

**THE AMERICAN LEGION
DEPARTMENT OF TEXAS**

POST

990 COMPLIANCE POLICY



AS ADOPTED

JANUARY 2009

MISSION

The American Legion, Department of Texas, _____ Post _____ EIN _____, is exempt from Federal income tax under section 501(C)(19) of the Internal Revenue Code. Under this IRS classification, the organization is required to file the annual return, Form 990.

The mission of the organization is enumerated in Westlaw 21701 and 21702:

21701: The American Legion, Department of Texas, _____ Post _____ (in this chapter [36 U.S.C.A section 21701 et seq.], the ‘corporation’) is a federally chartered corporation.

21702: Purposes: The purposes of the corporation are –

- 1) To uphold and defend the Constitution of the United States;
- 2) To promote peace and good will among the peoples of the United States and all the nations of the Earth;
- 3) To preserve the memories and incidents of the World Wars and the other great hostilities fought to uphold democracy;
- 4) To cement the ties and comradeship born of service; and
- 5) To consecrate the efforts of its members to mutual helpfulness and service to their country.

**990 SCHEDULE A
PUBLIC CHARITY STATUS AND PUBLIC SUPPORT**

The American Legion, Department of Texas, _____ Post _____ through the Four Pillars, continues to exhibit its commitment to public charitable support. Through Veterans Affairs & Rehabilitation, veterans are assisted with VA healthcare, access to employment and business opportunities, and assistance with disability claims. National Security commitments assist the nation with Homeland Security, quality of life issues for our military and a strong national defense for everyone. Through Americanism and Children & Youth, The American Legion’s commitment to the nation’s youth is evidenced via scholarship programs, the Child Welfare Foundation, and our commitment to youth programs like the Boys Scouts, Boys State, the High School Oratorical program.

Grant programs such as the National Emergency Fund (NEF) and Temporary Financial Assistance (TFA) are but two examples where the Legion acts promptly to assist citizens in need. The American Legion has a long history of charitable support for the public good.

**990 SCHEDULE C
POLITICAL CAMPAIGN AND LOBBYING**

The American Legion and the Department of Texas, _____ Post _____ is a non-partisan, veteran-service organization, and as such, takes no part in political campaigns.

Our distinct status as a 501(C)(19) allows The American Legion and the Department of Texas and _____ Post _____ to lobby on behalf of veterans’ rights. The following excerpt from the “Our Pillars, Your Platform” white paper states it best:

The American Legion still believes in the vision of our founders, a vision for a strong American – freedom and opportunity. And The American Legion firmly believes that veterans and their families have earned every benefit awarded to them by a grateful nation because of their selfless service. Indeed, this basic principle was succinctly written into law when the Supreme Court stated in the 1983:

“It is...not irrational for Congress to decide that, even though it will not subsidize substantial lobbying by charities generally, it will subsidize lobbying by veterans’ organizations. Veterans have ‘been obliged to drop their own affairs and take up the burdens of the nation, subjecting themselves to the mental and physical hazards as well as the economic and family detriments which are peculiar to military service and which do not exist in normal civil life.’ Our country has a long-standing policy of compensating veterans for their past contributions by providing them numerous advantages. This policy has ‘always been deemed to be legitimate.’”

DEFINITIONS KEY TO 990 COMPLIANCE

Officers: Defined at the Legion as being the following (paid staff – non-independent):

List of any

And the following (non-paid officers – voting – independent):

Post Commander

Post Vice-Commander

Post Historian

Post Sgt.-at-Arms

Post Adjutant

Post Service Officers

Post Treasurer

Post Chaplain

Post Judge Advocate

(Total of ___ voting members: ___ independent, __ dependent)

And the following (non-paid officers – non-voting/independent):

List any

Key Employee: Any employee other than an officer, director or trustee, who:

- 1) Had reportable compensation exceeding \$150,000 for the year;
- 2) Had or shared organization-wide control or influence similar to an officer, director or trustee, or managed or had authority over at least 10% of the organization's activities; and
- 3) Were within that group of organization's top 20 highest paid persons for the year who satisfied both the \$150,000 test and the responsibility test.

