



June 29, 2012

Mr. Tom McNeil, Business Manager
Iron Workers Local 396
2500 59th Street
St. Louis, MO 63110

Case Number: [REDACTED]
LM Number: 019470

Dear Mr. McNeil:

This office has recently completed an audit of Iron Workers Local 396 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 and Attorney Jeffrey Hartnett on April 16, 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 396's 2011 records revealed the following recordkeeping violations:

1. Backup Documentation for Disbursements and Credit Card Expenses

Local 396 did not retain adequate documentation for disbursements made by Local 396 and credit card expenses incurred by union officers and employees totaling at least \$13,860.35.

- A check was written on January 13, 2011 to [REDACTED]'s for \$2,199.82. The disbursement was for the 2010 hall Christmas party.
- A check was written on May 31, 2011 to St. Louis District Turner Camp for \$2,200. The disbursement was for park rental for the 2011 picnic.
- Local 396 did not retain any documentation for disbursements for the account associated with the annual fishing tournament. These disbursements totaled \$7,724.07.
- A credit card disbursement of \$507.63 was made at Santa Cruz Restaurant for the 2010 Jefferson City Christmas party.

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.

Also, the local purchased gift cards for members who were not able to work due to illness or injury. The local did not retain a list of members who received these cards. Records must be maintained to verify, clarify, and explain the information that must be reported on the local's LM-2 report.

2. Meal Expenses

Local 396 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, most meal receipts included the names of individuals present at the meal; however, the purpose of the meal was not included on the receipt. 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. Lack of Authorization for Benefits Paid on Behalf of Office Personnel

Salaries and benefits for Local 396 office personnel are set forth in a contract negotiated between Local 396 and OPEIU Local 13. The audit revealed benefits for office personnel were being paid out at a higher rate than agreed upon in the contract. Interviews with OPEIU Local 13 President Katie Fenlon and Mr. McNeil revealed that the topic of increasing benefits was overlooked during negotiations for the most recent contract. The local has resolved this issue by amending the contract with OPEIU Local 13 to increase the benefit payments made on behalf of Local 396 office personnel.

4. Disposition of Property

Local 396 did not maintain an inventory of gifts it purchased and gave away for the annual fishing tournament. The union must report the value of any union property on hand at the beginning and end of each year in Item 28 of the LM-2. The union must retain an

inventory or similar record of property to verify, clarify, and explain the information that must be reported on hand to in Item 28.

5. Receipt Dates not Recorded

Local 396 did not keep a receipts journal for the account associated with its annual fishing tournament. Union receipts records must be kept to show the date of receipt. The date of receipt is required to verify, explain, or clarify amounts required to be reported in Statement B (Receipts and Disbursements) of the LM-2. The LM-2 instructions for Statement B state that the labor organization must record receipts when it actually receives money and disbursements when it actually pays out money. Failure to record the date money was received could result in the union reporting some receipts for a different year than when it actually received them.

6. Information not Recorded in Meeting Minutes

During the audit, Mr. McNeil advised OLMS that the executive board authorized disbursements and membership approved disbursements at membership meetings. However, the executive board and membership meeting minutes do not contain any reference to disbursements for the annual Christmas party or the annual picnic. Minutes of all membership or executive board meetings must report any disbursement authorizations made at those meetings.

Based on your assurance that Local 396 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 396 for the fiscal year ended June 30, 2011, was deficient in the following areas:

1. Failure to Report Financial Activity of the Annual Fishing Tournament

The local did not report the financial activity of its annual fishing tournament. Labor organizations must report financial information for all union funds. This includes special funds or accounts, such as strike funds, scholarship funds, and activity funds, even if they are not part of the organizations general treasury.

2. Certificates of Deposit Reported As Investments

Local 396 improperly included the value of two certificates of deposit as investments in Statement A (Assets and Liabilities). For LM reporting purposes, OLMS considers a

certificate of deposit to be cash. The purchase or redemption of a certificate of deposit is a transfer of cash from one account to another and, therefore, the local should not report these transactions as receipts or disbursements.

3. 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 396 amended its bylaws in 2004, but did not file a copy with its LM report for that year.

Local 396 has now filed a copy of its constitution and bylaws.

Local 396 must file an amended Form LM-2 for the fiscal year ended June 30, 2011, to correct the deficient items discussed above. The report must be filed electronically using the Electronic Forms System (EFS) available at the OLMS website at www.olms.dol.gov. The amended Form LM-2 must be filed no later than July 13, 2012. Before filing, review the report thoroughly to be sure it is complete and accurate.

Other Issues

1. Written Policies

As I discussed during the exit interview, the audit revealed that Local 396 does not have a clear policy regarding the types of expenses personnel may claim for reimbursement and the types of expenses that may be charged to union credit cards. Also, Local 396 does not have clear policies regarding the use of union issued automobiles and cell phones. OLMS recommends that unions adopt written guidelines concerning such matters.

2. Personal use of Credit Cards

The audit revealed that Local 396 has, in the past, permitted officers and employees to use union credit cards to pay for personal expenses. Although officers and employees promptly repaid Local 396 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.

I want to extend my personal appreciation to Iron Workers Local 396 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