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TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: OCT 28 2002

Contact Person:

Identification Number:

Telephone Number:

W/L: 4945.00-00

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Dear Sir or Madam:

This is in reference to a letter dated May 23, 2002, requesting advance approval of your grant-making procedures under section 4945(g) of the Internal Revenue Code.

You are exempt under section 501(c)(3) of the Code and have been classified as a private foundation under section 509(a).

Your stated purposes include the following: (i) encouraging those of a particular religious faith towards greater commitment to religious observance and way of life by increasing their understanding, appreciation and practice of the traditions, customs and laws of the faith, (ii) encouraging mutual understanding and sensitivity among those of different religious backgrounds and commitments to observance, (iii) promoting the economic development of D, and (iv) fostering the culture and developing intellectual values of the particular religious faith worldwide.

In furtherance of your exempt purposes, you propose to implement two grant programs, the F program and the G program.

Your F program will award grants to students, scholars and professionals engaged in study, research or other charitable activities. The purpose of the grants will be to support such activities that will further your charitable purposes. Your grants will include scholarship grants, grants to achieve specific objectives and awards in recognition of past performance.

Under your procedures for awarding grants in the F program, you will use the following grant criteria:

(1) Students eligible for scholarships will be limited to those enrolled in a course of study leading to a degree at a high school, college or university, and concentrating in a discipline related to culture, law and religion or D's economic development. Scholarships covering the cost of tuition, living expenses and other related expenses will be available to students pursuing a degree at an educational institution described in section 170(b)(1)(A)(ii) of the Code. You will award scholarships on the basis of demonstrated academic achievement and the relevance of the candidate's course of study and career objectives to your charitable purposes. You also may consider financial need in evaluating potential recipients for some scholarships.

(2) Grants in the form of prizes and awards will be made only to individuals who have demonstrated some past religious, charitable, scientific, educational, artistic, literary or civic achievement that relates to your purposes. You may grant prizes or awards that are not intended to finance any specific activities of the recipient and do not impose any conditions on the manner in which the prize or award funds may be expended by the recipient. You also may grant prizes or awards that will require the recipient to engage in a specific activity that furthers your charitable purposes, such as subsequent travel, study or research by the recipient.

(3) Grants to eligible individuals to achieve a specific objective will include graduate students, scholars, professionals and other individuals with specialized skills or knowledge. These individuals will have demonstrated a commitment to (i) promoting religious observance and way of life through a better understanding of religion and culture, (ii) advocating a greater understanding and respect among those of different religious and cultural backgrounds, (iii) promoting D's economic development, or (iv) fostering culture and religion and/or developing intellectual values of your religious faith.

(4) Grants to produce a written product may support, for example, study, research and writing in the fields of heritage, history, experience, customs and law of the religion or D's economy and public policy and will be for the specific purpose of producing a report, scholarly publication or similar written product. Grants will be awarded on the basis of the intrinsic interests of the proposed project, its relevance to your charitable purposes, the candidate's prior experience and contributions to the field, and/or demonstrated academic achievement.

(5) Grants for sabbatical leave will go to individuals for the purpose of taking sabbatical leave to enhance their professional development or leadership capacity in your fields of interest through, for example, travel, study, or writing. Applicants for sabbatical grants must be individuals who are pursuing activities in furtherance of charitable purposes similar to those of your organization. Grants for sabbatical leave will cover travel, project-related expenses and/or living costs. In addition to the criteria described above, the criteria for selecting grantees for sabbaticals will include the candidate's position in

and length of employment by his or her organization (if any), the candidate's stature within the field, and whether the candidate has recently had a sabbatical leave. You will expect the candidate to agree to continue his or her work in the same field for a designated period following the sabbatical.

Application review and selection will consist of at least two steps. First, a grants selection committee comprised of Trustees and/or independent reviewers appointed by your Board will review grant applications or nominations and select finalists. Although not required in all cases, individuals who pass the initial review process may be interviewed or asked to submit additional information. Next, the grants selection committee will present the finalists to the Board for final selection. All awards are subject to approval by the Board. Additional procedures, such as peer review of finalists for research grants, may be adopted in some situations.

Grants ordinarily will be awarded for a one-year period, but in appropriate situations, the initial grant period may be for a shorter or longer period. If, on the basis of the grantee's progress, it appears that it would be beneficial to extend the initial grant period, you will consider renewing a grant for a period of one year or less, according to the status of the grantee's project.

As stated above, grants covering tuition costs and related fees may be available to high school, undergraduate and graduate students. In such cases, you ordinarily will make grant payments directly to the schools. At the beginning of each semester and prior to making a payment to a school for a grantee, you will request that the school provide a statement that the grantee has enrolled in and is attending the school, and that the school agrees to use the grant funds to defray the grantee's tuition expenses. Students additionally receiving funds for travel and/or living expenses will be required to submit a report at the end of the grant period.