Highest Compensated employee (HCE): One of the five highest compensated employees of the organization other than officers or listed key employees who earn \$100,000 or greater as listed in box 5 of Forms W-2.

990 COMPLIANCE GOVERNANCE STRUCTURE
(Reportable on Schedule O of 990)

- 1) Establish a Financial Governance (FG) Committee to be charged with the following:
 - a. The annual distribution (including educational and instructional comments) and collection of the Conflict of Interest Statements for the Post Executive Committee, and other independent voting members of the board.
 - b. The FG Committee will review the annual 990 report prior to signature and filing. All members of the Executive Committee will receive a copy of the 990, by mail or email, after review by the FG Committee.
 - c. This committee will consist of the Members of the Finance Committee, which consists of a Chairman, two members, The Post Commander, Post Adjutant and Post Treasurer or Finance Officer.

- 2) Establish Compliance Officer(s)
 - a. EC Compliance Officer: Post Adjutant
 - 1) Responsibilities will be to maintain records of the signed Conflict of Interest forms for independent voting members of the board.
 - b. Post employees' Compliance Officer (including paid officers): Post Adjutant
 - 1) Responsibilities will be to maintain in the personnel files the signed Conflict of Interest forms for all employees including non-independent officers.

- 3) Establish a Compensation Practices Committee to be charged with the following:
 - a. Determining salaries of paid Post Officers and Employees.
 - b. Committee will consist of:
 - 1) The Post Commander
 - 2) The Post Adjutant
 - 3) The Post Treasurer or Finance Officer
 - 4) The Chairman of Finance Committee

Adoption of the Conflict of Interest Policy:

Resolution No. 3 “Adoption of a 990 Compliance Policy to comply with Internal Revenue code redesign of Form 990, effective 12/31/09, specifically related to governance, management and disclosure” passed January 2009, resolves that The American Legion, Department of Texas, _____ Post ____ shall adopted the following Conflict of Interest Policy:

CONFLICT OF INTEREST POLICY

The American Legion, Department of Texas, _____ Post _____ established in 1919, was founded on ideals to uphold the Constitution of the United States of America, and has always set a very high standard for our code of ethics. This Conflict of Interest Policy is established to assure the continuation of these ethical standards.

Employees (paid -- non-independent staff):

Further, it is the Policy of The American Legion, Department of Texas, _____ Post _____ that no full-time employee shall have financial or management interests or an indirect business relationship through ownership of more than 35% (individually or collectively with other person(s)) in any company or business concession that furnishes goods or services to The American Legion, Department of Texas, _____ Post ____ or is under a contractual arrangement with The American Legion, Department of Texas, _____ Post _____. If an employee or an immediate family member has a financial or employment relationship with a competitor, vendor, or other firms with which The American Legion, Department of Texas, _____ Post _____ has a business relationship, the employee must disclose this fact in writing to the Post Adjutant.

Every new employee will be required to sign a “Conflict of Interest” statement, which will remain in effect throughout the employee’s employment. Employees in are responsible for letting the Post Adjutant know if they have a change in circumstance that would require an update. This notice can be handled through the Post Adjutant. Employees will be required to reaffirm they have no conflicts of interest by completing and signing a new form each calendar year.

The organization will determine what course of action must be taken to resolve any conflict it believes may exist. If the conflict is severe enough, The American Legion, Department of Texas, _____ Post _____ may be forced to ask the employee to tender his/her resignation. The American Legion, Department

of Texas, _____ Post _____ has sole discretion to determine whether such a conflict of interest exists.

Moreover, employees of The American Legion, Department of Texas, _____ Post _____ shall not accept employment with any company or business that furnishes goods or services to The American Legion, Department of Texas, _____ Post _____ or is under a contractual arrangement with The American Legion, Department of Texas, _____ Post _____, and employees may not enter into indirect business relationships through ownership of more than 35% in another entity (individually or collectively with other person(s) with companies furnishing goods or services to The American Legion, Department of Texas, _____ Post _____.

