

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

Department of the Treasury

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Release Date: 6/29/2012

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

Date: April 5, 2012

LEGEND

UIL 4945.04-04

X = business
Y = individual

Dear :

We have considered your request, dated October 20, 2011, for advance approval of the changes you have made to your previously approved employer-related grant-making program under section 4945(g)(1) of the Internal Revenue Code.

Our records indicate you were recognized as exempt from federal income tax under section 501(c)(3) of the Code and are classified as a private foundation as defined in section 509(a).

Your purpose is to make grants to children of employees of X and its subsidiaries. Grants will be awarded to facilitate study at any educational institution, which normally maintains a regular faculty and curriculum, and normally has a regularly enrolled body of students in attendance at the place where its educational activities are regularly carried out.

You were set up in memory of Y, and as such, require that grants be used primarily for studies in areas of special interest to Y - the sciences. Grants will enable the recipient to obtain an education in their individual capacities solely for their personal benefits. There will be no commitments, understandings or obligations suggesting that studies undertaken by the recipient are for your benefit or that of X and its subsidiaries. No grant will be made for the accomplishment of any purpose of X or its subsidiaries other than enabling grantees to obtain an education solely for their personal benefit.

Grants will not be used by X or its subsidiaries to recruit employees or to induce employees to continue their employment. There is no requirement that grantees apply for employment with X or its subsidiaries, nor will X or its subsidiaries take any proprietary interest in new knowledge or information produced by the grantee in the course of his or her studies. Grantees will be encouraged to share all new knowledge thus discovered with the public at large through publications, lectures, and other media.

X and its subsidiaries will publish, in a timely manner, newsletters for circulation among their employees stating that grants are available, giving the eligibility requirements and directions for further inquiry.

Individuals eligible for grants are: (a) any child of a person employed for two or more years by X and its subsidiaries (except the child of an officer of X); and (b) if the parent is no longer employed by X and its subsidiaries, with the exception of those who have retired, the child of the parent is no longer eligible for an award including any departures that happen midway through a school year. Since the grant is made on an annual school year basis, the grant remains in effect for both semesters of the school year of the award so long as the academic requirements have been met. To be eligible a child must further meet the minimum standards for admission to the educational institution at which the application for grant is made.

Applicants apply for grants on a form requiring various items of background biographical information, educational and professional goals, school grade transcripts and results of standardized test scores, letters of reference and an essay.

Your selection committee, composed of your directors, will choose recipients. Each of your directors is independent (except for participation in this selection committee) and separate from X. None of the directors is presently or ever has been employed by X.

In selecting candidates for awards, the committee shall consider among other substantial objective criteria the applicants':

- Acceptance by an educational institution;
- History of academic superiority;
- Potential for continued academic excellence as determined by their teacher's recommendations and interviews with the applicant (if deemed necessary);
- Desire and commitment to place primary emphasis in the study of the physical, biological and applied sciences, including engineering, mathematics and computer science; and
- Ability to attend their chosen educational institution.

Selections are forwarded to X for the sole purpose of verifying the eligibility of the applicant. Any public announcement of the awards will be made by the selection committee or by you and no other entity.

In no event will the selection committee award in any year grants in excess of the number obtained by taking twenty-five percent (25%) of the number of employees' children who, (i) were eligible, (ii) were applicants for such grants, and (iii) were considered by the selection committee in selecting the recipient of grants in that year.

Selection of grant recipients occurs through the following process:

- a. The fund's administrator receives all of the material provided by the applicants (the application, transcripts, tests scores, reference letters and essay) and provides copies to all members of the selection committee which is composed of all directors of the fund.
- b. The material of all applicants is reviewed by members of the selection committee based upon the objective criteria as listed above.
- c. The selection committee meets and discusses the applications and ranks the applicants. Then, based upon the funds to be disbursed and the quality of the applicants, award winners are selected.

The grants are awarded solely in the order recommended by the selection committee. The amounts of the grant are fixed by the selection committee. The selection committee may adjust the amount of the awards to all applicants for subsequent years based upon the total amount available, the number of grants to be awarded and recognition of the costs of higher education.

The number of awards granted for a school year remains fixed and no one has the authority to increase or decrease the amount of the awards or the number of awards. However, there is no fixed number of awards for each year or a fixed amount of the award from year-to-year.

Once the applicants who have been awarded a grant have been identified, they each receive a letter telling them the amount of the grant, what is required for coursework and grades and what evidence they will be expected to provide about their grades and courses to evidence their pursuit of a degree in the sciences.

Students who have received a grant and who wish to apply for a subsequent grant must complete a student information sheet and submit transcripts of their most current grades. This information is provided to the selection committee and reviewed along with the applications of new applicants in determining recipients of awards for the next year.

You agree to follow the guidelines and adhere to the procedures and instructions on checking and confirming foreign organizations and foreign individuals that are involved in terrorist activities of the OFAC list.

For grants paid directly to the educational institution in which recipients are enrolled, the educational institution will be asked to agree that the funds will be used to defray the recipients' expenses or to pay the funds to the recipients only if they are enrolled at the institution and maintain their standing in accordance with the conditions of the scholarship or fellowship. All grants paid to educational institution were directed to and earmarked for specific individuals.

You may also make payments directly to individuals from time to time. In this instance, you will arrange to receive a report of the grantee's courses taken and grades received in each academic period. The faculty member supervising the grantee's study, verified by the educational institution attended by the grantee, will approve such a report. This report will be obtained at least once a year. A final report will also be obtained.

You will review all grantee reports and will investigate where there is any indication or evidence that the grant is not being used in furtherance of the purposes of such grant. You will withhold further payments to the extent possible if any of the required reports are delinquent, and will attempt to recover grant funds if they are found to be diverted from the proper purpose.

You agree 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, with a view to providing 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)(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 'scholarship or fellowship' grants within the meaning of section 117 of the Code, and are excludable from the gross income of the recipients subject to the limitations provided in section 117(b) of the Code, including to the extent that such grants are used for qualified tuition and related expenses within the meaning of section 117(b)(2) 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(k)(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,

Lois G. Lerner
Director, Exempt Organizations

Enclosures:
Notice 437
A copy of the redacted letter