SIN 4945.00-00

Internal Revenue Service

199925046

Department of the Treasury

Washington, DC 20224

Contact Person:

Telephone Number:

In Reference to:

Date: MAR 30 1999

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Dear Sir or Madam:

This is in reference to your letter of December 7, 1998, requesting advance approval of your general procedures for the awarding of grants to individuals, which were adopted December 4, 1998.

We originally approved your grant procedures in a ruling letter dated September 30, 1977.

Under your general procedures you will make grants to individuals including, but not limited to, scholarship, fellowship and internship awards, in connection with other charitable and educational programs or projects undertaken by you that are not part of your current annual recurring grant or awards programs.

Selection of grantees will be made by you on an objective and nondiscriminatory basis. Criteria may include prior academic record, career accomplishments and financial need.

In your program of grants to individuals awarded through publicly-announced competitions, each program is announced in a published prospectus which specifies the purposes and terms of grants, who is eligible, and how grantees will be selected. The prospectus is distributed so as to reach a wide group of potentially eligible persons. The prospectus will provide for open nomination or application procedures and will specify how nominations or applications may be submitted. Selections will be made by your staff members who are professionally responsible for the field concerned. They will be advised by at least three persons with the relevant professional experience in the field in which the grants are offered who are not employed by you.

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For grants to individuals awarded on the basis of nomination or application, you may announce in a widely disseminated publication that as part of your activities you will make grants to individuals. These announcements will specify how nominations or applications may be submitted. You will consider nominations of individuals by: (i) sponsoring institutions described in section 501(c)(3) of the Internal Revenue Code (e.g., colleges and universities); (ii) governments and governmental agencies or instrumentalities; and, (iii) persons not affiliated with you with relevant professional experience in the field concerned. As is the case above, selections will be made by your staff with input from other professional experts.

The terms and conditions of each grant to an individual are contained in a letter sent to and countersigned by each recipient of such grant.

You will obtain reports required by section 4945 of the Code from the grantee at least once a year on the use of the funds and the progress made toward achieving the purposes for which the grant was made. Upon completion of the undertaking for which the grant was made, the grantee is required to submit a final report describing the grantee's accomplishments with respect to the grant and accounting for the funds received under such grant.

A member of your staff has the responsibility to follow the progress of the individual grant, including reviewing each report submitted by the educational institution or individual; making a determination as to whether the grant purposes are being or have been fulfilled; and, looking into any questions requiring further scrutiny or investigation. You will investigate any possible misuse of funds and seek recovery of misused funds.

No grant may be awarded to any member of your Board of Trustees, to any "disqualified person" with respect to you, or for a purpose which is inconsistent with the purposes described in section 170(c)(2)(B).

Your general procedures will not apply to any grant program of yours which (i) treats employees of B or its affiliates or their children as a separate group from which grantees will be selected; (ii) limits potential grantees to individuals who are employees of B or its affiliates or their children; or, (iii) gives any preferences or priority to employees of B or its affiliates or their children over others in selecting grantees. Eligibility and selection standards will be the same for all applicants.

Section 4945 of the Code provides for the imposition of taxes on each taxable expenditure of 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 section 4945(g).

Section 4945(g)(1) 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 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 institution described in section 170(b)(1)(A)(ii) of the Code.

Section 4945(g)(3) of the Code provides, in part, that the provisions of section 4945(d)(3) will not apply to an individual grant awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance if 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.

The information provided indicates that your newly adopted general procedures for the awarding of grants to individuals will not differ materially from your original program, approved in the letter dated September 30, 1977.

Therefore, based upon the information submitted, and assuming your newly adopted procedures will be conducted as proposed, with a view to providing objectivity and nondiscrimination in the awarding of scholarship grants, we rule that your procedures for the awarding of scholarship grants comply with the requirements of section 4945(g)(1) of the Code. Thus, expenditures made in accordance with these procedures will not constitute "taxable expenditures" within the meaning of section 4945(d)(3) of the Code, and as such are eligible for the exclusion from income provided for in section 117(a) of the Code to the extent that such grants are actually used for qualified tuition and related expenses within the meaning of section 117(b)(2) of the Code.

Moreover, your procedures for selecting non-scholarship grant recipients, as described above, satisfy the requirements of section 4945(g)(3) of the Code and accompanying regulations. The grants will serve to further the personal and professional development of the grantees. Therefore, we rule that your selection procedures in making grants satisfy the requirements of section 4945(g)(3) and, thus, the grants are not taxable expenditures described in section 4945(d)(3)

This ruling is conditioned on the understanding that there will be no material changes in the facts upon which it is based. It is further conditioned on the premise that no grants will be awarded to creators, officers, directors, trustees, or members of the selection committee, or for a purpose inconsistent with the purposes described in section 170(c)(2)(B) of the Code.

Please note that this ruling is only applicable to grants awarded under your program as outlined above. Before you enter into any other scholarship programs you should submit a request for advance approval of that program.

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

This ruling 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 precedent.

Sincerely yours,

Gerald V. Sack

Gerald V. Sack
Chief, Exempt Organizations
Technical Branch 4