Any violation of this policy may result in disciplinary action, up to and including termination from employment.

Post Executive Committee and other “independents” (non-paid staff):

Further, it is the Policy of The American Legion, Department of Texas, _____ Post _____ that members of the Post Executive Committee and officers (non-paid -- independent) shall be restricted from having financial or management interests in any company or business concession that furnishes goods or services to The American Legion, Department of Texas, _____ Post _____ or is under a contractual arrangement with The American Legion, Department of Texas _____ Post _____. If a member or officer or an immediate family member has a financial or employment relationship with a competitor, vendor, or other firms with which The American Legion, Department of Texas, _____ Post _____ has a business relationship, the individual must disclose this fact in writing to the Post Executive Committee.

Every member of the Post Executive Committee as well as the independent officers will be required to sign a “Conflict of Interest” statement each calendar year during the annual Meetings. This will be overseen by the Finance Committee and all statements will be maintained by the Post Adjutant, or the EC Compliance Officer.

The Financial Committee will recommend to the Post Executive Committee any or what course of action that may need to be taken to resolve any conflict it believes may exist. The American Legion, Department of Texas, _____ Post _____ has sole discretion to determine whether such a conflict of interest exists.

Adoption of the Contract Regulations Policy:

Resolution No. 1 "Contract Regulations," passed January 2009, adopted the contracting policy for The American Legion, Department of Texas, _____ Post _____. That resolution in its entirety follows:

Resolution No. 1: Contract Regulations

Submitted by: Finance Committee

WHEREAS, Prudent management dictates that organizations survey the market periodically to ensure that they are receiving the best terms; and

WHEREAS, The American Legion, Department of Texas, _____ Post _____ enters into numerous contracts, with the approval of the Post Executive Committee; and

WHEREAS, Some of these contracts are large enough to have a substantial economic impact on the finances of The American Legion, Department of Texas, _____ Post _____; and

WHEREAS, Some of these contracts currently have automatic renewal clauses which could extend the contacts indefinitely; and

WHEREAS, Certain contractors attempt to achieve an exclusive position, or propose contracts containing non-competition provisions, either of which can be detrimental to The American Legion, Department of Texas, _____ Post _____ and/or its members; and

WHEREAS, The Post Finance Committee believes that more control over contracts with the potential for substantial financial impact is desirable; now, therefore, be it

RESOLVED, By _____ Post _____ of The American Legion, Department of Texas in regular meeting assembled in _____, Texas, January 23 – 25, 2009, That the contracting policy of The American Legion, Department of Texas, _____ Post _____ shall be adopted to include the following provisions:

- 1. No contract, except as recommended by the Post Finance Committee, and approved by the Post Executive Committee may have a duration of more than three (3) years, which period shall include any and all provisions for renewal or extension.**

2. No contract may contain a clause granting an exclusive to any contractor or vendor, or contain statements of exclusivity or non-competition, without the specific approval of the Post Executive Committee by resolution, and such requests for exclusivity or non-competition shall be supported by specific findings, recommendations, and appropriate documentation.

3. The Post Executive Committee hereby advises all Post Commissions and Committees that before entertaining any resolution extending the contract term of any contract subject to sub-paragraph (1) hereof beyond five years total duration, it will require a specific report and recommendation reflecting the results of a thorough review of market conditions and contract terms, and/or review of requests for proposal which demonstrates that said recommendation is in the best interest of The American Legion, Department of Texas, _____ Post _____ and such extension, if any, shall be effected by the execution of a new signed contract, the duration of which may not exceed five years.

