

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

Department of the Treasury

Number: **201843017**
Release Date: 10/26/2018

Employer Identification Number:

Contact Person - ID Number:

Contact Telephone Number:

Date: July 31, 2018

LEGEND

UIL: 4942.03-07

B = City
C = Contractor
v dollars = Amount of total set-aside
w dollars = Amount of total set-aside
x dollars = Amount of total set-aside

Dear :

Why you are receiving this letter

This is our response to your March 6, 2017 letter requesting approval of a set-aside under Internal Revenue Code Section 4942(g)(2). You've been recognized as tax-exempt under Section 501(c)(3) of the Code and have been determined to be a private foundation under Section 509(a).

Our determination

Based on the information furnished, your set-aside program is approved under Internal Revenue Code Section 4942(g)(2). As required under Section 4942(g)(2), the set aside amount must be paid within the 60-month period after the date of the first set-aside.

Description of set-aside request

You are recognized as an organization described in section 501(c)(3) of the Code as a nonprofit trust, and are classified as a private foundation within the meaning of section 509(a). Your objectives are funding education initiatives such as education for students in grades pre-K through 12 grades, charter school formation, teacher development, educational leadership development, after school education, and education studies in the B area.

You have requested a ruling regarding a proposed set-aside of funds in the amount of v dollars (consisting of an initial set aside of w dollars for the taxable year ending in and an additional set-aside of x dollars for the taxable year ending in) in connection with your contract with C to recruit and train a charter school leader.

The specific project is the fulfilment of the contract, which specifies that C will identify one qualified individual and train him/her through the C Fellowship to open an outstanding charter school in B, which will conform to the established C principles of school design. C was originally to have identified and engaged this Fellow for the - Fellowship to design, found, and lead a charter school for opening in the school year. The contract further provides that, should C be unable to identify a qualified person within the timeframe dictated by a school opening, C would work to identify and engage a Fellow to join the - Fellowship to open the charter school in the school year.

In addition to the core fellowship training and charter application support, C will also provide a slate of follow-on support services to the leader of the B school once it opens. You will provide funding totaling v dollars for facilities and a post-authorization start-up grant.

The recruitment of a suitable person for the fellowship takes much care and effort. The program is competitive and very few are selected. C recruits nationally for Fellows and expends much time and exertion on your behalf to sign a highly qualified young person to lead your school. Furthermore, it is essential that C fellows align with C's approach, which is based on stringent principles of school design.

Despite rigorous recruitment efforts, no fellow was signed for . Consequently, C will strive to recruit a Fellow to open a charter school in the school year.

The project is better accomplished through a set-aside than through the immediate payment of funds because, on the one hand, you must commit the funds now for the search, placement and education of the fellow, even though the first disbursements of the dedicated funds do not take place until . Fellows need to know in advance that they are being supported by the sponsor. Many leave their current jobs to take on the fellowship and the commitment must be binding for them to take such a risk and move forward. On the other hand, prepaying the contract will not accelerate the process and you will make payments to C only as certain milestones are met.

You submit that the v dollars set-aside will be paid out within 5 years of the date of the first set-aside. The set-aside amount is expected to be disbursed according to the following timeline. From January to June , C will conduct intensive recruiting for a fellow. August: The Fellowship orientation. September through August : Training, Board recruitment, planning, charter application and approval, etc.

Basis for our determination

Internal Revenue Code Section 4942(g)(2)(A) states that an amount set aside for a specific project, which includes one or more purposes described in Section 170(c)(2)(B), may be treated as a qualifying distribution if it meets the requirements of Section 4942(g)(2)(B).

Section 4942(g)(2)(B) of the Code states that an amount set aside for a specific project will meet the requirements of this subparagraph if, at the time of the set-aside, the foundation establishes that the amount will be paid within five years and either clause (i) or (ii) are satisfied.

Section 4942(g)(2)(B)(i) of the Code is satisfied if, at the time of the set-aside, the private foundation establishes that the project can better be accomplished using the set-aside than by making an immediate payment.

Section 53.4942(a)-3(b)(1) of the Foundations and Similar Excise Taxes Regulations provides that a private foundation may establish a project as better accomplished by a set-aside than by immediate payment if the set-aside satisfies the suitability test described in Section 53.4942(a)-3(b)(2).

Section 53.4942(a)-3(b)(2) of the Foundations and Similar Excise Taxes Regulations provides that specific projects better accomplished using a set-aside include, but are not limited to, projects where relatively long-term expenditures must be made requiring more than one year's income to assure their continuity.

In Revenue Ruling 74-450, 1974-2 C.B. 388, an operating foundation converted a portion of newly acquired land into a public park under a four-year construction contract. The construction contract payments were to be made mainly during the final two years. This constituted a "specific project." The foundation's set-aside of all its excess earnings for four years was treated as a qualifying distribution under Internal Revenue Code Section 4942(g)(2).

What you must do

Your approved set-aside(s) will be documented on your records as pledges or obligations to be paid by the date specified. The amounts set aside will be taken into account to determine your minimum investment return under Internal Revenue Code Section 4942(e)(1)(A), and the income attributable to your set aside(s) will also be taken into account in computing your adjusted net income under Section 4942(f) of the Code.

Additional information

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

Please keep a copy of this letter in your records.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosure