

**Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201**

Department of the Treasury

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Release Date: 1/16/2009

Date: October 24, 2008

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

LEGEND

UIL: 4945.04-04

X= Foundation
Y= Program
Z= Employer
x= amount
y= amount

Dear :

We have considered your request for advance approval of your employer-related grant-making program under section 4945(g)(1) of the Internal Revenue Code, dated June 11, 2008.

Our records indicate that X was recognized as exempt from Federal income tax under section 501(c)(3) of the Code and that it is classified as a private foundation as defined in section 509(a).

Your letter indicates that X will operate a grant-making program called Y. The scholarships will be awarded exclusively to the dependent sons and daughters of Z employees. The term employees refer to individuals employed full time for at least 1 year as of the application deadline. Children of employees in executive positions (vice-president and above) are excluded from participation.

Y will consist of one academic scholarship in the amount of x and one technical scholarship in the amount of y.

The scholarships will be publicized through company newsletters, postings, and mailings.

Eligible candidates must be seniors in high school and plan to enroll full-time at an accredited college, university or technical school during the next school year. To apply for a scholarship, eligible applicants must complete an application, as well as provide a written statement, grade transcripts and ACT or SAT scores, and two letters of recommendation, at least one of which must be from a teacher, counselor, or administrator.

Scholarship candidates are evaluated by the Scholarship Selection Committee based upon:

- A cumulative GPA of 3.0 or above (for academic scholarship) and 2.0 or above (for technical scholarship) on a 4.0 scale;
- Involvement in extracurricular activities;
- Leadership qualities;
- Two written letters of recommendation, one to include a teacher or administrator; and
- The candidate's own written statement, prepared in response to the following questions:
 - i) What are my career interests?
 - ii) Consider your participation in the community, employment, and/or extracurricular activities during the past three years. Why did you choose to participate in these activities? What did you learn from your involvement in these activities?
 - iii) What college do you plan to attend? Where is it located? Why have you chosen this college or school?
 - iv) Why are you the best candidate for a scholarship?

Financial need is a factor only to this extent: Candidates are eligible provided that not more than 50% of their expected first-year costs (tuition, room & board, fees) are financed by another scholarship(s).

Selection of the scholarship recipient will be made by a committee comprised of independent members. None of the selection committee members is a current or former employee of Z or a member of X.

The selection process will be handled in the following manner. An announcement will be made at all company locations describing the scholarship award program and the deadline for applications and related information. After the deadline occurs, all applications and related material from eligible candidates will be forwarded to each member of the scholarship selection committee. Each member of the committee will have a reasonable period of time to review the information before making a decision. After the reasonable period of time, the committee members will hold a telephone conference to discuss the various candidates and the criteria for selecting a winner. The committee will select the winner for each scholarship award based on the majority of the group. The committee will then send a letter of congratulations to the winner and advise the winner to provide a confirmation of registration to a college, university or technical school. Included in the letter will be a statement for the winner to sign stating that the winner does not have other scholarships and awards that will equal more than 50% of the expected first year costs. In the event the winner is unable to provide appropriate registration verification by the first day of the fall semester, or has decided not to attend school for the fall semester, no award will be made in that category for that year.

Each recipient will receive their award checks after verification of registration at an accredited college, university, or technical school.

All other candidates for the award will receive a letter from the committee thanking them for their participation in the process. Any public announcement of the winner will be made by X.

X will (a) arrange and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (b) investigate diversions of funds from their intended purposes, and (c) take all reasonable and appropriate steps to recover diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantee until X obtains grantees' assurances that further diversions will not occur and that grantees will take extraordinary precautions to prevent future diversions from occurring.

X also agrees to maintain records that include the following:

- (i) Information used to evaluate the qualification of potential grantees;
- (ii) Identification of the grantees (including any relationship of any grantee to the private foundation);
- (iii) The amount and purpose of each grant; and
- (iv) All grantee reports and other follow-up data obtained in administering the private foundation's grant program.

Sections 4945(a) and (b) of the Code impose certain excise taxes on "taxable expenditures" made by a private foundation.

Section 4945(d)(3) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or other similar purposes by such individual, unless such grant satisfies the requirements of subsection (g).

