



AFSCME Convention: DOL CAP Examinations

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Outline for our Discussion

- What is a CAP examination?
- CAP Logistics
- Top 10 CAP Issues
- Recent findings for AFSCME affiliates
- What actions can you take now to be ready?
- Story and best practices sharing
- Q&A

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What is a CAP?

- CAP and I-CAP are companion audit programs developed by OLMS to assess compliance with all aspects of the LMRDA and CSRA using specialized records review and investigative techniques.
- CAPs are streamlined compliance audits for local unions and intermediate bodies.
- Do not purport to identify all potential problem areas, because the compliance audits are limited in scope.

CAP vs. a Financial Statement Audit

- CAP focuses on financial and business aspects of a union's operation, but also assessing compliance with all aspects of the LMRDA or CSRA.
- Financial statement (FS) audit focuses on financial and business aspects of a union's operation.
 - Goal of the FS audit is to be able to test selected balances to enable the auditor to gain comfort and issue a "clean" opinion on the audited FS.
- CAP team may rely on the Union's auditors for their opinions on various matters under consideration.
- Role of the CAP team is much broader, so their examinations are typically more detailed and more thorough than a standard FS audit.

CAP Logistics

- How are unions selected for a CAP?
- Who performs the work during a CAP?

How long does a CAP take?

- An OLMS compliance audit may take many weeks, months, or perhaps even longer, to complete.
- No absolute time frame can be placed on the duration of the compliance audit
- Much depends on the size of the union, the availability and condition of its records, the level of cooperation by union officials, and the type of compliance problems found.
- During the opening meeting, the team leader will discuss a ***preliminary*** assessment of the time requirements necessary for the audit, and the factors that will affect the time requirements

Anatomy of a DOL CAP Audit

- Announcement Letter
- Phone call and request for conference call
- Request for kick-off meeting and audit date
- Computer Questionnaire and Electronic Copy of General Ledger
- General Data Request
- On-Site Visit – Interviews, Field Work, Questions,
• Waiting
- Subsequent Requests for Information
- Waiting
- Closing Letter
- Posted on OLMS Website

Considerations for DOL CAP

- Who should participate in the meetings;
 - Initial
 - Weekly updates
 - Closing
- Providing one “go to” person for information requests
- Answering the question asked in a concise way. No stories.....
- Physical location of CAP team
- Locate copier in CAP Audit area
- Limiting DOL access to other personnel

What Does DOL Request?

- The general ledger - electronic
- The general journal
- Banks statements –including deposit slips, credit/debit memos, cancelled checks, check stubs and bank reconciliations
- Membership and dues records
- Receipts records – duplicate receipts, receipt journals
- Minutes – Committee, Executive Board, Membership
- Journals – cash receipts and cash disbursements
- Bills and other substantiation – expense reports, credit card statements, invoices, payroll ledgers, vouchers

What Does DOL Request?

- Policies and procedures – written or not
- Leave and payroll records – personnel files
- Bylaws and constitution
- Investment statements and summaries of purchases, sales and amounts timely reinvested plus dividends and interest received or accrued, stock splits and reinvested income.
- Other assets listing including prepaid items, supplies inventory and give-away inventory including recipient logs.
- Affiliate audit reports, oversight reports, merger and dissolution activity.

What Does DOL Request?

- Other liability listing including payroll withholdings, accrued expenses, deferred revenue
- Fixed asset listings, depreciation records and disposal logs
- Documentation supporting amounts reported as accounts receivable and accounts payable including the aging of amounts and details about amounts written off during the year and reserves for bad debt
- Independent auditor and/or trustee audit reports

This list is **not** exhaustive, and the audit team may request other records as needed.

Considerations for Information Requests

- Require written requests
- Union must provide original documents, not copies
- No original records will be removed from the Union's headquarters.
- Asking for more time to gather information
- They will likely ask about prior years simply to see if you can access the data
- Who should review the information BEFORE providing to DOL?

Exit Interview

When the audit is complete:

- Audit team will conduct an exit interview with key officials of the Union to discuss findings and recommendations.
- Union officials are invited to participate during this process and will be requested to provide a written response describing actions it will take to correct deficiencies and implement recommendations.
- Following the exit interview, the audit team will provide Union officials with a closing letter detailing the findings and recommendations.

The DOL Closing Letter

- Reporting deficiencies written in the worse possible way
- Recordkeeping violations written in the worse possible way
- Internal control suggestions written in the worse possible way
- Disclaimer that findings are not an exhaustive list of all possible problems
- Potential to file amended report(s)
- This closing letter will be posted on the OLMS website for easy access by Union members

The Six Month Follow-Up Visit

- A six-month follow-up review may be necessary to assure that deficiencies have been corrected and to assess progress in correcting internal control and compliance issues.
- If a follow-up is required, the Union will be advised in the audit closing letter, and the specific deficiencies or internal control issues that need to be addressed will be identified.
- The Union will be requested to provide a written response describing the actions it intends to take to correct deficiencies and implement recommendations.
- The audit closing letter, the Union's response letter and the amended report, if required, will be reviewed at the six-month follow-up.
- The Union will be expected to demonstrate that progress has been made between the end of the initial compliance audit and the beginning of the follow-up review to rectify deficiencies identified.

