

U.S. Department of Labor

**Employment Standards Administration
Office of Labor-Management Standards
Washington, D.C. 20210**



April 16, 2008

Mr. Edwin D. Hill
International President
International Brotherhood of Electrical Workers, AFL-CIO
900 Seventh Street, N.W.
Washington, D.C. 20001

RE: International Compliance Audit Program (I-CAP)
International Brotherhood of Electrical
Workers, AFL-CIO (IBEW)
LM File Number 000-116

Dear President Hill:

The Office of Labor-Management Standards (OLMS) within the Department of Labor recently completed a compliance audit of the International Brotherhood of Electrical Workers, AFL-CIO (IBEW), to assess its compliance with the provisions of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). The audit was conducted under the OLMS International Compliance Audit Program.

On February 26, 2008, the I-CAP Team conducted an exit interview with you; Mr. Jon F. Walters, International Secretary-Treasurer; Mr. Lawrence F. Neidig, Jr., Senior Executive Assistant to the International Officers; Mr. James F. Combs, Executive Assistant to the International Secretary-Treasurer; Mr. Steven C. Darr, outside auditor; and Mr. Laurence J. Cohen and Mr. Robert Kurnick, outside counsel. During the exit interview, the I-CAP Team reviewed audit findings, identified actions that the IBEW must take to correct the deficiencies identified, and recommended actions to enhance the union's internal controls. This letter captures the audit's civil findings as generally discussed during the exit interview. It does not purport to be an exhaustive list of all possible problem areas, since the audit was limited both in scope and duration.

You were advised at the exit interview that an amended Labor Organization Annual Report, Form LM-2, for the fiscal year ending June 30, 2006 is required to be submitted within thirty days from the date of this letter to correct reporting and other deficiencies. Additionally, if your organization's Form LM-2 for fiscal year ending June 30, 2007

contains any of the reporting deficiencies noted in this closing letter that report must also be amended and submitted within thirty days from the date of this letter. Specific information relating to these deficiencies is presented below.

Reporting Deficiencies - LMRDA Section 201(b)

Section 201(b) of the LMRDA requires that labor organizations file with OLMS an annual financial report that accurately discloses the union's financial condition and operations. The following deficiencies were noted on the IBEW Form LM-2 for the fiscal year ending June 30, 2006. The deficiencies identified in this section must be corrected in an amended Form LM-2 for the fiscal year 2006 reporting period. Further, subsequent Form LM-2 filings must be prepared so as not to contain these deficiencies.

1. The IBEW recorded Item 25 (U.S. Treasury Securities) on Statement A at market value but did not disclose in Item 69 (Additional Information) the original cost of the U.S. Securities at the start and end of the reporting period as required by the reporting instructions. The Form LM-2 instructions require the total value of all U.S. Treasury securities as shown on the labor organization's books at the start and end of the reporting period in Columns (A) and (B), respectively. If the value reported is different from the original cost, the original cost must be reported in Item 69. The IU indicated that it has already amended and filed its 2007 LM-2 and will also amend its 2006 LM-2 in regard to this issue.
2. In Item 17 (Contingent Liabilities), the IBEW disclosed that it is party to a number of routine lawsuits but failed to include sufficient detail in Item 69. The Form LM-2 instructions require that for transactions that result in contingent liabilities, identified in Item 17, the union must describe in Item 69 the identity of the claimant or creditor, the case number, court and caption for each lawsuit. The IU indicated that it has already amended and filed its 2007 LM-2 and will also amend its 2006 LM-2 in regard to this issue.
3. The IBEW reported disbursements for a Christmas party, rent, human resources/payroll services, building security, legal retainers, household moving and storage, investment fees, travel consultant fees, telephone, maintenance and audit services in Schedule 15 (Representational Activities), Schedule 16 (Political Activities and Lobbying) and Schedule 19 (Union Administration). These types of disbursements are reportable in Schedule 18 (General Overhead) unless they were paid for a specific expense for the activity represented by the schedule. For example, a telephone bill for a phone bank set up to coordinate an organizing campaign should be reported in Schedule 15. If any of these particular disbursements were paid for the administration of a specific union function, such as an election, membership meeting, disciplinary proceeding, apprenticeship program, or member education program, then they can be reported in

Schedule 19. If these disbursements were not paid for specific functions, then generally they are reportable in Schedule 18.

Regarding disbursements related to the operations of a union office, the union can allocate those disbursements to specific Form LM-2 functions if the union maintains adequate records that document office usage and activities occurring in the office and such usage and activities are for or support those specific Form LM-2 functions. To be sufficient, records should include a contemporaneously maintained, daily log of office usage and all activities occurring in the office. Any business day for which union records do not document any office usage or activities, should be considered general overhead. If throughout the course of the report period, union records document an office usage/activity allocation of 80% representational, 10% union administration, and 10% general overhead, then office related disbursements can be allocated to those functions according to those percentages. As an alternative, the union may choose to report such otherwise non-allocable disbursements as general overhead.

