

From: [Claudia Hunter](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: [Ty E. Gable;](#)
Subject: Comment on 990 Proposed Revisions
Date: Friday, September 14, 2007 11:08:05 AM
Attachments: [IRS Comment - 990 redesign.pdf](#)

NPCA respectfully submits the attached comment on the proposed changes to the Form 990. We look forward to your response.

Regards,

Claudia T. Hunter

Claudia T. Hunter, CPA

Vice President of Finance and Administration
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NPCA...the association of the manufactured concrete products industry

September 14, 2007

Lois G. Lerner
Director of the Exempt Organizations Division of the IRS

Ronald J. Schultz
Senior Technical Advisor to the Commissioner of TE/GE

Catherine E. Livingston
Deputy Associate Chief Counsel (Exempt Organizations)

Internal Revenue Service
Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

Dear Ms. Lerner, Mr. Schultz, and Ms. Livingston:

As a not-for-profit trade association, the National Precast Concrete Association, Inc. (NPCA), Indianapolis, IN, respectfully submits the following comments in response to your request of June 14, 2007, regarding the draft Form 990 and accompanying schedules, currently scheduled to be released in final form in 2009, for the 2008 filing year.

NPCA is a section 501(c)(6) international trade association representing over 1,100 manufacturers of plant produced precast concrete products and companies that provide the equipment, supplies and services to make these products.

It is NPCA's opinion that the draft Form 990 poses significant questions and concerns for nonprofit organizations that are required to file.

NPCA appreciates the Internal Revenue Service's efforts to redesign what is unquestionably an outmoded form, one that has been added to and rearranged so often over the years that it no longer has a logical flow, and is difficult for the public to understand and follow. Given the explosive growth of the tax-exempt sector since the last major redesign of the form in 1979, as well as significant changes in the complexity of tax-exempt activities, it is appropriate for the IRS to undertake this rewrite.

NPCA also appreciates the IRS's stated willingness to modify parts of the new form based on comments received by September 14, 2007, the end of the 90-day comment period.

* * * * *

Your agency's guiding principles behind the redesign – to enhance transparency, promote tax compliance, and minimize the burden on filing organizations – are acknowledged and appreciated by NPCA, however we do not believe the draft form released in June adequately addresses these principles. NPCA has serious concerns about several new areas of focus on the new form, including calculations of executive compensation as a percentage of total revenues; compensation of key employees; and requests for detailed information on governance, activities conducted outside the United States, and political activities. It is unclear whether these additional requirements will actually increase transparency, while it is very probable that the expanded form will not only increase recordkeeping and information-gathering burdens, but may actually promote greater noncompliance, as organizations struggle to keep up with an ever-growing regulatory burden that diverts valuable time and resources away from core purposes and programs.

Your agency has also publicly stated that one of your goals was to design a core form that would be "applicable to all filers." NPCA agrees that this is a sound idea. However, NPCA's position is that the draft Form 990 is skewed entirely too much toward charitable organizations, and does not take into account the vastly different purposes and practices of membership organizations and other non-charitable tax-exempt organizations. The end result is a form that is "foreign" to trade associations, professional societies, non-charitable 501(c)(3) organizations, and other non-charitable entities. In NPCA's view, many of the questions in the draft form are not particularly applicable to associations, and the responses associations will be forced to provide might have the unintended consequence of unjustly casting them in an unfavorable light, especially in the public view. The public and the media do not seem to be nearly as familiar with trade and professional organizations as they are with public charities. A properly-designed Form 990 could help educate them about the purpose and mission of a professional or industry-oriented association. NPCA does not believe that the draft Form 990 accomplishes this purpose.

Summary (Part I) -- NPCA understands that the purpose of Page 1 "Summary" section is to provide an overall "snapshot" of the organization. This is a useful and logical approach to Form 990 redesign, and NPCA believes that the information presented in this section should be pertinent, important, consistent, and contextually accurate. The current draft summary page, however, appears to be more of a collection of disparate facts, rather than an overall cohesive picture of the reporting organization. Furthermore, the summary page calculates compensation and fundraising expense ratios that are both meaningless and grossly misleading, especially to the casual Form 990 reader.

Additionally, NPCA does not think that the draft summary page includes sufficient information appropriate to all exempt organizations, not just to charities. Clearly, the summary in its current form is chiefly geared to charitable organizations and so provides an incomplete and potentially confusing "snapshot" of other types of organizations. NPCA is concerned that unsophisticated readers of the 990 may come away with an erroneous impression of non-charitable organizations, especially if they do not bother to read beyond the first page.