Section 4945(g) of the Code provides that section 4945(d)(3) shall not apply to individual grants awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if it is demonstrated that:

- (1) The grant constitutes a scholarship or fellowship grant which is subject to the provisions of section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii);
- (2) The grant constitutes a prize or award which is subject to the provisions of section 74(b), if the recipient of such prize or award is selected from the general public; or
- (3) The purpose of the grant is to achieve a specific objective, produce a report or similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Section 53.4945-4(c)(1) of the Regulations provides that to secure approval, a private foundation must demonstrate that:

- (i) Its grant procedure includes an objective and nondiscriminatory selection process;
- (ii) Such procedure is reasonably calculated to result in performance by grantees of the activities that the grants are intended to finance; and
- (iii) The foundation plans to obtain reports to determine whether the grantees performed activities that the grants are intended to finance.

Revenue Procedure 76-47, 1976-2 C.B. 670, sets forth guidelines to be used in determining whether a grant made by a private foundation under an employer-related program to a child of an employee of the particular employer to which the program relates is a scholarship grant that meets the provisions of section 117(a) of the Code (as that section read before the Tax Reform Act of 1986). If a private foundation's program satisfies the seven conditions set forth in Sections 4.01 through 4.07 of Rev. Proc. 76-47 and meets the percentage test described in Section 4.08, the Service will assume the grants meet the provisions of section 117(a), as that section read before the Tax Reform Act of 1986.

You have agreed that procedures in awarding grants under your program will be in compliance with Sections 4.01 through 4.07 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). In particular, the selection of individual grant recipients will be made by a selection committee the members of which are totally independent and separate from the private foundation, the foundation's creator, and the relevant employer. The grants will not be used as a means of inducement to recruit employees nor will a grant be terminated if the employee leaves the employer. The recipient will not be restricted in a course of study that would be of particular benefit to the relevant employer or to the foundation.

Section 4.08 of Rev. Proc 76-47 provides a percentage test guideline. It states in the case of a program that awards grants to children of employees of a particular employee, the program meets the percentage test if either of the following tests are met: the number of grants awarded under that program in any year to such children do not exceed 25 percent of the number of employees' children who were eligible, were applicants for such grants, and were considered by the selection committee in selecting the recipients of grants in that year, or the number of grants awarded under the program in any year to such children does not exceed 10 percent of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year.

You have agreed that your program will meet the requirements of either the 25 percent or 10 percent percentage test of Section 4.08 applicable to a program that awards grants to children of employees of a particular employer. Records should be maintained to show that you meet the applicable percentage test of Section 4.08

This determination is issued with the understanding that in applying the 10 percent test applicable to employees' children set forth in Rev. Proc. 76-47, you will include as eligible only those children who meet the eligibility standards described in Rev. Proc. 85-51, 1985-2 C.B. 717.

This determination will remain in effect as long as the procedures in awarding grants under your program remain in compliance with Sections 4.01 through 4.08 of Rev. Proc. 76-47 (without regard to the amendments to section 117(a) made by the Tax Reform Act of 1986). If you enter

into any other program covering the same individuals, the percentage test of Rev. Proc. 76-47 must be met in the aggregate.

Based on the information submitted and assuming your award programs will be conducted as proposed, your procedures for granting the awards comply with the requirements contained in section 4945(g)(1) of the Code and that awards granted in accordance with such procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3).

In addition, we have determined that awards made under your procedures are excludable from the gross income of the recipients subject to the limitations provided by section 117 of the Code.

This determination is conditioned on the understanding that there will be no material change in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to foundation managers, or members of the selection committee, or for a purpose that is inconsistent with the purpose described in section 170(c)(2)(B) of the Code.

The approval of your employer-related grant-making program is a one-time approval. This determination only covers the grant programs described above. Thus, approval shall apply to subsequent grant programs only as long as the standards and procedures under which they are conducted do not differ materially from those described in your request.

Any funds you distribute to individuals must be made on a true charitable basis in furtherance of the purposes for which you are organized. Therefore, you should maintain adequate records and histories so that any or all grant distributions can be substantiated upon request by the Internal Revenue Service.

This determination is directed only to the organization that requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as a precedent.

You must report any future changes in your grant making procedures. Please keep a copy of this letter in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Robert Choi
Director, Exempt Organizations
Rulings and Agreements