4. Several itemization pages in support of Schedules 15, 16, 17, 18 and 19 contain inadequate descriptions of the transactions in Column (C). For example, several disbursements to law firms are only described as "Legal Services" and several disbursements to various hotels are only described as "Meeting." Each itemized transaction must be adequately described in Column (C) of the itemization page to: i) disclose its nature and purpose; and ii) to assess whether or not the disbursements as reported, comply with the reporting requirements of Section 201(b).
5. The IBEW allocated time for employees (*Maid, Accounting, Mailroom, Engineers, etc.*) who perform building or general support services as "Representational Activities," "Political Activities" and "Union Administration." There was no time reported for these employees in "General Overhead." A review of time allocations for a sample of individuals, disclosed that the time allocated on Schedules 11 (All Officers and Disbursements to Officers) and 12 (Disbursements to Employees) did not appear reasonable, in that some activities these employees performed should have been reported under the category "General Overhead." To be consistent with Form LM-2 requirements, there should have been a percentage of time reported for these employees using the General Overhead allocation category.
6. There are five employees on Schedule 12 that were not listed as last name, first name and middle initial per the Form LM-2 instructions. The Form LM-2 instructions stipulate that the last name, first name and middle initial are all

required for each employee who during the reporting period received more than \$10,000 in gross salaries and disbursements from the labor organization.

7. In some instances, the title "International Representative" shown on Schedule 12 did not adequately describe those employees' jobs. For example, one employee who was listed as an International Representative is Executive Assistant to the International Secretary-Treasurer. Another employee listed as International Representative is actually the Director of the Per-Capita Department. The Form LM-2 instructions require that the position each listed employee holds in the labor organization be reported. To avoid misrepresenting the position held by each listed employee, the IBEW should report the more specific position.
8. The IBEW did not consistently or completely capitalize all purchases as required by the stated capitalization policy; therefore, Form LM-2 Schedule 4 (Purchase of Investments and Fixed Assets) has been underreported. In order to accurately report purchases of fixed assets on the LM-2 report, the I-CAP Team recommends that the IU clarify its policy and apply it uniformly.
9. Schedule 6 (Fixed Assets) of the Form LM-2, requires that the labor organization report details of all fixed assets, such as land, buildings, automobiles and other vehicles, and office furniture and equipment owned by the labor organization. The I-CAP Team could not confirm the amount reported on Schedule 6 because the IU failed to tag furniture and equipment to confirm that the item in question was the item listed in the inventory. In addition, certain items selected for review could not be located at all in the IU offices. In order to satisfy the reporting requirements for fixed assets and report an accurate and verifiable amount in Schedule 6, all office furniture and equipment must be inventoried, tagged, located, and identified, and periodic inventory counts must be conducted.
10. Dues amounts are not shown in Item 21 of the LM-2; instead, the "10.00 per Month" reported on line (a) is actually the per capita tax assessment. The Form LM-2 instructions require that regular dues, fees or other periodic payments that a member must pay to be in good standing, including the calendar basis for the payment, must be listed on Line (a) of Item 21.
11. The IBEW reported "Prepaid Expenses" and "Inventory" as descriptions of assets in Column A of Schedule 7 (Other Assets). These descriptions are not sufficient to identify the type of assets, as required. The union's other assets may be classified by general groupings or bookkeeping categories, such as utility deposits or inventory of supplies for resale, as long as the descriptions are sufficient to identify the type of assets. More detailed descriptions are required.

12. The IBEW reported \$786,611,046 in sales of investments in Schedule 3 (Sale of Investments and Fixed Assets) and \$711,460,095 in purchases of investments in Schedule 4 (Purchase of Investments and Fixed Assets), but did not report any amounts in Line 14 (Less Reinvestments) of Schedules 3 and 4. The union reported the full amount of sales and purchases of investments as net sales and purchases in Item 43 (Sale of Investments and Fixed Assets) and Item 60 (Purchase of Investments and Fixed Assets). The total amount from the sale or redemption of U.S. Treasury securities, marketable securities, or other investments that was promptly reinvested must be entered on Line 14 of Schedules 3 and 4.

Generally, "prompt" means reinvesting (or "rolling over") the funds in a week or less without using the funds for any other purpose during the period between the sale of the investment and the reinvestment. The union must therefore report the amount of "reinvestments" in Line 14 of Schedule 3 and 4 and report only the net sales and purchases of investments in Items 43 and 60.

