

Internal Revenue Service

Department of the Treasury

012
4945.84-04

Washington, DC 20224

Contact Person:

199913042

Telephone Number:

In Reference to:

OP:E:EO:T:2

KDO:

Date:

EIN:

DEC 30 1998

LEGEND: A =
B =
C =

Dear Sir or Madam:

This is in reply to the request for advance approval of the grant-making procedures described in A's letter of May 29, 1998, as modified by your letter of September 25, 1998.

A and B have been recognized as exempt under section 501(c)(3) of the Internal Revenue Code and are private foundations within the meaning of section 509(a) of the Code. A and B have merged and you are the surviving entity. You expect to continue the activities for which B was recognized as exempt under section 501(c)(3) and will also carry on this proposed program.

To further your objective of promoting the establishment and maintenance of first class education systems you have proposed establishing a teacher training program. You intend to invite selected public and private school teachers to attend short training seminars during the summer months. The focus of the seminars will be to educate teachers on the value and use of personal computers in the classroom; to train them to use the technology available to them via personal computers and access to the Internet; and to teach them how to utilize computer technology in the classroom. You intend to bear the entire cost of the seminar program including providing accommodations and meals to the participants. Each participant will be given a laptop computer to use during the course of the seminar and will be permitted to retain it for use in the classroom and at home upon the completion of the seminars. The laptops and accompanying software will be paid for by you.

You also have proposed to establish a separate program under which the teachers attending your seminars select one or two students to attend a similar seminar program. These students will be trained to use the laptops and to assist the teachers in the classroom during the course of the school year. As in the program for teacher instruction, all costs will be borne by you and each student participant will be given a laptop and permitted to retain it for the entire summer. At the end of the summer the student

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participant will be required to return the computer to their school.

In addition to the training seminars each participant must commit to attend three two-day update sessions during the course of the school year to receive additional training and share information. Here again you intend to bear all the costs associated with these update sessions. If a participant fails to attend an update session or if you otherwise determine that the terms of the grant have been violated and grant funds have been used improperly you will request that the laptop provided to a participant be returned or transferred to another teacher within the same school, take any other reasonable and appropriate steps to recover the diverted funds, and make no additional grants to that individual until the individual repays the grant funds or otherwise explains the cause of the original diversion. You have also represented that you will maintain complete records regarding the grants.

You intend to target representative schools over a broad geographic and socioeconomic region. Participants will be selected based on demonstrated skills, interest and commitment to utilizing personal computer technology in the classroom and the school's willingness to participate in the program, including the update sessions. None of your employees or any disqualified persons, within the meaning of section 4946 of the Code, will be eligible to participate in the program. You will have a selection committee consisting of teachers who participated in a test which was conducted by C. You have represented that no member of the selection committee is in a position to derive a private benefit, either directly or indirectly, if certain grantees are selected instead of others.

You have requested advance approval of the procedures proposed to be employed by you in making grants to individuals as required by section 4945(g) of the Code.

Section 501(c)(3) of the Code exempts from Federal income tax organization organized and operated exclusively for charitable or educational purposes.

Section 509(a) of the Code provides that, unless specifically excepted, a domestic or foreign organization described in section 501(c)(3) is a private foundation and subject to the excise taxes of Chapter 42.

Section 4945(a) of the Internal Revenue code imposes an excise tax on each taxable expenditure made by a private foundation.

Section 4945(d)(3) provides that the term "taxable expenditure" means any amount paid or incurred by a private

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foundation as a grant to an individual for travel, study, or similar purposes by such individual, unless such grant satisfies the requirements of section 4945(g).

Section 4945(g)(3) of the Code provides that section 4945(d)(3) shall not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the Secretary, if it is demonstrated to the satisfaction of the Secretary that 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 similar capacity skill or talent of the grantee.

Section 53.4945-4(b)(1) of the Foundation and Similar Excise Tax Regulations sets forth standards for determining whether grants to individuals awarded under section 4945(g) of the Code are made on "an objective and nondiscriminatory basis." The standards discussed in this section require that the potential grantees are selected on the basis of criteria reasonably related to the purposes of the grant, the criteria used in selecting recipients should be related to the purpose of the grant and the persons selecting recipients should not be in a position to derive a private benefit, directly or indirectly by reason of their selection.

The information you have submitted indicates that your awards are made on the basis of merit and under criteria which are reasonably related to the accomplishment of your exempt section 501(c)(3) purposes. The selection committee will not be in a position to benefit by reason of their selections and adequate records regarding the program shall be maintained. In addition, you will have procedures in place to recover your equipment and perhaps take other measures if a participant fails to live up to the terms of your grant.

Accordingly, based on the information presented above, and assuming your grant-making program will be conducted as proposed with objectivity and nondiscrimination in awarding grants, we have determined that your procedures comply with the requirements of section 4945(g)(3) of the Code and that grants made according to these procedures will not be "taxable expenditures" within the meaning of section 4945(d)(3).

This ruling 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 your organization's creators, officers, directors, trustees, or members of the selection committee, or for a purpose that is inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

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The approval of your grant-making procedures is a one time approval of your system of standards and procedures for selecting recipients of grants that meet the requirements of section 4945(g)(3) of the Code. Thus, approval will 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.

In this letter we have not considered whether adopting this program will effect your status as an operating foundation within the meaning of section 4942(j)(3) of the Code.

We are informing your key District Director of this action. Please keep a copy of this ruling with your permanent records.

This ruling is directed only to you as the successor of the organization that originally requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,
(signed) Garland A. Carter

Garland A. Carter
Chief, Exempt Organizations
Technical Branch 2