

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Release Number: **202010006**

Release Date: 3/6/2020

Date: **December 10, 2019**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

UIL: 4945.04-04

W =Name

X = Name

Y = Metropolitan Area

Z = Metropolitan Area

m dollars = Amount

n dollars = Amount

Dear \_\_\_\_\_ :

You asked for advance approval of your scholarship and educational grant procedures under Internal Revenue Code Sections 4945(g)(1) and 4945(g)(3). This approval is required because you are a private foundation that is exempt from federal income tax.

**Our determination**

We approved your procedures for awarding scholarships and educational grants. Based on the information you submitted, and assuming you will conduct your programs as proposed, we determined that your procedures for awarding scholarships and educational grants meet the requirements of Code Sections 4945(g)(1) and 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under the IRC Section 4945(g)(1) are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code Section 117(b)).

**Description of your request**

Your letter indicates you will operate grantmaking programs called W and X. Under W you will award grants under IRC Section 4945(g)(1) while under X you will award grants under IRC 4945(g)(3).

To promote W and X, you will contact school administrators in Y and Z as well as program directors of nonprofit organizations with similar goals of those of W and X in Y and Z to advise them of the availability of your grantmaking programs. You will make

them aware that deserving individuals must be nominated and must submit completed applications to you.

Applicants under both W and X must meet at least one of the following:

- Demonstrate academic ability substantiated by prior academic performance or performance on aptitude tests to enable them to complete courses of study necessary to graduate from their chosen educational institution which will admit them;
- Demonstrate integrity and motivation to obtain an education which will be ascertained by recommendations and transcripts; and
- Demonstrate financial need which will be based upon the facts concerning their ability to complete their higher education without assistance.

You also reserve the right to impose additional, minor reasonable restrictions and/or requirements upon the selection of grantees and/or the administration of the grant.

For W and X, you will establish a Selection Committee comprised of at least three individuals who will select the recipients on an objective and nondiscriminatory basis based on objective standards, regardless of the race, color, age, religion, or sex of the applicant. Further, only one Selection Committee member may be a Trustee, a director, or an officer of yours. When a Selection Committee member ceases to serve for any reason, and the number of members is reduced to two or less, then a majority of your trustees will appoint a replacement. Members of the Selection Committee may be appointed or removed at any time by a majority vote of your Trustees.

Furthermore, each Trustee, board member, officer, and Selection Committee member is obligated to disclose any personal knowledge of and relationship with any potential grantee under consideration and to refrain from participation in the award process in a circumstance where he or she would derive, directly or indirectly, a private benefit if any potential grantee or grantees are selected over others.

No individual grants are to be awarded to your founder, to your Trustees or your officers or to any Selection Committee members or their descendants, or to any disqualified person with respect to you or for a purpose that is inconsistent with the purposes described in IRC Section 170(c)(2)(B).

**Details of W:**

The purpose of W is to award grants described in IRC Section 4945(g)(1) to enable recipients to complete a post high school educational program in the field of their choice at a qualified educational institution of their choice described in IRC Section 170(b)(1)(A)(ii). Examples include a college, university, trade or business school, including graduate, post-graduate, and professional schools.

Recipients under W must use the grants for qualified tuition and related expenses within the meaning of IRC Section 117(b)(2), and for room and board. Additionally, no part of the scholarship grant can be used as payment for teaching, research or other services by the scholarship recipient required as a condition for receiving the scholarship.

To be eligible for a grant under W in addition to the criteria previously described, the applicant must:

- Have graduated or about to graduate from high school or its equivalent or be a full-time student at an accredited educational institution described in IRC Section 170(b)(1)(A)(ii);
- Submit a confidential application;
- Be enrolled, or about to enroll, in an educational institution as defined in the IRC Section 170(b)(1)(A)(ii);

Under W, you will pay the grant directly to the educational institution which must be described in IRC Section 170(b)(1)(A)(ii) and agree in writing to use the grant for the recipient's expenses or to pay the funds (or a portion thereof) to the recipient only if the recipient is enrolled at such educational institution and his or her standing at such educational institution is consistent with the purposes and conditions of the grant.

