



December 20, 2012

Mr. David Wilkinson, Business Manager
Electrical Workers, AFL-CIO
IBEW Local 106
322 James Street
Jamestown, NY 14701

Case Number: [REDACTED]
LM Number: 050-040

Dear Mr. Wilkinson:

This office has recently completed an audit of Electrical Workers, IBEW Local 106 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 Benefit Funds Secretary Kate Valvo, Secretary Melissa Sweeney and you on December 11, 2012, 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 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 106's 2011 records revealed the following recordkeeping violations:

1. General Reimbursed Expenses

Local 106 did not retain adequate documentation for reimbursed expenses and credit card expenses incurred by union officers and employees totaling at least \$59. For example, meals reimbursed to Business Manager David Wilkinson for travel incurred to Vancouver, BC were not retained in the union records.

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. Meal Expenses

Local 106 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$370. 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 106 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. 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.

3. Receipt Records

Union receipt records entered in the membership accounting software did not verify or show the reason for cancelled transactions and missing receipt numbers. When receipts are voided or cancelled, a union record should be maintained to show the reason for the cancellation or void.

Based on your assurance that Local 106 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violations.

Reporting Violations

The audit disclosed a violation of LMRDA Section 201(b), which requires labor organizations to file annual financial reports accurately disclosing their financial condition and operations. The Labor Organization Annual Report (Form LM-2) filed by Local 106 for the fiscal year ended December 31, 2011, was deficient in the following areas:

1. Disbursements to Officers and Employees (LM-2)

Local 106 did not include some reimbursements to officers and employees / payments to officers and employees totaling at least \$19,400 in Schedule 11 (All Officers and Disbursements to Officers) and Schedule 12 (Disbursements to Employees). It appears that the local erroneously reported these payments in Schedules 15 through 19.

For example, payments to the Imprest Fund for portions of wages for Secretary Melissa Sweeney and Benefit Funds Secretary Kate Valvo, should be reported in Schedule 12. Additionally, direct and indirect payments to officer and employees, including payments for flights purchased for spouses using the union credit card made on their behalf should be reported in Schedule 11 and Schedule 12 in their respective columns. Payments for travel of the spouses must be included in the schedules even though they were subsequently reimbursed back to the union.

The union must report in Column F of Schedules 11 and 12 (Disbursements for Official Business) direct disbursements to officers and employees for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedules 11 and 12 indirect disbursements made to another party (such as a credit card company) for business expenses union personnel incur. However, the union must report in Schedules 15 through 19 indirect disbursements for business expenses union personnel incur for transportation by public carrier (such as an airline) and for temporary lodging expenses while traveling on union business. The union must report in Column G (Other Disbursements) of Schedules 11 and 12 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Failure to Itemize Disbursements or Receipt (LM-2)

Local 106 did not properly report some "major" transaction(s) in Schedule(s) 15 (Representational Activities), 18 (General Overhead), or 19 (Union Administration). A "major" transaction includes any individual transaction of \$5,000 or more or total transactions to or from any single entity or individual that aggregate to \$5,000 or more during the reporting period and which the local cannot properly report elsewhere in Statement B.

The audit found that the union failed to report payments to the accounting firm as a major transaction. During the period, the union's general fund made payments totaling in aggregate to at least \$27,360 to Buffamante, Whipple, & Buttafaro which should have been reported properly on the form as described above.

Additionally, there were at least one other payee that should have been itemized as a “major” transaction in appropriate schedules. The OLMS audit found that jointly controlled accounts such as the Imprest Fund should be reviewed for “major” transactions, as applicable, for reporting on the LM-2 in the appropriate schedules for those transactions allocated to the general fund treasury.

I am not requiring that Local 106 file an amended LM report for 2011 to correct the deficient items, but Local 106 has agreed to properly report the deficient items on all future reports it files with OLMS.

Other Issues

1. Personal use of Credit Cards

The audit revealed that Local 106 permits officers and employees to use union credit cards to pay for personal expenses. Although officers and employees promptly repaid Local 106 for the personal expenses charged, OLMS does not recommend policies that allow personnel to make personal purchases with union credit cards because this may lead to misuse of union funds. Please refer to the enclosed *OLMS Compliance Tip: Union Credit Card Policy* for more information.

2. Inventory of Fixed Assets

As discussed with you during the exit interview it is recommended that the union maintain an inventory list of its assets and account for such assets on the LM-2, as applicable. An inventory list will help you identify, account for, and determine the total value of your union’s fixed assets.

I want to extend my personal appreciation to Electrical Workers, IBEW Local 106 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,



Investigator

cc: Mr. Martin Anderson, Treasurer
Mr. Robert Gunderson, CPA