



January 19, 2016

Mr. Richard Schwartz, Treasurer
Firefighters, AFL-CIO
Local 214F, TAG 914
58 Lynette Lane
Amherst, NY 14228

Case Number: 110-6005760 [REDACTED]
LM Number: 516-526

Dear Mr. Schwartz:

This office has recently completed an audit of Firefighters, Local 214F 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 Vice President [REDACTED], Secretary [REDACTED] and you on October 27, 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 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 214's 2014 records revealed the following recordkeeping violations:

1. General Disbursements

Local 214 did not retain adequate documentation for general union disbursements and debit card expenses totaling at least \$1,532. For example, no receipt or invoice was maintained for calendars purchased from Contract Printing totaling \$189.00. Also, funds spent on retirement parties and the annual Christmas party did not have associated receipts to account for such funds.

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. Failure to Record Receipts and Disbursements

Local 214 did not maintain a union record to record its receipts and disbursements during the period. Union records should include a receipts and disbursements journal, or a similar union record, which includes the date the union deposited or withdrawn money, the date of receipt, and associated information regarding the payee/payer, amount and purpose of such transactions. Union receipt and disbursement records must include adequate identification of all money the union receives and pays out.

Based on your assurance that Local 214 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 214F for the fiscal year ended December 31, 2014, was deficient in the following areas:

1. Failure to Categorize Disbursements

Local 214 did not properly report cash disbursements in Items 45 to 54 on Statement B (Cash Disbursements). The union reported all disbursements in either Item 47 (Per Capita Tax) or in Item 50 (Benefits). There was \$8,413 reported in Item 50 incorrectly. The Instructions for the Form LM-3 states that all direct and indirect benefit disbursements to officers, employees, members and their beneficiaries should be reported in Item 50. Examples include disbursements to a trust, insurance company etc. The audit revealed that payments for such benefits were not disbursed by Local 214F. Rather, the union erroneously reported in Item 50 gifts, hardship assistance, and union merchandise in this

category. These payments should be reported elsewhere in Item 45 through 54, most likely in Item 48 (Office and Administrative Expenses), 51 (Contributions, Gifts & Grants) and Item 54 (Other Disbursements).

2. Per Capita Tax

Local 214 did not properly report payments to the International Association of Fire Fighters (IAFF) for per capita tax in Item 47. The union reported \$7,118 was paid to the IAFF, however OLMS' review indicated only \$6,505 was paid in per capita tax.

I am not requiring that Local 214 file an amended LM report for 2014 to correct the deficient items, but Local 214 has agreed to properly report the deficient items on all future reports it files with OLMS.

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 214 amended its constitution and bylaws in 2014, but did not file the required copies with its LM report for that year.

Local 214 has now filed a copy of its constitution and bylaws.

Other Issues

1. The audit revealed that Firefighters, IAFF Local 214F does not appear to be a labor organization. The CSRA would determine whether the union is required to file since the employer is the federal government. The CSRA states in 29 C.F.R. 457.11 that a labor organization's purpose must be "dealing with an agency concerning grievances and conditions of employment." As discussed during the audit, while Local 214 is affiliated with the IAFF national organization, it has no direct dealings with the employer. It does not bargain on behalf of the workers, nor does it handle any worker grievances.

Further, it appears the Local is run mostly like a social club, with get-togethers, retirement parties, etc. for the members, who are firefighters on a military base. The firefighters are represented by NAGE, as are other employees on the base. Local 214's bylaws make no mention of dealing with the employer as well. Because it does not deal with the employer concerning grievances or conditions of employment, Local 214 is not a labor organization under the CSRA and does not have to file.

2. Membership Meetings and Minutes

During the audit, you advised OLMS that the constitution and bylaws of the union require holding membership meetings throughout the year; however such meetings are not held. Therefore, minutes of meetings where issues can be raised and expenses authorized are not kept as union records. Article 4, Section 1 of the Constitution and Bylaws states that regular meetings of the local shall be held at least semi-annually. To be in accordance with your union's constitution and bylaws it is advised to hold such meetings. Further, minutes of all membership or executive board meetings when held should report any disbursement authorizations made at those meetings.

I want to extend my personal appreciation to Firefighters, Local 214F 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,

[REDACTED]

Supervisory Investigator

cc: [REDACTED], Vice President

[REDACTED], Secretary