### **Details of X**

The purpose of X is to award grants described in IRC Section 4945(g)(3) to individuals to ensure they complete an educational program, and/or to assist recent graduates with obtaining and maintaining meaningful employment in order to enable them to become self-sufficient.

To ensure a student's success in completing an educational program, you will provide financial support to fund items such as travel, phone access and tutoring services for students who are enrolled at a qualified educational program at a qualifying post high school educational institution described in IRC Section 170(b)(1)(A)(ii).

To assist recent graduates from educational institutions under IRC 170(b)(1)(A)(ii) with obtaining and maintaining meaningful employment, you will provide grants to assist them in obtaining employment in the field of their choice, and to help them maintain the employment and become self-sufficient. Examples of items you will fund include but are not limited to, travel to and from their primary residence to interviews, purchase of appropriate clothing for interviews and/or employment, and purchase of an individual computer as well as internet service to enable them to search for a job and perform work for such job at their residence.

To be eligible for a grant under X for assistance with expenses other than tuition in addition to the criteria previously described, the applicant must:

- Be a full-time student at or a recent graduate of an accredited college, junior college, university or other qualified educational institution as defined in IRC Section 170(b)(1)(A)(ii). The term “recent graduate” means an individual who graduated four or less years from the submission date of their grant application;
- Submit a confidential application form approved by you.

Under X, the grant will be paid directly to the recipients. In addition, each recipient will be eligible to renew the grant either (1) two times or (2) until the recipient’s gross salary is equal or greater than n dollars, whichever comes first. In each case, a renewal of the grant for any succeeding period is contingent upon evidence of adequate performance at the time of review.

### **Controls for both W and X**

Under both W and X, you will impose a requirement that you must receive a progress report from each grantee at least once each year. This report must include a summary of the use of the funds awarded, and the grantee’s courses taken (if any) and grades received (if any) in each academic period. This report must be verified by the educational institution. For grants under X if applicable, the report must include a summary of the use of the funds awarded and accompanied by receipts. In all cases, a final report is also required.

If the reports submitted, or other information (including the failure to submit reports) indicate that all or any part of a grant is not being used to further the purposes of such grant, you have a duty to investigate. While conducting your investigation, you will withhold further payments to the extent possible until any delinquent reports required under the foregoing provisions of these procedures have been submitted. If you learn that all or any part of a grant is not being used to further the purposes of the grant, you will take all reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant. If such a diversion occurs and the grantee has not previously diverted grant funds to any use that does not further the purposes of the grant, you will withhold any further payments to the grantee until you have received the grantee’s assurance that future diversions will not occur and will require the grantee to take extraordinary precautions to prevent further diversions from occurring.

Where a grantee has previously diverted funds received from you and you determine that any part of a grant has again been used for improper purposes, you will take all reasonable and appropriate steps to recover the grant funds and/or ensure restoration of the diverted funds to the purposes of the grant. In such case, you will withhold further payments until: (i) the diverted funds are in fact recovered or restored; (ii) you have received the grantee’s assurances that future diversions will not occur and (iii) you require the grantee to take extraordinary precautions to prevent future diversions from occurring.

You represent that you will: (1) maintain all records relating to individual grants including information obtained to evaluate grantees, (2) identify whether a grantee is a disqualified

person, (3) establish the amount and purposes of each grant, and (4) establish that you undertook the supervision and investigation of grants described above.

### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code Section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code Section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is:
  - A scholarship or fellowship subject to Section 117(a) and is to be used for study at an educational organization described in Section 170(b)(1)(A)(ii); or
  - A prize or award subject to the provisions of Section 74(b), if the recipient of the prize or award is selected from the general public; or
  - To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its educational grant procedures, Treasury Regulation Section 53.4945-4(c)(1) requires that a private foundation show:

- The grant procedure includes an objective and nondiscriminatory selection process.
- The grant procedure results in the recipients performing the activities the grants were intended to finance.
- The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

### **Other conditions that apply to this determination**

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508

Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements