

U.S. Department of Labor

Office of Labor-Management Standards
Dallas District Office
525 Griffin Street
Room 300
Dallas, TX 75202
(972)850-2500 Fax: (972)850-2501



September 24, 2010

Mr. Ronny Bentley, Business Manager
Operating Engineers, AFL-CIO
Local 178
4025 Rufe Snow Drive
Fort Worth, TX 76180

LM File Number 531-816
Case Number: [REDACTED]

Dear Mr. Bentley:

This office has recently completed an audit of Operating Engineers Local 178 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, Ken Powell, Robert Tehran, Linda Parker, and Kathy Brown on August 31, 2010, 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 Local 178's 2009 records revealed the following recordkeeping violation:

Meal Expenses

Local 178 did not require officers and employees to submit itemized receipts for meal expenses totaling at least \$516.37. 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 178's 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, Business Manager Ronny Bentley provided \$390 of receipts with no explanation of the union business conducted. Business Agent Robert Tehran provided \$128.23 of receipts without the restaurant itemized receipt, or attendees and purpose. Former Business Agent [REDACTED] provided \$126.24 of receipts without names of attendees or purpose. 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.

Based on your assurance that Local 178 will retain adequate documentation in the future, OLMS will take no further enforcement action at this time regarding the above violation.

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 178 for the fiscal year ended December 31, 2009, was deficient in the following areas:

1. Disbursements to Officers

Local 178 did not include some payments to officers totaling at least \$17,490 in Schedule 11 (All Officers and Disbursements to Officers). It appears that the local erroneously reported these payments in Schedules 15 through 19.

The union must report in Column F of Schedule 11 (Disbursements for Official Business) direct disbursements to officers for reimbursement of expenses they incurred while conducting union business. In addition, the union must report in Column F of Schedule 11 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 Schedule 11 any direct or indirect disbursements to union personnel for expenses not necessary for conducting union business.

2. Certificates of Deposit Reported as Investments

Local 178 improperly included the value of 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.

Local 178 has filed an amended Form LM-2 for the fiscal year ended December 31, 2009, correcting the deficient items discussed above.

Other Issues

1. Use of Signature Stamp

During the audit, Business Manager Ronny Bentley advised that it is Local 178's practice for Linda Parker to stamp the signature of Bentley and President Ken Powell on the standard bills of the local. 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. OLMS recommends that Local 178 review these procedures to improve internal control of union funds.

2. Signing Blank Checks

During the audit, you advised that President Ken Powell signs blank checks. 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 Local 178 review these procedures to improve internal control of union funds.

I want to extend my personal appreciation to Operating Engineers Local 178 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,



Senior Investigator

cc: President Ken Powell