Resolution No. 2 “Contractor of Code of Conduct and Standards,” passed January 2009, establishes the highest ethical standards for all contractors doing business with The American Legion, Department of Texas, _____ Post _____ adopts the Code of Conduct and Standards for contractors. That resolution in its entirety follows:

Resolution No. 2: Contractor Code of Conduct and Standards

Submitted by: Finance Committee

WHEREAS, The review of the contracts entered into by The American Legion, Department of Texas, _____ Post _____ reveals a very high level of integrity and performance by vendors who do business with The American Legion; and

WHEREAS, The American Legion, Department of Texas, _____ Post _____ believes standards of performance or codes of conduct always are of great value, especially for future generations; and

WHEREAS, The American Legion, Department of Texas, _____ Post _____ has not written down such standards for codes of conduct; and

WHEREAS, The best practices or the best contracts with The American Legion, Department of Texas, _____ Post _____ have been distilled into a code of conduct and standards for contractors; now, therefore, be it

RESOLVED, By _____ Post _____ in regular meeting assembled in _____, Texas, January 23-25, 2009, That the following code of conduct and standards for contractors doing business with The American Legion, Department of Texas, _____ Post _____ is hereby established for contractors and employees, officers or agents of contractors doing business with The American Legion, Department of Texas, _____ Post _____:

CONTRACTOR CODE OF CONDUCT AND STANDARDS

Each contractor who does business with The American Legion, Department of Texas, _____ Post _____ shall conduct and comport itself in a manner that is above reproach.

Each contractor shall abide by and follow the highest ethical standards in complying not only with the terms but also with the intent and spirit of any contract and deal in good faith at all times.

No contractor shall combine or act collusively with another; solicit, offer or accept any bribe or kickback; or attempt to influence a decision of The American Legion or its Officers, or Post Executive Committee, in any way or fashion, including, but not limited to, the giving of gifts, offer of entertainment or lobby for or against any decision or position of The American Legion, Department of Texas, _____ Post _____.

When in doubt about a course of action, the contractor has the duty to inquire in writing to the Post Adjutant revealing all relevant information, facts and details.

Failure to abide by this code of conduct and standards can result in a refusal by The American Legion to continue any relationship.

COMPENSATION PRACTICES
(Schedule J)

Employees (paid -- non-independent staff):

The American Legion, Department of Texas, _____ Post ____ Employee Performance and Compensation Program is defined in the Benefits section of the Personnel Policy Manual and IAW the Post Constitution and Bylaws. This policy delineates how the compensation management is handled for all employees. All compensation decisions are recommended by the Post Commander, the Chairman of the Post Finance Committee.

All compensation decisions are recommended by the _____ to the Post Compensation Practice Committee, who in turn, may recommend to confirm or deny the recommendation of the _____ as to pay increases for all employees to the Post Finance Committee.

Current market survey data is reviewed and presented to the Budget Committee via a report from the _____. This report contains current salary information for all paid employee, historical increase information for each individual, and recommendations based on market trends for comparable positions.

The Finance Committee will make their recommendation to the Post Executive Committee during the submission of the Post's annual operating budget.

Once the Post Executive Committee has approved its recommendations, the _____ will conduct performance evaluation on all employees and prepare a Personnel Action forms indicating the salary increase for each employee. Copies of the Personnel Action forms are sent to the _____ for payroll purposes and a copy is placed in each individual's personnel file. The _____ will maintain a copy of the Personnel Action forms and will make this copy available to the auditors during payroll and benefit audits.

Compensation decisions for other Post Officers are recommended by the Post Finance and Budget Committee to the Post Executive Committee during the annual Post Budget process.

SARBANES-OXLEY (SOX) CONSIDERATIONS

DOCUMENT RETENTION/DESTRUCTION POLICY

The American Legion, Department of Texas, _____ Post _____ complies with all general regulations, including 29 CFR part 516, in relationship to recordkeeping and reporting requirements. Our auditors have supplied a record retention recommendation listing, which The American Legion, Department of Texas, _____ Post _____ prudently follows.