NPCA has these additional specific concerns regarding the summary page:

- Questions 3 and 4 ask for total governing body members and total "independent" governing body members. Frankly, the term "independent member of a governing body" is somewhat meaningless, in the context of a trade association. By definition, a trade association is a membership organization composed of individuals or corporations who have bonded together for a common business purpose. Virtually every member of a trade association is "related" to the organization, in one form or another. This means that every single governing body member could very well fail at least one of the "independence" definitions set forth in the draft Glossary.¹ Accordingly, a "zero" answer to Question 4 would provide a misleading and distorted picture of the trade association providing such answer.
- NPCA does not believe that Question 6, which asks for the number of persons receiving compensation of more than \$100,000, offers any relevance to the reader, and can only be taken out of context by readers of the summary page only. The \$100,000 threshold appears arbitrarily set, and given the different types and staff sizes of tax-exempt organizations, comparisons between organizations based on this question would be wholly inappropriate. NPCA recommends this question be eliminated from the summary page at minimum, and preferably from the entire form.
- Question 7, which asks for the highest compensation amount reported in Part II, seems to have no purpose other than sensationalism. As with Question 6, it provides salary information completely out of context with the rest of the organization, its size, mission, revenues, and programs. Providing a single compensation figure out of context is utterly misleading, especially given the diverse nature of the different types of 501(c) organizations. This reporting will lead to individuals making compensation comparables out of context. Since compensation for the chief executive officer, typically the highest compensated employee, is required in Part II of the core form, NPCA recommends this question be eliminated from the summary page.
- Questions 8b, 19b, and 24b calculate "metrics" or percentage ratios that purport to measure certain organizational efficiencies. NPCA strongly disputes the use of metrics in general, as by their very nature they are of limited utility and are prone to manipulation. NPCA particularly objects to the specific metrics presented on the summary page. These ratios are arbitrary; furthermore, they are neither accepted nor used in any segment of the nonprofit world. Furthermore, because of the vast diversity of organizations required to file the 990, any attempts to use these metrics to compare one organization with another -- even similar organizations -- would yield highly unreliable results. Example:

¹ The third definition of an "independent member of a governing body" in the Draft Glossary reads as follows: "A person who does not receive, directly or indirectly, material financial benefits from the organization except, if applicable, as a member of the charitable class served by the organization." This is a definition that is clearly aimed solely at charitable organizations, but it is not at all clear whether this definition would also be stretched to apply to trade and professional association members, who do receive significant benefit from membership in an association.

- The executive compensation ratio provides no useful information whatsoever, as it fails take into account organization size and complexity. In a small-staff organization, the CEO might be only one of a handful of employees, or may even be the sole employee. His or her compensation could, accordingly, constitute a significant portion of overall expense. Without the proper context, the casual Form 990 reader is likely to merely latch onto the reported ratio and look no further, even to other possibly clarifying information on the summary page.

NPCA firmly requests that all "efficiency metrics" or ratios be removed from the Form 990, as they will merely take the place of thoughtful evaluation on the part of Form 990 readers -- especially the media, potential donors, and grantmakers.

- Questions 25 and 26 have little relevance to 501(c)(6) and non-charitable 501(c)(3) organizations, and are another example of the summary page's bias toward charitable organizations. NPCA requests that this section be moved off the front page, and replaced with more useful information, such as a summary of program service accomplishments. Additionally, Question 2, which asks for the three most significant activities and activity codes, is completely meaningless to the casual Form 990 reader, who would be better served by a brief summary of annual accomplishments.

Compensation (Part II and Schedule J) -- NPCA firmly supports the concept of transparency, including disclosure of compensation for officers. Nevertheless, NPCA is greatly concerned over the extensive compensation reporting required by the new Form 990. Specific concerns are as follows:

- NPCA questions as inappropriate the expansion (in the draft Glossary) of the definition of "key employee" to include a person "who has responsibilities, powers, or influence like those of officers, directors, or trustees, *including a person who manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expense of the organization.*" [emphasis added] In practice, these so-called "department heads" generally have less power and influence than the Glossary definition assumes, and including their compensation will serve no real purpose, other than providing additional fodder for reporters, as well as disclosing potentially damaging "inside" information to competing organizations. NPCA suggests that the IRS return to the definition for "key employee" currently included in the Form 990 instructions: "any person having responsibilities, powers or influence similar to those of officers, directors, or trustees. The term includes the chief management and administrative officials of an organization . . . [for example] a chief financial officer and the officer in charge of the administration or program operations are both key employees if they have the authority to control the organization's activities, finances, or both." NPCA interprets this definition as excluding department heads, as they in most cases have insufficient authority to "control" the organization's activities or finances, and so do not have powers or influence "similar to those of officers, directors or trustees."
- Likewise, NPCA questions expansion of compensation reporting for the "5 highest paid" employees, believing it also is inappropriate, for non-charitable organizations, for the same reasons. NPCA requests that non-section 501(c)(3)

organizations be exempted from this additional reporting requirement, as well as from the "5 highest paid independent contractors" requirement.

