

U.S. Department of Labor

Employment Standards Administration  
Office of Labor-Management Standards  
Dallas District Office  
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Dallas, TX 75202  
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July 7, 2005

Paul Ferris, President  
5005 North Piedras St.  
El Paso, TX 79920

Re:

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Dear Mr. Ferris:

This office has recently completed an audit of AFGE Local 2516 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 on May 23, 2005, 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.

Title II of the LMRDA establishes certain reporting and record keeping requirements. Section 206 requires, among other things, that adequate records be maintained 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, all records used or received in the course of union business must be retained. This includes, in the case of disbursements, not only the retention of original bills, invoices, receipts, and vouchers, but also adequate additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and the identity of the recipients of the goods or services.

The CAP disclosed violations of LMRDA section 201(a) which requires that unions submit a copy of their current constitution and bylaws with its LM report when bylaw changes are made. Local 2516 amended its bylaws in September 2002, but a copy of the bylaws was not filed with local 2516's LM-3 report for fiscal year ending 2003. A copy of the September 2002 bylaws was provided to me during the audit.

The CAP disclosed the following record keeping violations during the audit of Local 2516's 2003 records:

1. It was noted during the audit that no book or ledger was prepared to reconcile disbursements and deposits with bank statements. No payroll list was presented to corroborate active and past members.
2. Dates on some of the checks used to pay for disbursements including office supplies were post dated eight months or back dated six months, giving the wrong impression that misappropriation of funds took place. A better control of the check book should be implemented.

3. Some vouchers submitted by union personnel for stipends do not identify the union business conducted that required the stipend to be incurred. The stipend claims must identify each date stipend were incurred, the number of hours lost on each date, the applicable rate of pay, and a description of the union business conducted.

With respect to documentation retained in support of specific disbursements (including those in payment of credit card charges), the record retention requirement includes not only the retention of original bills, invoices, receipts, and vouchers, but also additional documentation, if necessary, showing the nature of the union business requiring the disbursement, the goods or services received, and all the recipients of the goods or services. In most instances, this documentation requirement can be most easily satisfied with a sufficiently descriptive receipt. If a receipt is not sufficiently descriptive, a note can be written on it providing the additional information. An exception may be made only in those cases where 1) other equally descriptive documentation has been maintained, and 2) there is evidence of actual oversight and control over disbursements.

As agreed, provided that Local 2516 maintain adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding these deficiencies.

The CAP disclosed a violation of the LMRDA section 201(b) because the Labor Organizational Annual Report (Form LM-3) filed by Local 2516 for fiscal year ending 12/31/03 was deficient in the following areas as described below:

1. The names of some officers who held office during the year were not reported in item 24 with the total amount of payments to or for them. The names of all persons who held office during the year must be reported in item 24 regardless of whether or not they received any payments from the union.
2. Several thousand dollars paid to officers and members as a gift for bringing new members, were misreported under Item #48 instead of 24(E) for officers and Item #51 for members. Funds paid to officers for reimbursement of expenses were misreported under Item #48 instead of Item #24(E).
3. All direct disbursements to your union's officers and some indirect disbursements made by your organization on behalf of its officers must be included in the amounts reported in item 24. A "direct disbursement" to an officer is a payment made by your organization to an officer in the form of cash, property, goods, services, or other things of value.
4. An "indirect disbursement" to an officer is a payment made by your organization to another party (including credit card companies) 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 Expenses).

It will be necessary for AFGE Local 2516 to file amended LM-3 reports for 2003 and 2004 to correct the deficient items discussed above. The necessary reporting forms and instructions are enclosed for your use.

You may also use the new electronic forms software available from OLMS at the Website <http://www.olms.dol.gov> to complete the amended reports. One copy of each amended report should be submitted to this office at the above address as soon as possible, but no later than 07/22/05. Before mailing, review the reports thoroughly to be sure they are complete, accurate, and signed properly with original signatures.

I strongly urge Local 2516 to adopt clear guidelines regarding what types of out-of-pocket expenses personnel may charge that can be reimbursed, such as office supplies. Our office is certainly available to provide guidance to you regarding the requirements of the law as they would pertain to any policies your union might adopt. If written guidelines are adopted in the near future, I would appreciate it if you would provide a copy to this office.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to yours and Mr. Israel Galindo's successors at whatever time you may leave office.

I want to extend my personal appreciation for your and your entire staff's cooperation and courtesy during this compliance audit. If we can be of any assistance in the future, please do not hesitate to call.

Sincerely,

FCC

Investigator

cc: President/Treasurer