

U.S. Department of Labor

Office of Labor-Management Standards
Detroit-Milwaukee District Office
211 West Fort Street, Suite 1313
Detroit, MI 48226
(313) 226-6200 Fax: (313) 226-4391



Sent by email to: [REDACTED]; [REDACTED]; and
[REDACTED]

March 8, 2021

Mr. Russell Barker, President
Novi Industries Employees Association
44000 West Grand River
Novi, MI 48375

Case Number: 320-6020181 [REDACTED]
LM Number: 543552

Dear Mr. Barker:

This office has recently completed an audit of the Novi Industries Employees Association (NIEA) 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, Secretary-Treasurer Glen Peters, and Vice President Todd Esbrook on March 4, 2021, 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 Violation

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 the NIEA's 2019 and 2020 records revealed the following recordkeeping violation:

Disbursements to Vendors and General Reimbursed Expenses

The NIEA did not retain adequate documentation for disbursements to vendors and payments to former President Thomas Guerin totaling at least \$1,906. For example, adequate supporting documentation was not retained for two disbursements totaling \$1,316.25 that the union made to Legghio & Israel, P.C. for legal expenses related to bargaining. In support of these expenses, the NIEA only retained carbon copies of the checks issued to Legghio & Israel, P.C., which is not sufficient. As another example, adequate supporting documentation was not retained for nine debit card charges totaling \$565.56 that the union made to various vendors for what appear to be office supplies, gifts for retired members, and refreshments for union events. In support of these expenses, the NIEA only retained bank statements, which is not sufficient. Additionally, adequate supporting documentation was not retained for a \$24.56 reimbursement to Mr. Guerin for an unrecorded expense he incurred on behalf of the union. In support of this payment, the NIEA only retained a carbon copy of the check issued to Mr. Guerin, which is not sufficient.

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.

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

Reporting Violation

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-3) filed by the NIEA for the fiscal year ended May 31, 2020, was deficient in that:

Failure to Report all Officers

The NIEA did not report Mr. Esbrook as a union officer in Item 24 (All Officers and Disbursements to Officers). The union must report in Item 24 all persons who held office during the year, regardless of whether they received any payments from the union.

I am not requiring that the NIEA file an amended LM report for 2020 to correct the deficient item, but the NIEA has agreed to properly report the deficient item on all future reports it files with OLMS.

Other Violation

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 while the amount of the NIEA's bond was sufficient at the time of the audit, the bond included a deductible, which is a form of self-insurance that fails to meet the bonding requirements of the LMRDA. However, the NIEA obtained a bond without a deductible and provided evidence of this to OLMS during the audit. As a result, OLMS will take no further enforcement action regarding this issue.

Other Issues

1. Bereavement Payments

During the audit review period, the NIEA donated at least \$2,990 to union members who had family members pass away. The audit revealed that the NIEA does not have a clear policy regarding this type of payment. The NIEA bylaws do not contain specific provisions regarding the authorization of such disbursements and the policy for these disbursements could not be identified in any other union records.

OLMS recommends that the NIEA adopt written guidelines concerning its bereavement payments to help ensure effective internal controls and safeguard union assets. During the exit interview, Mr. Peters stated that the NIEA's officers will discuss this matter further and consider creating a policy for bereavement payments.

2. Signing Blank Checks

At the opening interview, Mr. Peters advised that the NIEA allows its officers to sign blank checks if they will be out of town for a prolonged period of time. Your union's bylaws require that all checks bear two signatures. The two signature requirement is an effective internal control of union funds. Its purpose is to attest to the authenticity of a completed document already signed. However, signing a blank check in advance does not attest to the authenticity of a completed check, and negates the purpose of the two signature requirement. OLMS recommends that the NIEA review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to the Novi Industries Employees Association 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,

A black rectangular redaction box covering the signature of the investigator.A black rectangular redaction box covering the name of the investigator.

Investigator

cc: Mr. Todd Esbrook, Vice President
Mr. Glen Peters, Secretary-Treasurer