- NPCA is troubled by the new Form 990's disclosure of the city and state of residence for every person listed in Part II, Section A. Because the Form 990 is available to anyone over the Internet via Guidestar (and possibly other online venues, as well), the disclosure of this information could lead to privacy invasion, or even outright identity theft. In public comments, you have indicated that knowing the physical location of these individuals is meaningful for 990 reporting purposes. ("We believe it is important to know, for example, if an organization is situated in New York City but all of its board members are in California."²) NPCA strongly disputes the importance of this information, and suggests that providing the member's state of residence, rather than city and state, would accomplish the same purpose, and would constitute a far lesser invasion of privacy. NPCA prefers, though, that the organization's address continue to be an alternative for this reporting purpose.
- NPCA is concerned over one particular question asked in Section B of Part II. Question 3 asks whether the compensation process for an organization's CEO, Executive Director, Treasurer, and CFO includes "a review and approval by independent members of the governing body, comparability data, and contemporaneous substantiation of the deliberation and decision." This is a difficult question for most associations to answer with any accuracy, because it is common industry practice for an association's Board of Directors to hire and compensate the CEO and/or Executive Director,³ but not the CFO -- who is usually hired and compensated by the CEO or Executive Director. Accordingly, if an association complied with stated procedures for every listed position *other* than the CFO, it would still be forced to answer "no" to this question. This would be a highly misleading answer. NPCA recommends that if this question is retained in the final Form 990 version, that a checkbox be provided for *each* position: CEO, Executive Director, Treasurer, CFO, and permit an organization to check "N/A" if the position is unpaid or does not exist at that particular organization.
- With regard to executive compensation reporting on Schedule J, NPCA does not see the utility of providing nontaxable expense reimbursements (Column E). As these amounts merely represent repayments for legitimate business expenditures submitted and documented under an "accountable plan," no meaningful information can be gleaned by the amount of expenses so reimbursed. Moreover, any large amounts listed may be wrongly misconstrued by non-sophisticated readers of the form. Organizations vary in their reimbursement policies, and what may seem like an excessive amount of reimbursement may merely reflect a difference in accounting practices and procedures: employees and board members of Organization A may for example, book and pay for their own travel arrangements, whereas at Organization B, all

² Remarks of Elizabeth Goff, IRS Tax Law Specialist, transcript of *Phone Forum-Draft Redesign Form 990*, July 18-19, 2007.

³ The Treasurer of a trade association, business league or professional society is usually an unpaid volunteer Board member. Additionally, a trade association generally will have an Executive Director or a CEO, but not both.

travel arrangements are booked and paid for by the organization itself. Furthermore, including nontaxable reimbursements in Column (F) significantly distorts total compensation figures.

Governance (Part III) -- NPCA questions the statutory authority of the IRS to ask these questions, and believes they should be left out of the final Form 990 version. While NPCA believes, as IRS does, that a well-governed organization is one that is compliant, NPCA nevertheless feels strongly that these questions are not appropriate for Form 990 reporting, nor do they accurately reflect a complete governance picture. Furthermore, the governance practices implied by these questions are not necessarily appropriate for all of the vastly different types organizations required to file a 990. Some of the practices suggested by the questions are, frankly, impractical. For example, it is not usual practice for an organization's governing body to review the Form 990 before it is filed, nor should it be necessary, as long as organization management is accurately following a Board's directives. Additionally, not all documents listed in Question 11 are required to be disclosed, and NPCA is concerned that a "no" answer may have negative implications, creating a *de facto* standard where none should exist.

Statement of Program Service Accomplishments (Part IX) – NPCA believes information about the organization's most significant program service accomplishments is essential to any public disclosure and the reader's understanding of whether an organization is meeting its exempt purpose. As this important information is minimized by its location on the last page of the core form, NPCA recommends this information be moved up toward the beginning of the form.

Foreign Activities (Schedule F) -- NPCA strongly believes that this schedule will be extremely burdensome for nearly all trade associations, business leagues and non-charitable 501(c)(3) groups. Most business and industry is global these days, and most associations have international members, and hold meetings and conduct programs in Canada, Mexico, Europe, the Pacific Rim, and elsewhere. Requiring a detailed accounting of employees, activities, expenditures, etc. on a per-country basis will require associations to spend many hours gathering information that will be of little overall utility, either to IRS or to readers of the Form 990. The activities of associations are not ordinarily those that are connected with potential terrorism financing.

As with many other aspects of the draft Form 990, NPCA views this schedule as being aimed primarily at charitable organizations, and strongly suggests that non-charitable organizations be exempted from filling out this schedule unless they have either a bank account or permanent employees in a foreign country. This would exempt associations from having to report most foreign conferences and programs. Additionally, NPCA requests that IRS delay implementation of this schedule, so that those organizations most affected by the new requirements can learn more about what will be required for compliance with the new rules.

Political Activities (Schedule C) -- While Schedule C principally consists of questions previously requested on disparate parts of the current Form 990 and its schedules, there is one addition to the form that NPCA strongly objects to, as it constitutes duplicative reporting. Question 5 requires all organizations to list the names, addresses, and EINs of all section 527 political organizations to which payments were made, including political contributions properly received from members and transferred to an association's own political action committee (PAC) under Federal or state law. All of this information is

available elsewhere: political contributions from an association's own treasury (those subject to an excise tax) may be looked up online in one of several PAC databases, or in Federal Election Commission (FEC) filings; contributions to an association's own PAC from its members are regularly reported in filings with the FEC or to a state reporting agency, as appropriate. Additionally, associations making direct political contributions must report the recipients of those contributions in a timely-filed Form 1120-POL.

NPCA urges IRS to withdraw this question, except where such contribution information is not otherwise readily available. It is duplicative and merely adds needlessly to the complexity of the revised 990.

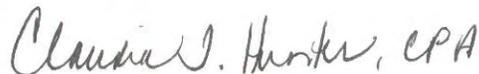
Additionally, NPCA requests that IRS delay implementation of this schedule, so that those organizations most affected by the new requirements can learn more about what will be required for compliance with the new rules.

Administrative Burden -- Overall, NPCA objects to the additional taxpayer burden inherent in the expanded Form 990. Organizations large and small, charitable and non-charitable, will be forced to spend many additional hours gathering information for both the core form and the schedules.

