



The ‘new’ Department of Labor and the compliance audit

Many branches have been through a Department of Labor (DOL) “compliance audit.” During the Bush years, the DOL ramped up its field offices ostensibly to increase the number of audits performed, but in reality, to harass local unions. Since the onset of the Obama administration, the DOL has changed its priorities, putting its resources where they are truly needed—enforcing health and safety regulations and cracking down on companies for failing to comply with wage and hour legislation.

So, although audits still occur, they are fewer and “friendlier.” In fact, in a spirit of cooperation, the NALC recently signed a compliance agreement with the DOL. Our goal is to benefit our members, other workers and the DOL by educating branch officers on LMRDA requirements and thus decreasing the need for audits. If successful, this will allow the DOL to focus on the right issues: protecting the health, safety and economic status of America’s workers.

Here’s what branch officers need to know about compliance audits: The LMRDA imposes a duty on union officers to manage the funds and property of the union solely for the benefit of the union and its members in accordance with its constitution and bylaws. *Good fiduciary practices are a must and our members deserve no less.*

Local unions are selected for a Compliance Assistance Program (CAP) audit based upon several factors, including failing to file a timely annual LM report, discrepancies in reports filed, and complaints from members. Of course, some are merely random. If your branch is selected, you will be contacted by an Office of Labor-Management Standards (OLMS) investigator who will identify the records needed and will set up an initial meeting. You should receive a follow-up letter confirming the details of the audit and a financial questionnaire.

The next step is the opening conference, where the investigator explains the audit, asks for records and begins the audit. If the branch has an office, the audit will take place there; if there is no office, the investigator may take the records. Do not give originals if you can avoid it. If the investigator insists on taking the originals, have him or her sign a receipt for everything and be sure you keep copies.

Normally, the period covered in a CAP audit is one year. If you want an attorney or accountant present during the conference, you should notify the attorney or accountant

as soon as you receive the initial contact from the DOL and you should be sure to copy them on all correspondence.

When the audit is completed, the investigator will schedule a closing conference to convey to the branch officers the audit findings and any recommendations. Afterward, the investigator will give the local union officers a closing letter that details the audit findings and recommendations. This letter will be posted on the OLMS website.

Closing letters detailing violations documented by the OLMS investigator normally do not carry any criminal sanctions, penalties or fines, and many of the violations are minor. Still, the fewer violations quoted, the better the branch officers and members can rest assured that the branch’s finances are being handled in accordance with prescribed regulations and the less the branch has to fix after the audit is over.

Below are excerpts from branch CAP closing letters:

- “Union officers and employees failed to maintain adequate documentation for reimbursed expenses and for expenses charged to union credit cards. The date, amount, and business purpose of every expense must be recorded on at least one union record. In addition, the names of individuals present for meal expenses and the locations (names of restaurants) where meal expenses were incurred must be recorded.”
- “Union officers failed to record the purpose of travel where mileage was reimbursed. In the case of reimbursed mileage expenses for personal vehicles used for business travel, records must be maintained which identify the date of travel, locations traveled to and from, number of miles driven, and the business purpose of each use.”
- “The local failed to retain at least two bank statements and three voided checks. As previously noted above, all bank records must be retained for all accounts.”

The above should give you some insight about what occurs before, during and after an audit. Branch officers should already be following sound fiduciary practices, which include transparency, authorization by the branch for all expenditures, and good record keeping.

In future columns, we will take a look at the most common record-keeping violations identified by the DOL. Until then, branches should not wait until they get audited to improve their record-keeping procedures—most are not only cost-effective, but relatively cost-free. ☒