RECORDS RETENTION GUIDELINES

The following schedule outlines various financial records and, generally, the minimum period of time that we recommend they be retained:

Item	Retention Period
Accident reports and claims (settled cases)	7 years
Accounts payable ledgers and schedules	7 years
Accounts receivable ledgers and schedules	7 years
Audit reports of accountants	Permanently
Bank reconciliation	7 years
Bank statements	7 years
Capital stock and bond records; ledgers, transfer registers, stubs showing issues, record of interest coupons, options, etc.	Permanently
Cash books	Permanently
Charts of accounts	Permanently
Checks (cancelled but see exception below)	7 years
Checks (cancelled for important payments, i.e., taxes, purchases of property, special contracts, etc.)(checks should be filed with papers pertaining to the underlying transactions)	Permanently
Contracts and leases (expired)	7 years
Contracts and leases still in effect	Permanently
Correspondence (routine) with customers or vendors	3 years
Correspondence (general)	3 years
Correspondence (legal and important matters only)	Permanently
Deeds, mortgages, and bills of sale	Permanently
Depreciation schedules	Permanently
Deposit Slips	7 years
Employment applications (from date position is filled)	3 years
Employee personnel records (after termination)	3 years
Employee withholding records	7 years

Item	Retention Period
Expense analyses and expense distribution schedules	7 years
Financial statements (end-of-year, other months optional)	Permanently
General and private ledgers (and end-of-year trial balances)	Permanently
Gifts, records of gifts	Permanently
Group disability reports	8 years
Incorporation records made or received	Permanently
Insurance policies (expired)	4 years
Insurance policies, reports and claims (current)	Permanently
Internal audit reports (in some situations, longer retention periods may be desirable)	3 years
Inventories of products, materials, and supplies	7 years
Invoices to customers	7 years
Invoices from vendors	7 years
Journals	Permanently
Minute books of directors and stockholders, Including by-laws and charter	Permanently
Notes receivable ledger and schedules	7 years
Option records (expired)	7 years
Payroll register	Permanently
Petty cash vouchers	3 years
Physical inventory tags	3 years
Plant cost ledgers	7 years
Property appraisals by outside appraisers	Permanently
Property records-including costs, depreciation reserves, end-of-year trial balances, depreciation schedules, blueprints and plans	Permanently
Purchase orders (purchasing department copy)	7 years
Receiving sheets	3 years
Requisitions	3 years
Retirement and pension records	Permanently
Sales records	7 years
Savings bonds registration records of employees	3 years
Stock and bond certificates (cancelled)	Permanently
Stockroom withdrawal forms	3 years
Subsidiary ledgers	7 years
Tax and legal correspondence	Permanently
Tax returns and worksheets, revenue agent's reports and other documents relating to determination of income tax liability	Permanently
Time books	7 years
Trade mark registrations	Permanently
Voucher register and schedules	7 years
Vouchers for payments to vendors, employees, etc. (including allowances and reimbursement of employees, officers, etc., for travel and entertainment expenses)	7 years

“WHISTLE BLOWER” PROTECTION POLICY

Any individual, whether paid staff or independent (non-paid) board member, who wishes to voice a concern regarding an alleged impropriety of any type in connection with the policies contained herein, may do so without fear of reprisals. Employees may notify the Post Adjutant or the Post Commander. Non-paid board members may contact the Post Commander, the Post Adjutant, the Post Judge Advocate or any member of the Financial Committee if they have a concern they wish to report.

All reported concerns will be handled in the most confidential manner possible as the allegation is investigated. If the allegation is found to have merit, appropriate action will be taken as determined by the Finance Committee and if necessary the Post Executive Committee, if the allegation concerns an independent (non-paid) board member and by the Post Adjutant if it concerns a paid employee. If the allegation concerns a paid officer of the company, the Finance Committee and Post Executive Committee will determine the appropriate handling of the matter.

Those who file complaints, report suspected violations of this policy, or participate in an investigation may do so without fear of retaliation or adverse employment action and with confidence that their concerns will be thoroughly investigated and dealt with.