



September 16, 2005

Mr. Steven Tyler
Laborers Local 397
518 Henry
Edwardsville, Illinois 62025

Dear Mr. Tyler:

This office has recently completed an audit of Laborers Local 397 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 on September 13, 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.

The CAP disclosed that Local 397 filed a deficient LM-2 report for fiscal year ended December 31, 2004, in violation of Section 201(b) of the LMRDA. The following deficiencies were noted:

1. Disbursements being made by the local related to your assigned union-owned vehicle are not being reported in Schedule 9, Columns F or G. These expenses would include disbursements for credit card charges for gasoline, oil changes, repairs, and payments for vehicle insurance. In summary, both direct and indirect disbursements for the operation and maintenance of union owned and leased vehicles (which includes gasoline, repairs, and insurance) must be reported in Schedules 9 for officers.

The LM-2 instructions provide two methods for reporting automobile related expenses in Schedule 9. Please refer to page 13 of the LM-2 instruction for additional details on the proper reporting of automobile related disbursements.

2. The audit disclosed that meal expenses being incurred by you on the local's credit card were not being properly reported in Schedule 9, Column F. Indirect disbursements made to another party (such as a credit card company) on behalf of an officer for business expenses incurred, such as meals, must be reported in Schedule 9.

Please note that indirect disbursements for business expenses incurred for transportation by a public carrier (such as an airline) and for temporary lodging expenses incurred while traveling on union business must be reported in Schedule 13

(Office and Administrative Expenses). Pages 12 & 13 of the LM-2 instructions provide additional details on the proper reporting for officer expenses in Schedule 9.

It will be necessary for Local 397 to file an amended LM-2 report for fiscal year ended December 31, 2004, to correct the deficient items discussed above. The necessary reporting forms and instructions were earlier provided for your use. You may also use the new electronic forms software available from OLMS to complete the amended report. A copy of the amended report should be submitted to this office at the above address as soon as possible, but no later than October 19, 2005. Before mailing, review the report thoroughly to be sure that it is complete, accurate, and signed properly with original signatures.

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 reported on the LM-2 can be verified, explained, and clarified. As a general rule, all records used or received in the course of union business must be retained.

The audit disclosed that Local 397 failed to maintain adequate records in violation of Section 206 in the following respects:

1. All backup documentation for disbursements was not being retained. Specifically, it was discussed that the appropriate documentation needs to be retained for disbursements related to auto insurance and death benefit payments. In addition, backup documentation for travel related expenses being charged to the local's credit card should also be retained even if those same travel expenses are later reimbursed to the local by another entity.
2. A record documenting the source of monies being received for the local's community involvement fund checking account should be maintained.
3. Time sheets or a similar record should be maintained to support the salary being paid to local President Mike Testerman for his time spent working in the office or on behalf of the local. Specifically, the local should maintain documentation which details the specific hours/days being worked by Mr. Testerman for the local.

As you agreed to correct these deficiencies in your records, no further action is required.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided to you are passed on to your successor at whatever time you may leave office.

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

Sincerely,

Dennis L. Eckert
District Director

By

Investigator

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