* * * * *

NPCA believes that transparency, compliance, and reduced regulatory burdens benefit both nonprofit organizations and the communities they serve. NPCA does not believe that the current draft effectively addresses these principles. NPCA offers its full assistance to the IRS in properly formulating a revised Form 990 that will indeed accomplish these stated goals of the IRS *without* unintended consequences and increased burden on the filing community.

Sincerely,



Claudia T. Hunter, CPA
Vice President of Finance and Administration

From: [Charles Hall](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC: ["Charles Hall";](#)
Subject: Form 990 Redesign
Date: Friday, September 14, 2007 5:35:43 AM
Attachments: [image001.jpg](#)
[image002.jpg](#)



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LaGrange, GA 30241
Phone - 706-845-8200
Fax – 706-883-8215
chall@asginfo.net

September 13, 2007

Form 990 Redesign
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Washington, DC 20224

To Whom It May Concern:

Our firm, Association Services Group, is a full service association management company founded in 1995. We are located in LaGrange, GA and serve both 501(c)3 philanthropic organizations and 501(c)6 professional societies and trade associations. Our eight clients represent associations at the local, state, national and international membership level which have varying missions to provide educational and training,

marketing, communications, government and public relations, professional certification and other services to their members.

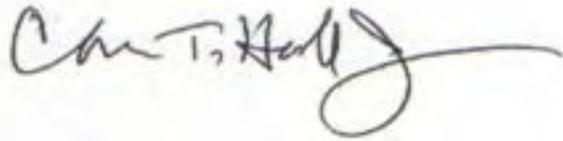
Association Services Group is an accredited AMC as certified by the American Society of Association Executives (ASAE). We follow the typical AMC business model as a 'for-profit' business that provides professional management and administrative services to nonprofit organizations. Our business model is based on the concept of shared resources, including personnel and other infrastructure such as information/computer networking, telephone systems, office space, fax, copier and others. There are many benefits for a non-profit organization to utilize an AMC, not the least of which is to allow the volunteer leaders to concentrate on association policy issues instead of administrative tasks.

Thank you for the efforts of the IRS to overhaul the Form 990 to increase transparency. We are pleased that the new 990 does not confuse the fees paid to our management company with the compensation paid by our company to our employees. In particular, we appreciate IRS dropping the statement in the current Form 990 instructions regarding listing the management fee as compensation of the AMC employee who works with the association. It is our company's opinion that Part II, Section B, questions 5a, 5e, and 5f of the new 990 clearly and adequately addresses and effectively prevents use of a bogus, separate entity to hide compensation.

We strongly recommend that the IRS maintain these provisions and language, and not make any changes or adjustments. Comments submitted by others recommending that the IRS regress on this issue and return to the approach reflected in the old Form 990 instructions are uninformed and ill-advised.

Thank you again for this opportunity to submit comments regarding the draft redesigned Form 990.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles T. Hall, Jr.", with a large, stylized flourish at the end.

Charles T. Hall, Jr.
President
Association Services Group, LLC

From: [Catherine A. Apker, CAE](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Form 990 Comments
Date: Thursday, September 13, 2007 6:42:09 PM
Attachments: [IRS letter re revised Form 990.pdf](#)

Lois G. Lerner
Director of the Exempt Organizations Division of the IRS

Ronald J. Schultz
Senior Technical Advisor to the Commissioner of TE/GE

Catherine E. Livingston
Deputy Associate Chief Counsel (Exempt Organizations)

Please accept our attached comments during final consideration of revision to the Form 990.

Thank you, Cathy

Catherine A. Apker, CAE
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September 13, 2007

Lois G. Lerner
Director of the Exempt Organizations Division of the IRS

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Senior Technical Advisor to the Commissioner of TE/GE

Catherine E. Livingston
Deputy Associate Chief Counsel (Exempt Organizations)

Internal Revenue Service
Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

RE: Draft 990 Form

Dear Ms. Lerner, Mr. Schultz, and Ms. Livingston:

The California Society of Enrolled Agents (CSEA) is a section 501(c)(6) individual membership organization of more than 4,000 tax preparers, including Enrolled Agents, CPAs, and attorneys. In addition to the concerns we have due to the Society's need to comply, we also have major concerns due to the fact that our Members will be required to utilize the new Form 990 for the nonprofits that are a part, or will be a part, of their individual practices.

It is CSEA's opinion that the draft Form 990 poses significant questions and concerns for associations and other nonprofit organizations that are required to file. Due to the diversity of organizations in the tax-exempt community – diversity in size, type of organization, activities, and sources of revenue – the proposed changes to the Form will impact tax-exempt organizations differently.

CSEA is aware of and appreciates the IRS's stated willingness to modify parts of the new Form based on comments received by September 14, 2007, the end of the 90-day comment period.

CSEA supports the Internal Revenue Service's efforts to redesign what is an outmoded Form, one that has been added to and rearranged so often over the years that it no

longer has a logical flow. Since this Form is now required to be posted for some nonprofits it is difficult for the public to understand and follow. Given the explosive growth of the tax-exempt sector since the last major redesign of the Form in 1979, as well as significant changes in the complexity of tax-exempt activities, it is appropriate for the IRS to undertake this rewrite.

