

**Internal Revenue Service  
Director, Exempt Organizations  
Rulings and Agreements**

**Department of the Treasury  
P.O. Box 2508 - Room 7008  
Cincinnati, Ohio 45201**

Release Number: **200926046**

Release Date: 6/26/09

Date: March 31, 2009

**Employer Identification Number:**

**Person to Contact - ID#:**

**Contact Telephone Numbers:**

(phone)

(fax)

**UIL#: 4945.04-04**

Legend

B = The Fund

C = County, State

D = Superintendent of Schools

Dear

We have considered your request for advance approval of your grant-making programs under section 4945 (g)(1) of the Internal Revenue Code, dated November 26, 2008.

Our records indicate that B 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 B will initially be awarding approximately one to two scholarships annually in amounts to be determined by the Board of Directors, to young men and women from C to enable them to procure a high school, college or professional education in the United States, giving preference and priority to those seeking education in the field of medical, nursing, and related clinical educational pursuits. Notice of scholarships will be publicized through guidance counselors and other appropriate staff and faculty at high schools located in C. The funds must be used solely for tuition and tuition related expenses which include: tuition and fees, books and supplies, and other miscellaneous tuition related expenses.

Scholarship recipients shall be selected based on the following:

- A transcript of prior academic achievements.
- A report of performance on tests designed to measure ability and aptitude for academic work.
- A description of financial need.
- An essay written by the applicant describing the applicant's interests and aspirations.

- A description of past involvement in extracurricular activities.
- A list of academic honors and recognitions.
- Written recommendation by individuals not related to the applicant.
- The names of the educational institutions to which the applicant intends to apply.
- Person interviews, when appropriate.

Selection from within the group of applicants will be reasonably related to the purposes of the particular scholarship. Criteria may include, but will not be limited to, prior academic performance; performance on tests designed to measure ability and aptitude for college work; recommendations from educators, social workers, and others not related to the potential recipient; financial need; and the conclusion that the Selection Committee might draw from personal interviews as to the applicant's motivation, character, ability, and potential. Factors that are not reasonably related to the purposes of the scholarships, such as race and gender, will not be considered and will have no influence on the selection of recipients.

The Selection Committee shall consist of the D or his/her appointees or designees. No member of the Selection Committee will be in a position to derive a direct or indirect private benefit from the selection of one or more scholarship recipients. Furthermore, spouses and dependents of members of a Selection Committee will be ineligible to receive a scholarship.

Scholarship funds will be paid directly to an educational institution described in Section 170(b)(1)(A)(ii). B will secure the agreement of such institutions to use such payments for the recipient's expenses. In certain other instances, B may make payments directly to the recipient, subject to the supervision and investigation requirements set forth herein. B will ensure that it receives at least once each year a report, verified by the educational institution attended by the recipient that sets forth the recipient's courses taken and grades received in each academic period. In the case of a recipient whose study at an educational institution does not involve the taking of courses but only the preparation of research papers or projects, B will ensure that it receives at least once each year a brief report, approved by the faculty member supervising the recipient or by another appropriate university official, regarding the progress of the recipient's paper or project. Upon completion of a recipient's study at the educational institution, B will also obtain a final report describing the recipient's accomplishments with respect to the Scholarship and accounting for the funds received under such Scholarship from the recipients.

B proposes to supervise, investigate, and review Scholarships by complying with the requirements of Treasury Regulation section 53.4945-4(c)(5).

B agrees to maintain records which include the following:

- a. Information used to evaluate the qualification of potential grantees;
- b. Identification of the grantees (including any relationship of any grantee to the private foundation),
- c. The amount and purpose of each grant; and any follow-up data collected.
- d. All grantee reports and other follow-up data obtained in administering the private foundation's grant program.

If the Selection Committee determines that the recipient has misused funds distributed to the recipient, the grantor must investigate the matter immediately. While conducting an investigation of a recipient, the grantor must withhold further payments until any delinquent reports required under this procedure have been submitted. If the grantor determines that any part of a grant has been used for improper purposes and recipient previously has not diverted funds, the grantor must take all reasonable and appropriate steps either to recover the funds or to ensure the restoration of the diverted funds and the dedication of other scholarship funds held by the recipient to their proper purposes. Furthermore, the grantor must withhold any further payments to the recipient until it has received the recipient's written assurance that future diversions will not occur and has required the recipient to take extraordinary precautions to prevent future diversions from occurring. In cases where a recipient previously has diverted funds received from the grantor, and the grantor determines that any part of a grant again has been used for improper purposes, the grantor must take all reasonable and appropriate steps to recover the funds or to ensure the restoration of the funds and the dedication of other scholarship funds held by the recipient to their proper purposes. Moreover, the grantor must withhold further payment until these conditions are met: (i) such funds are in fact so recovered or restored; (ii) the grantor has received the recipient's written assurance that future diversions will not occur; and (iii) the grantor requires the recipient to take extraordinary precautions to prevent future diversions from occurring. All reasonable and appropriate steps will be taken which may include legal action, where appropriate.

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:

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

Based on the information submitted and assuming your scholarship program will be conducted as proposed with objectivity and nondiscrimination in awarding grants, we determined that your procedures in awarding scholarship grants comply with the requirements of section 4945(g)(1) of the Code and that scholarships granted according to these procedures will not be "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 grant-making procedures is a one-time approval of your system standards and procedures that will result in grants which meet the requirements of section 4945(g)(1) of the Code. **This determination only covers the grant programs described above.** Thus, approval shall apply to succeeding 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 case 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.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

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

Sincerely yours,

Robert Choi  
Director of Exempt Organizations  
Rulings and Agreements

Enclosures  
Notice 437  
Redacted