 5 has agreed to properly report the deficient items on all future reports it files with OLMS.

#### Other Issue

During the opening interview, Business Manager Johnston stated that Council 5's lost time policy only allows members to receive lost time reimbursement in circumstances where the member actually loses hours from their employer for the conduct of union business (except in circumstances when a member uses paid time off). Further, a copy of the AFSCME Council 5, AFL-CIO Expense and Lost-Time Policies and Procedures was provided during the audit. The policy reads, in part "Any member of Council 5, including Council 5 Executive Board members, shall be entitled to claim lost-time payment, at the individual's actual hourly rate of pay, including differential(s) which would have been received had the member been working, for all actual regularly scheduled hours taken off from work (not to exceed the member's scheduled work day)..."

The audit revealed lost wage reimbursements to Secretary Mary Falk, Executive Board Member Richard Pospichal, and Executive Board Member Sabrina Search-Becker that are inconsistent with Council 5's lost time policy. A review of Council 5's records revealed that Executive Board Member Pospichal and Executive Board Member Search-Becker were reimbursed lost wages for the same day on two separate vouchers. For example, Mr. Pospichal claimed lost wages for April 15, 2013, on a voucher he submitted on April 30, 2013, and he also claimed lost wages for April 15, 2013, on a voucher he submitted on May 15, 2013. Additionally, on three occasions, Secretary Falk was reimbursed for lost wages by Council 5 in an amount greater than what was actually lost. For example, on April 23, 2013, Falk claimed and was reimbursed for five hours of lost time, but a review of her payroll records from the State of Minnesota showed that she only lost 4.5 hours.

During a phone call with Ms. Johnston after the exit interview, she stated that Council 5 was unaware of these discrepancies, but agreed that they were not in accordance with the union's lost time policy. Ms. Johnston believed that the discrepancies were mistakes made by those officers and employees and stated that Council 5 will more closely review lost time claims in the future.

I recommend that verification of lost wage claims submitted by union personnel be conducted by either allowing the officers to compare lost wage claims to employer records or by requiring union personnel to submit proof of lost wages claimed (for example, time cards). This can be an effective internal control for such payments.

I want to extend my personal appreciation to AFSCME Council 5 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. Diane Johnston, Business Manager  
Mr. Eliot Seide, Executive Director