IRS's guiding principles behind the Form redesign – to enhance transparency, promote tax compliance, and minimize the burden on filing organizations – are appreciated by CSEA and its Members. However, CSEA does not believe that the draft Form released in June adequately addresses these principles. We have serious concerns about several new areas of focus on the new Form, including calculations of executive compensation and fundraising activity as a percentage of total revenues; compensation of key employees; and requests for detailed information on governance, and political activities. It is unclear whether these additional requirements will actually increase transparency. It is very probable that the expanded Form will only increase organizations' recordkeeping and information-gathering burdens. For tax preparers who are expected to complete the Form competently, we actually anticipate greater noncompliance, as organizations struggle to provide the required data to even file their returns.

Your agency has publicly stated that one of your goals was to design a core Form that would be "applicable to all filers." CSEA agrees that this is a sound idea. However, the draft Form 990 is skewed entirely too much toward charitable organizations, and does not take into account the vastly different purposes and practices of non-charitable organizations. The end result is a Form that is "foreign" to trade associations, business leagues, and many other non-charitable entities. Many of the questions in the draft Form are not particularly applicable to trade associations, and the responses trade associations will be forced to provide might have the unintended consequence of unjustly casting them in an unfavorable light, especially in the public view. A properly-designed Form 990 could help educate the public about the purpose and mission of a business or industry-oriented association. CSEA does not believe that the draft Form 990 accomplishes this purpose.

Summary (Part I) -- CSEA understands that the purpose of Page 1 "Summary" section is to provide an overall "snapshot" of the organization. This is a useful and logical approach to Form 990 redesign, and CSEA believes that the information presented in this section should be pertinent, important, consistent, and contextually accurate. The current draft summary page, however, appears to be more of a collection of disparate facts, rather than an overall cohesive picture of the reporting organization. Furthermore, the summary page calculates compensation and fundraising expense ratios that are both meaningless and grossly misleading, especially to the casual Form 990 reader.

Additionally, CSEA does not believe that the draft summary page includes sufficient information appropriate to all exempt organizations, not just to charities. Clearly, the summary in its current form is chiefly geared to charitable organizations and so provides an incomplete and potentially confusing "snapshot" of other types of organizations. We are concerned that casual readers of the 990 may come away with a false impression of non-charitable organizations, especially if they do not bother to read beyond the first page.

CSEA has additional specific concerns regarding the summary page:

- ❖ Questions 3 and 4 ask for total governing body members and total "independent" governing body members. Frankly, the term "independent member of a governing body" is somewhat meaningless and will not be understood. In the context of a trade association, as a membership organization composed of individuals or corporations who have come together for a common business purpose, virtually every member is "related" to the organization, in one form or another. This means that every single governing body member could very well fail at least one of the "independence" definitions set forth in the draft Glossary. Accordingly, a "zero" answer to Question 4 would provide a misleading and distorted picture of the trade association providing such answer.
- ❖ Question 7, which asks for the highest compensation amount reported in Part II, seems to have no purpose other than sensationalism. It provides salary information completely out of context with the rest of the organization, its size, mission, revenues, and programs. Providing a single compensation figure out of context is utterly misleading. Since compensation for the chief executive officer, typically the highest compensated employee, is required in Part II of the core form, CSEA recommends this question be eliminated from the summary page.
- ❖ Questions 8b, 19b, and 24b calculate "metrics" or percentage ratios that purport to measure certain organizational efficiencies. CSEA strongly disputes the use of metrics in general, as by their very nature they are of limited utility and are prone to manipulation. CSEA particularly objects to the specific metrics presented on the summary page. These ratios are arbitrary; furthermore, they are neither accepted nor used in any segment of the nonprofit world. Furthermore, because of the vast diversity of organizations required to file the 990, any attempts to use these metrics to compare one organization with another -- even similar organizations -- would yield highly unreliable results. The metrics also have nothing to do with the filing of the organization's tax return so are totally inappropriate.

CSEA resolutely requests that all "efficiency metrics" or ratios be removed from the Form 990, as they will merely take the place of thoughtful evaluation on the part of anyone reviewing the Form.

- ❖ The inclusion of a "consolidated financial statement" reconciliation schedule to the summary page would be useful for those organizations that are part of a related group. While the proposed reconciliation schedule (Part XIV of Schedule D) is useful in many instances, those organizations with financial information reported as part of a set of consolidated financial statements are sometimes at a disadvantage, especially when "consolidating" financial statements, breaking out separate company financial information, are not available. Readers of both the Form 990 and the financial statements of a given organization are oftentimes confused when Form 990 information does not come close to matching financial statement information, because other organizations' financial information is also included.

Additionally, it might be useful to add "consolidated financial information" lines to Part XIV of Schedule D, to allow organizations to back out consolidated financial information pertaining to related organizations.

- ❖ Questions 25 and 26 have little relevance to trade associations, and are another example of the summary page's bias toward charitable organizations. CSEA requests that this section be moved off the front page, and replaced with more useful information, such as a summary of program service accomplishments. Additionally, Question 2, which asks for the three most significant activities and activity codes, is completely meaningless to the casual Form 990 reader, who would be better served by a brief summary of annual accomplishments.

