

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

**Department of the Treasury**

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**Employer Identification Number:**

**Contact Person - ID Number:  
Contact Telephone Number:**

LEGEND

UIL 4945.04-04

A= Name of Organization  
B= Name of Program  
C= School  
D= School  
Z= Amount of Scholarship

Dear :

We have considered your request for advance approval of your grant-making program under section 4945(g)(1) of the Internal Revenue Code, dated June 3, 2009.

A was created in 1966 as a testamentary trust. The trust applied for exemption in 1976 under §501(c)(3), indicating that it operated a scholarship program and requesting foundation classification as a 509(a)(3) supporting organization because it meets the alternative responsiveness test for trusts. Exemption was granted with the requested foundation classification.

The Pension Protection Act of 2006 eliminates the alternative responsiveness tests for trusts and the foundation cannot otherwise continue to qualify under §509(a)(3). Per the Act.

On June 3, 2009, the foundation submits a request for advance approval of its grant-making procedures since it is now classified as a private foundation, per the PPA of 2006 and does not otherwise continue to qualify under §509(a)(3). The organization provides the necessary information regarding their program and advance approval is recommended.

Our records indicate that A, as of January 1, 2009, 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 A will operate a grant-making program which will be referred to for convenience as B. B will provide for scholarships that will meet the requirements of IRC section 4945(g)(1) to pursue studies on an undergraduate level at an accredited educational institution.

The following section will describe the grant awards in B's program:

**(1) Scholarships awarded within the meaning of IRC section 4945(g)(1)**

Candidates are chosen from high school students attending C or D. All students planning to attend an accredited university or college will be eligible to apply, excluding any family member of any member of the selection committee or any other disqualified person of A (as defined in Code Section 4946).

A expects to provide only undergraduate scholarship grants currently and in the near future terms. The Foundation plans to award a variable amount of scholarships dependent on income of A. In recent history, four scholarships per year, each in the amount of Z, have been awarded. It is probable adjustments will be made to scholarship amounts to reflect changes in the income of A.

Scholarships will be available to students who have a financial need. In the scholarship application, students must provide details of family income, federal tax returns, and a description of other scholarships and grants received. After consideration of financial need, merit-based criteria, community and school extracurricular activities, and positive character-based qualifications are considered.

The selection committee is composed the principals of both C and D, the superintendent of both C and D, guidance counselors of both C and D, and a trustee. The majority have experience in the high school academic environment.

Scholarships will be paid directly to the student's educational institution. The educational institution receives a letter from A instructing them to refund unearned portion of a scholarship if a recipient fails to meet any condition of the scholarship program. The letter also instructs the educational institution to notify the trustees if any term or condition of the scholarship program is not met.

A will retain information and documentation records of recipients of scholarships.

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.

Based on the information submitted and assuming your award programs will be conducted as proposed with a view to provide objectivity and nondiscrimination in making the awards, we have determined that your procedures for granting the awards comply with the requirements contained in section 4945(g) 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 award program procedures herein constitutes a one-time approval of your system standards and procedures designed to result in awards 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 subsequent award 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 award 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, Exempt Organizations  
Rulings and Agreements