

U.S. Department of Labor

Employment Standards Administration  
Office of Labor-Management Standards  
Houston Resident Investigator Office  
2320 La Branch Street, Room 1107  
Houston, Texas 77004  
(713) 718-3755 / FAX: (713) 718-3757



September 19, 2005

Kevin Johnson, Business Manager  
Operating Engineers Local 347  
2800 Texas Ave.  
Texas City, TX 77590

Re:

Dear Mr. Johnson:

This office has recently completed an audit of Operating Engineers Local 347 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, as Amended (LMRDA). As discussed during the exit interview with you on September 16, 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 established 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 following record keeping violations were revealed during the audit of Local 347's 2004 records:

Union officers and employees failed to retain adequate documentation for reimbursed expenses, for expenses charged to union credit cards, and for lodging expenses which were direct-paid by the union. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses paid for by the union and the locations (names and restaurants) where meal expenses were incurred must also be recorded.

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.

Union officers failed to record the date and/or purpose of some lost wage claims on records submitted for such expenses. Records that identify the date, number of hours lost, rate of pay, and business purpose (reason) for all lost wages must be retained. During the exit interview, I provided samples of blank expense vouchers Local 347 may use that identify the type of information and documentation which must be retained for lost wages and other officer expenses.

As agreed, provided that Local 347 maintains adequate documentation for its disbursements in the future, no additional enforcement action will be taken regarding this violation

I strongly urge Local 347 to adopt clear guidelines regarding what types of expenses personnel may charge with union credit cards and what kinds of out-of-pocket expenses personnel may be reimbursed for. 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.

The proper maintenance of union records is the personal responsibility of the individuals who are required to file Local 347's LM report. You should be aware that Section 206 of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for willful failure to maintain records. Section 209(c) of the LMRDA provides for a fine of not more than \$10,000 or imprisonment for not more than one year, or both, for willful destruction or falsification of records, and applies to any person (not just the individuals who are responsible for filing the union's LM report).

The CAP disclosed a violation of LMRDA Section 201(b), because Local 347 has not filed the Labor Organization Annual Report (Form LM-3) for fiscal year ending December 31, 2004. I am requiring that Local 347 file this report with the Office of Labor-Management Standards/Houston Resident Investigator Office immediately.

I strongly recommend that you make sure that this letter and the compliance assistance materials that were provided are shared with all of the officers of your Local

Sincerely

7LCJ

cc: LU President Don Limbach