Compensation (Part II and Schedule J) - CSEA firmly supports the concept of transparency, including disclosure of compensation for officers, directors, and key employees. Nevertheless, we are greatly concerned over the extensive compensation reporting required by the new Form 990. Specific concerns are as follows:

CSEA questions as inappropriate the expansion (in the draft Glossary) of the definition of "key employee" to include a person "who has responsibilities, powers, or influence like those of officers, directors, or trustees, *including a person who manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expense of the organization.*" [emphasis added] In practice, these so-called "department heads" generally have less power and influence than the Glossary definition assumes, and including their compensation will serve no real purpose. CSEA suggests that the IRS return to the definition for "key employee"

currently included in the Form 990 instructions: "any person having responsibilities, powers or influence similar to those of officers, directors, or trustees. The term includes the chief management and administrative officials of an organization [for example] a. chief financial officer and the officer in charge of the administration or program operations are both key employees if they have the authority to control the organization's activities, finances, or both." CSEA interprets this definition as excluding department heads, as they, in most cases, have insufficient authority to "control" the organization's activities or finances, and so do not have powers or influence "similar to those of officers, directors or trustees."

- ❖ Likewise, CSEA questions expansion of compensation reporting for the "5 highest paid" employees, believing it also is inappropriate, for non-charitable organizations, for the same reasons. CSEA requests that non-section 501(c)(3) organizations be exempted from this additional reporting requirement, as well as from the "5 highest paid independent contractors" requirement.
- ❖ CSEA is troubled by the new Form 990's disclosure of the city and state of residence for every person listed in Part II, Section A. Because the Form 990 is available to anyone over the Internet via Guidestar (and possibly other online venues, as well), the disclosure of this information could lead to privacy invasion, or even outright identity theft. In public comments, you have indicated that knowing the physical location of these individuals is meaningful for 990 reporting purposes. ("We believe it is important to know, for example, if an organization is situated in New York City but all of its board members are in California.") CSEA strongly questions and disputes the importance of this information, and suggests that providing the member's state of residence, rather than city and state, would accomplish the same purpose, and would constitute a far lesser invasion of privacy. CSEA prefers, though, that the organization's address continue to be an alternative for this reporting purpose.

CSEA is concerned over one particular question asked in Section B of Part II. Question 3 asks whether the compensation process for an organization's CEO, Executive Director (which we refer to as Executive Vice President), Treasurer, and CFO includes "a review and approval by independent members of the governing body, comparability data, and contemporaneous substantiation of the deliberation and decision." This is a difficult question for most associations to answer with any accuracy, because it is common industry practice for an association's Board of Directors to hire and compensate the CEO and/or Executive Director; but not the CFO -- who is usually hired and compensated by the CEO or Executive Director. Accordingly, if an association complied with stated procedures for every listed position *other* than the CFO, it would still be forced to answer "no" to this question. This would be a highly misleading answer. CSEA recommends that if this question is retained in the final Form 990 version, that a

checkbox be provided for *each* position: CEO, Executive Director, Treasurer, CFO, and permit an organization to check "N/A" if the position is unpaid or does not exist at that particular organization.

- ❖ With regard to executive compensation reporting on Schedule J, CSEA does not see the utility of providing nontaxable expense reimbursements (Column E). As these amounts merely represent repayments for legitimate business expenditures submitted and documented under an "accountable plan," no meaningful information can be gleaned by the amount of expenses reimbursed. Moreover, any large amounts listed may be misconstrued by non-sophisticated readers of the form. Organizations vary in their reimbursement policies, and what may seem like an excessive amount of reimbursement may merely reflect a difference in activities, accounting practices and procedures: employees and board members of Organization 1 may, for example, book and pay for their own travel arrangements, whereas at Organization 2, all travel arrangements are booked and paid for by the organization itself. Furthermore, including nontaxable reimbursements in Column (F) significantly distorts total compensation figures.

Governance (Part III) - CSEA questions the statutory authority of the IRS to ask these questions, and believes they should be left out of the final Form 990 version. While CSEA believes, as the IRS does, that a well-governed organization is one that is compliant, we nevertheless feel strongly that these questions are not appropriate for Form 990 reporting, nor do they accurately reflect a complete governance picture. Furthermore, the governance practices implied by these questions are not necessarily appropriate for all of the vastly different types organizations required to file a 990. Some of the practices suggested by the questions are, frankly, impractical. For example, it is not usual practice for an organization's governing body to review the Form 990 before it is filed, nor should it be necessary, as long as organization management is accurately following a Board's directives. Additionally, not all documents listed in Question 11 are required to be disclosed, and CSEA is concerned that a "no" answer may have negative implications, creating a *de facto* standard where none should exist.

Statement of Program Service Accomplishments (Part IX) – CSEA believes information about the organization's most significant program service accomplishments is essential to any public disclosure and the reader's understanding of whether an organization is meeting its exempt purpose. As this important information is minimized by its location on the last page of the core Form, we recommend this information be moved up toward the beginning of the Form.

Foreign Activities (Schedule F) -- CSEA believes that this schedule will be extremely burdensome for nearly all trade associations. Most business and industry is global these

days, and most trade associations have international members, and hold meetings and conduct programs in Canada, Mexico, Europe, the Pacific Rim, and elsewhere. Requiring a detailed accounting of employees, activities, expenditures, etc. on a per-country basis will require associations to spend many hours gathering information that will be of little overall utility, either to IRS or to readers of the Form 990. The activities of trade associations are not ordinarily those that are connected with potential terrorism financing.

As with many other aspects of the draft Form 990, CSEA views this schedule as being aimed primarily at charitable organizations, and strongly suggests that non-charitable organizations be exempted from filling out this schedule unless they have either a bank account or permanent employees in a foreign country. This would exempt associations from having to report most foreign conferences and programs.