13. The IBEW's Form LM-2 contains two discrepancies related to relocation benefit payments. The first is that \$500.00 reported on Schedule 12, Column G for one International Representative should have been applied to another International Representative, and \$395.00 was reported on Schedule 12, Column G for one International Representative that should have been applied to a separate International Representative. The discrepancies were due to coding mistakes of employee numbers.

Inadequate Recordkeeping - LMRDA Section 206

Pursuant to Section 206 of the LMRDA, every person required to file any report under LMRDA Title II shall maintain records on the matters reported that will provide in sufficient detail the necessary information from which the reports filed may be verified, explained, or clarified and checked for accuracy and completeness. All required records must be maintained for at least five years following the date the financial report is filed. Records over five years must be maintained if they are necessary to verify reports filed within the last five years, for example, to verify current financial activities of the union, such as meeting minutes that note approval for officer salary increases. There were instances noted during this audit where the IBEW did not comply with the recordkeeping requirements of Section 206. During the exit interview, you were informed that adequate records necessary to document all financial transactions, regardless of the amount, must be maintained for a minimum of five years.

14. IBEW employees who were assigned leased vehicles did not maintain mileage logs documenting the business use of vehicles to differentiate between business and personal miles, as required. In the case of union-owned and leased vehicles,

mileage logs are required to be maintained for each vehicle documenting the date, number of miles driven, and business purpose for each use. These mileage logs must be maintained contemporaneously with vehicle usage.

15. The IBEW's "Rules and Instructions for Online Expense Reports," which supplement the IU's travel policy, provide guidance to officers and employees who incur travel and other union business-related expenses. The "Rules" advise that "...the International Secretary-Treasurer (I.S.T.) is directed 1) to pay claims for reimbursement for actual and reasonable expenses incurred directly on business of the I.B.E.W., when not away from home as well as when away from home, which are properly submitted, authorized and approved in accordance with the following rules and instructions, and 2) not to pay any item(s) of any claim for reimbursement for expenses incurred on behalf of the I.B.E.W. when not submitted in accordance with the following rules and instructions, unless specifically directed otherwise by the International President (I.P.). Authorized expenses are limited to those essential for I.B.E.W. business purposes. Non-I.B.E.W. business-related expenses, which are not covered in these instructions will **NOT** be reimbursed."

The I-CAP Team found that the IU did not always follow its policy or the requirements of the LMRDA with regard to travel and union business-related expenses incurred by its officers and employees. Specifically, the IBEW did not retain adequate documentation for all expenses incurred by its officers and employees. Form LM-2 instructions require that labor organizations retain original receipts, bills, and vouchers for all disbursements. In certain instances, receipts, bills, and vouchers were not retained for meal expenses.

In some instances, IBEW records pertaining to meal expenses included no written explanation of union business conducted or the full names and titles of all persons incurring those meal charges. In order to comply with LMRDA Title II, union records pertaining to meal expenses must include written explanations of union business conducted and the full names and titles of all persons incurring the restaurant charges.

In addition, in some instances, officers and employees did not submit itemized receipts for meal expenses. Itemized receipts provided by restaurants to officers and employees must be maintained by the union. These itemized receipts are necessary to determine if such disbursements are for union business purposes and to fulfill the recordkeeping requirement in LMRDA Section 206.

16. Some Internet charges, tolls and car washes, although permitted expenses according to union policy, were not adequately documented. The expenses in question either did not have receipts or the receipts lacked identifying information to confirm that the expenses were incurred by the employee seeking reimbursement. Pursuant to Section 206 of the LMRDA, every person required to file any report under LMRDA Title II shall maintain records on the matters reported to provide in sufficient detail the necessary information from which the reports filed may be verified, explained, or clarified and checked for accuracy and completeness.
17. The IBEW did not always have documentation authorizing payments for relocation purposes. The I-CAP Team recommends that IBEW only pay relocation benefits after written approval from the International President stating that the named officer or employee is permitted to receive relocation benefits. Pursuant to Section 206 of the LMRDA, every person required to file any report under LMRDA Title II shall maintain records on the matters reported to provide in sufficient detail the necessary information from which the reports filed may be verified, explained, or clarified and checked for accuracy and completeness.
18. In some instances the IU did not have source documents for receipts but instead disclosed receipts on a report. Without source documents, such as copies of checks received or copies of invoices requesting payment, the receipt information on the Form LM-2 can not be verified. Unions must retain records necessary to verify all assets, liabilities, receipts, and disbursements reported on Form LM-2 reports.
19. The IBEW loaned \$500,000 to its Committee on Political Education's Education Fund. There is nothing in writing to document this agreement. In order to comply with Form LM-2 instructions, the IBEW must maintain a written record that discloses all the terms of a loan, *i.e.*, payment due dates, interest rate, loan period, etc.