General Areas of DOL CAP Focus

- Reporting Violations – LMRDA Section 201(a)
- Reporting Deficiencies – LMRDA Section 201(b)
- Inadequate Recordkeeping – LMRDA Section 206
- Office Holding Prohibitions – LMRDA Section 504
- Fiduciary Responsibility/Internal Controls – LMRDA Section 501
- Inadequate Bonding – LMRDA Section 502



CAP- The Top 10 Issues Countdown

#1 - Officer Expenses and Compensation

- How are salaries approved and authorized
- Officer Expenses Paid or Reimbursed
 - Properly Receipted with Itemized Receipts
 - Properly Substantiated; meals specifically with full name, title, business discussed
 - Consistent with Union policy
 - Use of per diems and meals also paid by the union
 - Reported properly and completely on the LM
 - Group meals charged 100% to officer or allocated consistently
 - Retaining all receipts
- Gifts received and reported on Form LM-30
- Other

More information on Form LM-30

- What is it?
- Who must file?
- What are the Form LM-30 exclusions?
- DeMinimis Exceptions

#1 - Officer Expenses and Compensation- CAP letter excerpt

Other Violation

The audit disclosed the following other violation:

Salary Authorization

The salary amount paid to officers was the approved net amount before deductions. The union paid the officers the net amount in addition to all deductions, resulting in the officers being overpaid. In November 2020, the membership voted and approved the salary amount to be paid as the gross amount.

#2 - Employee Expenses

- How are salaries approved and Authorized
- Employee Expenses Paid or Reimbursed
 - Properly Receipted with Itemized Receipts
 - Properly Substantiated; meals specifically name, title, business discussed
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- Gifts received and reported on LM-30
- Other

#2 - Employee Expenses- CAP letter excerpt

2. Meal Expenses

Lodge 158 did not require officers to submit itemized receipts for meal expenses totaling at least \$602.04. The union must maintain itemized receipts provided by restaurants to officers. 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. Monthly credit card statements listing the date, vendor, and amount of the transaction are not sufficient to meet the recordkeeping requirements of the LMRDA.

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.

#2 - Employee Expenses- CAP letter excerpt

2. Meal Expenses

Local 183 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$705. 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 183 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, \$83.04 was charged by President Cash at La Tolteca Restaurant which was not itemized and did not include a business purpose or the names of those attending. 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.

What does the IRS require regarding meal substantiation?

- Who was there? Names, Organization and Title
- What was the union business discussed?
(“Union Business” is not sufficient)
- Where did the meal occur?
- When did the meal occur?
- What was the cost of the meal?

*DOL wants more food detail.



#3 - Record Retention

- Can Union produce records going back 5 years from filing date?
- Are all the slips of paper there?
- Is there a written records management policy that governs how documents are retained, either in hard copy or electronic format, to ensure consistency and quality of legibility?
- Contracts and agreements
- Settlements

#3 - Record Retention- CAP letter excerpt

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 Local 10's 2020 records revealed the following recordkeeping violations:

General Reimbursed Expenses

Local 10 did not retain adequate documentation for reimbursed expenses incurred by union officers totaling at least \$200. For example, the local purchased gift cards for the union membership but failed to retain the receipt.

#4 - Criminal Background Verification

- What has the union done to ensure all officers can hold office?
 - Background checks on officers and employees
 - Questionnaires
 - Sworn statements
 - Other

#5 - Internal Controls Review

- How are disbursements processed?
- Do officers review or approve disbursement vouchers before payment?
- How are receipts processed – does mailroom list all checks received?
- Do receipts have date received and deposited?
- How is payroll processed?
- How are expense reimbursements processed?
- How are wire transfers and ACH payments approved and initiated?
- How are fixed assets acquired and capitalized?
- How is equipment logged, protected from loss and inventoried?
- Was review of control functions documented (ex: bank reconciliations reviewed)?
- Are internal control procedures in writing; receipts, disbursements, voided checks?
- Segregation of duties

#6 - LM Accuracy and Completeness

- Include all entities required to report in Item 10
- Detail on legal and consulting costs to identify services performed
- Reporting- affiliate payments and receipts
- Items given away in Item 15 including records of who received what
- Missing itemization payments
- Personal expenses reported on Schedules 11 & 12 and the related reimbursement

LM Accuracy and Completeness Part 2

- Netted transactions
- Descriptions too general for other assets and liabilities Schs 7 & 10
- Loans to officers and employees re: travel advances
- Item 17 Case #, claimant, court and caption - each admin or judicial action
- Inventory of supplies and/or give away items
- Member Newsletter costs reported in Sch 15 rather than Sch 19
- Credits netted against accounts receivable