Political Activities (Schedule C) -- While Schedule C principally consists of questions previously requested on disparate parts of the current Form 990 and its schedules, there is one addition to the form that CSEA strongly objects to, as it constitutes duplicative reporting. All of this information is available elsewhere: political contributions from an association's own treasury (those subject to an excise tax) may be looked up online in one of several PAC databases, or in Federal Election Commission (FEC) filings; contributions to an association's own PAC from its members are regularly reported in filings with the FEC or to a state reporting agency, as appropriate. Additionally, associations making direct political contributions must report the recipients of those contributions in a timely-filed Form 1120-POL.

CSEA urges IRS to withdraw this question, except where such contribution information is not otherwise readily available. It is duplicative and merely adds needlessly to the complexity of the revised 990.

Administrative Burden - Overall, CSEA objects to the additional taxpayer burden inherent in the expanded Form 990. Organizations large and small, charitable and non-charitable, will be forced to spend many additional hours gathering information for both the core form and the schedules. CSEA estimates that the average trade association will probably spend at least 50% more time complying with the extra information requirements imposed by this form. This will be especially burdensome for small organizations, especially those staffed chiefly by volunteers, whose resources are thin. This will also add a significant burden for tax preparers who will be trying to ensure that the Form 990 is completed as accurately as possible.

CSEA believes that transparency, compliance, and reduced regulatory burdens benefit both nonprofit organizations and the communities they serve. CSEA does not believe

Ms. Lerner, Mr. Schultz, and Ms. Livingston
September 13, 2007
Page 8

that the current draft effectively addresses these principles. CSEA offers its full assistance to the IRS in properly formulating a revised Form 990 that will indeed accomplish these stated goals of the IRS *without* unintended consequences and increased burden on the filing and tax preparation community.

Sincerely,

A handwritten signature in black ink that reads "Catherine A. Apker". The signature is written in a cursive style with a large, looped initial "C".

Catherine A. Apker, CAE
Executive Vice President

From: [Bill Satterfield](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: Comments
Date: Thursday, September 13, 2007 4:44:16 PM
Attachments: [image001.jpg](#)



DELMARVA POULTRY INDUSTRY, INC.

16686 COUNTY SEAT HIGHWAY • GEORGETOWN, DELAWARE 19947-4881
PHONE: 302-856-9037 FAX: 302-856-9799 E-MAIL: dpi@dpichicken.com
www.dpichicken.org

September 13, 2007

I am contacting you on behalf of the 4-employee Delmarva Poultry Industry, Inc. (DPI), a 501(c)(6) organization.

DPI is in agreement with comments submitted by the American Society of Association Executives dated September 10, 2007. Though many of the draft requirements commented upon by the ASAE are not directly applicable to our association, they make sense for larger and more diverse organizations and need to be considered seriously by the IRS.

My first particular concern is related to the planned requirement that there be reporting of the "5 highest paid" employees. We believe such reporting is inappropriate for non-charitable organizations in general and for small associations such as DPI. We request that all non-section 501(c)(3) organizations be exempted from this additional reporting requirement, as well as from the "5 highest paid independent contractors" requirement. If all organizations are not exempted, then there needs to be an exemption for small organizations like ours. It is not fair and there is no taxpayer and government need to know the payment to entry level secretaries or other non-executive employees in a small association like ours. As drafted, the new form could make every one of our employee's salary information public. That is not fair to these persons who are not making decisions like key employees would. Furthermore, such reporting could create problems within the organization as workers compare salaries. In most organizations, salary information is and should remain confidential. The IRS needs to create a threshold on the size of organizations required to report the 5 highest paid employees. Dragging in everyone serves no public policy.

Another area of particular concern are questions 3 and 4 related to total governing body members and total "independent" governing body members. We agree with the ASAE comments shown below.

ASAE has these additional specific concerns regarding the summary page:

Ø Questions 3 and 4 ask for total governing body members and total "independent" governing body members. Frankly, the term "independent member of a governing body" is somewhat meaningless, in the context of a trade association or professional society. By definition, a trade association is a membership organization composed of individuals or corporations who have bonded together for a common business purpose. Virtually every member of a trade association is "related" to the organization, in one form or another. This means that every single governing body member could very well fail at least one of the "independence" definitions set forth in the draft

[\[1\]](#)

Glossary. Accordingly, a "zero" answer to Question 4 would provide a misleading and distorted picture of the trade association or professional society providing such answer.

In summary, we agree with the ASAE comments submitted in its September 10, 2007 letter and urge the agency to give them serious consideration and to make changes as recommended.

Thank you for considering our views.

Bill Satterfield
Executive Director
Delmarva Poultry Industry, Inc.
16686 County Seat Highway
Georgetown, Delaware 19947-4881
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[\[1\]](#)

The third definition of an "independent member of a governing body" in the Draft Glossary reads as follows: "A person who does not receive, directly or indirectly, material financial benefits from the organization except, if applicable, as a member of the charitable class served by the organization." This is a definition that is clearly aimed solely at charitable organizations, but it is not at all clear whether this definition would also be stretched to apply to trade and professional association members, who do receive significant benefit from membership in an association.