Office Holding Prohibitions - LMRDA Section 504

Section 504 of the LMRDA prohibits persons convicted of certain offenses from holding labor organization office or employment for a period of thirteen years from the date of conviction or release from prison, whichever is later. It is also a violation of Section 504 for another person to willfully and knowingly hire, retain, employ or otherwise place the barred person in a prohibited capacity.

20. The IBEW does not conduct criminal background checks of officers or employees to determine whether any officer or employee has a disqualifying criminal record. During the exit interview, the I-CAP Team emphasized the importance

of verifying background information to ensure that individuals do not hold office or employment in violation of LMRDA Section 504.

Internal Controls

Adequate internal financial controls are essential to prevent the misuse of union funds and to support financial responsibility and other obligations under Title II and Title V of the LMRDA. Title V of the LMRDA stipulates, among other things, the fiduciary responsibility of officers of labor organizations. As a general rule, weaknesses in financial controls can lead to violations of Section 501 of the LMRDA.

21. A complete physical inventory count and periodic inventories thereafter as discussed in Item #9 herein are required for the IBEW to accurately substantiate the amounts reported on the Form LM-2. The I-CAP Team recommends that all items that are in service are tagged for identification within the IU's inventory listing. In addition, the inventory listing maintained by the Accounting Department needs to be reconciled with the computer equipment listing maintained by the Information Technology Department.
22. The I-CAP Team found one check made payable to the IBEW Petty Cash Fund and endorsed by an IBEW employee. Checks should be made out to the petty cash custodian or the person responsible for handling the funds for which the checks were written.
23. The audit revealed four checks in the period from March 24, 2006 to May 30, 2006 that were still outstanding as of October 2007. The IU should follow its policy of voiding checks that have been outstanding over one year.
24. The IBEW's relocation policies for the United States and Canada do not state who is responsible for approving the benefits for certain categories of relocation beneficiaries. Clarifying the current policy to identify who is responsible for authorizing relocation benefit payments in all instances will help ensure that these payments are properly approved. For example, relocation benefits paid to or on behalf of the International President should be approved by the Executive Board, and relocation benefits for others should be approved in writing by the International President prior to effecting transactions and payments.
25. The IBEW did not consistently authorize relocation benefits in accordance with either the *IBEW Relocation Policy-USA* or *IBEW Relocation Policy-Canada*. The I-CAP Team recommends that the IU consistently follow its policy as to how officers and employees should submit requests for eligible expenses related to their home when they sell it or when IBEW purchases it.

26. The IBEW's mailroom staff receives and opens envelopes that may contain checks but does not keep a log of the incoming checks. Since there is no assurance that all checks are being accounted for, a potential risk for the improper use of these checks increases. Implementing additional internal controls would strengthen IU reporting and operational compliance and ensure accountability over the checks.

The I-CAP Team recommends that one staff member in the mailroom be assigned to receive checks, list the checks and forward the list to the Controller. The Controller would then reconcile canceled deposit slips to the check list to ensure that all checks that came in were eventually deposited.

27. Despite inadequate documentation, the IBEW reimbursed employees for expense report items such as Internet charges, tolls and car washes as discussed in Item #16 herein. Also, one employee received reimbursements for an expense report that she did not sign. All employee expenses should be properly documented before the IU pays or reimburses the employee for those expenses.
28. The I-CAP Team found that the invoices from the law firm Sherman, Dunn, Cohen, Leifer & Yellig, P.C., were not sufficiently itemized to determine the rate per service. The bill just shows a total for all the services for that invoice. All other law firms' invoices in the sample show the amount of time for each service multiplied by the hourly rate. For example, reviewing a loan document may have taken ½ hour at a rate of \$250.00 an hour which amounts to a billable amount of \$125.00 for that service. In the interest of determining the reasonableness of the fees charged, the IU should only pay a bill for legal services where the law firm discloses how much time it is billing for each particular service and the applicable rate per hour.

As discussed during the exit interview, the IBEW will submit, within thirty days from the date of this letter, a response letter to this closing letter, an amended Form LM-2 for the fiscal year ending June 30, 2006, and, if necessary, an amended Form LM-2 for the fiscal year ending June 30, 2007. The response letter should identify the corrective actions implemented by the IBEW based on the results of this compliance audit. We will schedule an on-site follow-up in approximately six months to review corrective actions taken, to discuss the amended Form LM-2 filed by the IBEW, and to continue cooperative efforts to prevent and correct LMRDA deficiencies.

Please accept my appreciation for the cooperation and courtesy extended by you and your staff during this compliance audit. If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, reading "James D. Devine". The signature is written in a cursive style with a large, prominent initial "J".

James D. Devine, Chief
Division of International Union Audits