LM Accuracy and Completeness Part 3

- Reporting amounts written off or liquidated on Sch 1
- Officer Activity: New, Current, Past on Schedule 11
- Reporting officer changes
- Investment activity income and fees reported separately
- Political expenditures not reported in Sch 16 and too little detail
- Membership reporting and classification between types
- Treasury Securities cost basis reported in item 69
- Middle initials missing for Officers and Employees in Schs 11 & 12

LM Accuracy and Completeness Part 4

- Accounting for automobile use on the LM
- Properly reporting salary, stipends, lost time, expense allowances
- Officer and employee expenses columns f & g – is it all there?
 - Taxi, rental cars, employee parking, meals, auto insurance, fuel

#7 - Union owned/provided Automobiles

- Use of mileage log
- Reporting related costs on Schedules 11 & 12, columns F & G
- Insurance
- Written policy on use of vehicle
- Also personal vehicle when used for union business

#7 - Automobiles- CAP letter excerpt

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 \$286 during 2020. The union 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.

#8 - Reporting of Shared Employees

- When the union uses or loans employees from/to other organizations, how are these payments for reimbursement handled?
 - Treat as an itemization payment to the organization for entire amount, or
 - Treat borrowed employee as an employee of the filer on Schedule 12, report benefits on Schedule 20 and remainder elsewhere

#9 - Inadequate Bonding

- Bonding is required by the DOL- LMRDA Section 502
- Are all local union officers and employees that handle funds bonded?
- Is coverage sufficient?
 - 10% of sum of local's liquid assets and yearly receipts
 - Max bond amount required is \$500k
- Labor bonds can only be purchased from DOL approved company
- Cannot have any form of deductible

#9 - Inadequate Bonding- CAP letter excerpt

Other Violations

Inadequate Bonding

The audit revealed a violation of LMRDA Section 502 (Bonding), which requires that union officers and employees be bonded for no less than 10 percent of the total funds those individuals or their predecessors handled during the preceding fiscal year.

The audit revealed that MEA's officers and employees were not bonded for the minimum amount required at the time of the audit. However, MEA 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.

#10 - Constitution Changes and Submission

- Were revised constitution or bylaws filed with the LM when changes are made to these documents?

#10 - Constitution Changes and Submission- CAP letter excerpt

Reporting Violation

The audit disclosed a violation of LMRDA Sections 201(a), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report (Form LM-3) filed by Local 3904 for the fiscal year ended September 30, 2020 was deficient in the following areas:

Failure to File Bylaws

The audit disclosed a violation of LMRDA Section 201(a), which requires that a union submit a copy of its revised constitution and bylaws with its LM report when it makes changes to its constitution or bylaws. Local 3904 amended their bylaws in 2017, but did not file a copy with its LM report for that year.

Local 3904 has now filed a copy of its constitution and bylaws.

Other CAP Hot Spots

- Elections
- Accuracy of fixed assets listings
- Use of signature stamps/plates
- Officer review of disbursements vouchers, transfers and receipts
- Compliance with Union policies
- Journal entry documentation
- Log of incoming cash receipts
- Affiliate mergers and terminations
- Unreported cash accounts



AFSCME CAP Letter Findings

Recent Findings- 2022

- One CAP letter issued so far in 2022
 - Findings:
 - Incorrect reporting of asset disposal in manner other than sale for gift cards distributed
 - Missing reporting of reimbursements to officer/member on the LM

Recent Findings- 2021

- Five CAP letters issues
 - One Local with no findings
 - Findings for the others:
 - Inadequate documentation/substantiation
 - Balances reported on LM don't agree to Local's books
 - Missing officer names on the LM
 - Missing revised constitution/bylaws
 - Failed to hold union officer election
 - Missing documentation for credit card disbursements

Recent Findings- 2020 and 2019

- No letters issued in 2020 and four issued in 2019
- Findings:
 - No minutes maintained for membership meetings
 - Missing written explanation of Union business, attendee names/titles on meal receipts
 - Insufficient number of meetings held during the year (based on Constitution)
 - Inadequate record keeping
 - Insufficient documentation
 - Failure to file LM

Recent Findings- 2019 *(continued)*

- Findings:
 - Inadequate support for mileage reimbursements
 - Failure to retain voided checks
 - Missing policies for lost time and travel expenses
 - Failure to file updated constitution
 - Balances reported on LM don't agree to Local's books
 - Gift cards were given away, but LM has Question 13 incorrectly answered
 - Inadequate documentation for lost wage reimbursements

Action Steps to Consider

- **Check out the areas we highlighted:**
 - Review support for expenses paid to officers and employees
 - Review your records retention policy and whether it's being followed
 - How are your internal controls functioning? Do you have policies set up for major areas?
 - What procedures are in place to make sure union officers can hold office?
 - Review your LM filings
 - Double check bonding
 - Are Union provided vehicles being handled correctly?
 - CAP closing letters can be found at: <https://www.dol.gov/agencies/olms/audits>



What are your stories?

**What best practices
are you finding helpful?**



Questions??