From: [Jason Spence](#)
To: [*TE/GE-EO-F990-Revision;](#)
CC:
Subject: IIABA Form 990 Comment Letter
Date: Thursday, September 13, 2007 4:19:02 PM
Attachments: [IIABA Form 990 Comment Letter.pdf](#)

Attached please find a comment letter regarding the Form 990 redesign on behalf of the Independent Insurance Agents & Brokers of America. Please do not hesitate to contact me if you have any problems opening the attached document.

Jason T. Spence

Assistant Vice President, Federal Government Affairs
Independent Insurance Agents & Brokers of America
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(202) 863-7015 fax



Independent Insurance Agents & Brokers of America, Inc.

September 13, 2007

Internal Revenue Service
Form 990 Redesign
ATTN: SE:T:EO
1111 Constitution Avenue, NW
Washington, DC 20224

The Independent Insurance Agents & Brokers of America (IIABA) respectfully submits the following comments regarding the draft Form 990. IIABA is a 501(c)(6) organization representing over 300,000 insurance agents, brokers and their employees.

The new requirements in the draft Form 990 are skewed heavily toward charitable organizations, and do not take into account the vastly different purposes and practices of organizations other than charitable entities. Many of the questions in the draft form are not applicable to trade associations, and the responses trade associations will be forced to provide might have the unintended consequence of unjustly casting them in an unfavorable light, especially in the public view.

Additionally, these new requirements will not actually enhance transparency as they single out one type of information for special focus, which is only one piece of the financial picture of a covered entity. However, the expanded form will increase organizations' recordkeeping, information-gathering, and regulatory burdens, which will, in turn, divert valuable time and resources away from core purposes and programs.

Compensation Reporting – Expansion of Definition of Key Employee (Schedule J)

IIABA is concerned about the expansion (in the draft Glossary) of the definition of "key employee" to include a person "who has responsibilities, powers, or influence like those of officers, directors, or trustees, *including a person who manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expense of the organization.*" [emphasis added] In practice, these so-called "department heads" generally have less power and influence than the Glossary definition assumes. Including their compensation will serve no real purpose.

IIABA suggests that the IRS return to the definition for "key employee" in the current Form 990 instructions: "any person having responsibilities, powers or influence similar to those of officers, directors, or trustees. The term includes the chief management and administrative officials of an organization . . . [for example] a chief financial officer and the officer in charge of the administration or program operations are both key employees if they have the authority to control the organization's activities, finances, or both."



IIABA interprets this definition as excluding department heads, as they in most cases have insufficient authority to "control" the organization's activities or finances, and thus do not have powers or influence "similar to those of officers, directors or trustees."

Compensation Reporting – Number of Employees over \$100,000 (Summary, Part I)

IIABA does not believe that Question 6 (Summary, Part I), which asks for the number of persons receiving compensation of more than \$100,000, serves a useful purpose. While compensation of \$100,000 may be a significant amount for many charitable organizations, it is not necessarily so for larger, non-charitable organizations. Business leagues and trade associations often have professional staff with post-graduate degrees, who are thus higher-salaried employees. These organizations exist specifically to promote business and industry, and draw their employees from the corporate world. Accordingly, overall compensation of employees at the typical trade association may be higher than that of a comparably-sized charity. Further, the financial effect of having two employees each paid \$50,000 is the same as having one employee who is paid \$100,000. Thus, how the total compensation relates to the budget, rather than how many individuals are paid at a certain level, is the more critical issue. The new requirements to count the number of individuals at a certain pre-determined salary level serves no meaningful purpose.

IIABA recommends that this question either be removed, or alternatively, that the "reference" salary be set substantially higher and indexed each year for inflation. Another excellent alternative is to exempt non-public charities, 501 (c)(6) organizations, and others as is currently the case.

Compensation Reporting – Five Highest Paid Employees and Independent Contractors (Schedule J)

IIABA also questions expansion of compensation reporting for the "5 highest paid" employees and independent contractors, believing it is inappropriate for organizations other than charities for the same reasons set forth above relating to employees earning more than \$100,000. IIABA requests that organizations other than 501(c)(3) organizations be exempted from this additional reporting requirement.

Residency Reporting – Officers and Directors (Part II, Section A)

IIABA is troubled by the new Form 990's disclosure of the city and state of residence for every person listed in Part II, Section A. Because the Form 990 is publicly available over the Internet, the disclosure of this information could lead to privacy invasion or even identity theft. In addition, much of this personal information is provided to trade associations with an understanding and/or agreement that it will not be shared other than in aggregate or general terms with the public or others in the business community. There does not appear to be any purpose to sharing this level of detail about officers and directors that cannot be met in a way that would respect what kind of personal information about them is shared publicly. IIABA suggests that providing the member's

state of residence, rather than city and state, would accomplish the same purpose and would substantially reduce or eliminate concerns about invasion of privacy. IIABA also believes that the organization's address should continue to be an alternative for this reporting purpose.

IIABA is committed to transparency, disclosure compliance, and reduced regulatory burdens that benefit both nonprofit organizations and the communities they serve. IIABA does not believe that the current draft Form 990 revisions effectively address these principles. IIABA urges the adoption of the foregoing suggestions in order to accomplish the stated goals of the IRS without unintended consequences and increased burden on the filing community.

Sincerely,

A handwritten signature in black ink that reads "Bob Rusbuldt". The signature is written in a cursive style with a long, sweeping underline.

Robert A. Rusbuldt
CEO