Grants generally will be for a period of one year, and grant recipients will be required to provide a written report to you about their activities, progress, and use of funds at the end of the grant period. If you make a grant for a longer period, periodic written reports providing such information will be required at least annually. If a grant recipient does not account for all funds, any unaccounted funds must be returned to you for use in furtherance of your charitable purposes.

You will promptly investigate any apparent misuse of funds or failure to provide required reports. While a matter is being investigated, you will withhold further payments to the individual until you have determined that no part of the grant has been misused and until missing reports have been submitted. If you discover that the funds have, in fact, been misused, you will take all reasonable and appropriate steps to secure the repayment of the diverted funds to you. In addition, if such a diversion occurs and you are making installment payments on a grant, you will withhold any further payments until you have received assurances from the grant recipient that future diversions will not occur and have required the individual to take extraordinary precautions to prevent future diversions from occurring. All remaining funds will be used for your charitable purposes.

You will maintain records showing all information secured to evaluate the qualification of

potential grant recipients; identification of grant recipients, indicating all information necessary to assure that a grant recipient is not a disqualified person with respect to you; specification of the amount and purpose of each grant; the reports from the individual grantees on their use of funds and any other information obtained in the course of supervising grants; and any information obtained in connection with the investigation of jeopardized grants.

Your G program will award grants to organizations and permit such organizations to make individual grants to qualifying individuals for travel, study or similar purposes in furtherance of the charitable purposes of the initial grants. In addition to public charities described in section 509(a)(1), (2), or (3), public charity equivalents described in section 53.4945-5(a)(5) of the regulations, and exempt operating foundations described in section 4940(d)(2) of the Code, the organizations may include one or more organizations that are not public charities, public charity equivalents, or exempt operating foundations, such as, but not limited to:

(i) foreign organizations lacking a history of operations and support necessary to enable you to make a good-faith determination under section 53.4945-5(a)(5) that the organization is described in such sections of the Code, and

(ii) foreign organizations that have sufficient history of operations and support to make a good-faith determination that the organization is the equivalent of a private foundation under section 509(a) of the Code.

Under your procedures for awarding grants in the G program, the organization must commit in writing to comply with your standards and procedures for making grants to individuals as set forth in this letter; comply with the requirements of section 4945(d)(3) and (g) as if it were a private foundation; and, provide reports to you in conformity with section 53.4945-5(c) of the regulations. You will exercise expenditure responsibility pursuant to section 4945(d)(4)(B) of the Code with respect to grants awarded to U.S. private foundations, and with respect to charitable project grants to organizations for which equivalency determinations have not been made. Your procedures therefore will require that each grant to such an organization be made subject to a written agreement signed by an appropriate officer, director or trustee of the organization and will require that such agreement include the commitments described in section 53.4945-5(b)(3)(i) through (iv), and, where applicable section 53.4945-6(c)(2)(i) of the regulations. In addition, you will require that the organizations follow objective and non-discriminatory procedures for making grants to individuals, and that they follow a procedure approved in advance by the Service, which is the procedure being submitted to the Service by means of this ruling request.

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(d)(4) of the Code provides that the term "taxable expenditure" means any amount paid or incurred by a private foundation as a grant to an organization unless such organization is described in paragraph (1), (2), or (3) of section 509(a) or is an exempt operating foundation (as defined in section 4940(d)(2), or (B) the private foundation exercises expenditure responsibility with respect to such grant in accordance with subsection (h).

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).

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 or the grantee.

Section 53.4945-4(c)(1) of the Foundation and Similar Excise Taxes Regulations provides that, in order to secure the advance approval required by section 4945(g), a private foundation must demonstrate to the satisfaction of the Commissioner that (1) its grant procedures include an objective and non-discriminatory selection process; (2) these procedures are reasonably calculated to result in performance by grantees of the activities that the grants were intended to finance; and, (3) the foundation plans to obtain reports to determine whether the grantees have performed the activities that the grants are intended to finance. No single procedure or set of procedures is required.

Section 53.4945-4(c)(2) of the regulations provides that with respect to any scholarship or fellowship grants, a private foundation must make arrangements to receive a report of the grantee's courses taken (if any) and grades received (if any) in each academic period. Such a report must be verified by the educational institution attended by the grantee and must be obtained at least once a year. Such a report must be approved by the faculty member supervising the grantee or by another appropriate university official.

Section 53.4945-4(c)(4)(i) of the regulations provides that where the reports submitted under this paragraph or other information (including the failure to submit such reports) indicates that all or any part of a grant is not being used in furtherance of the purpose of such grant, the foundation is under a duty to investigate. While conducting its investigation, the foundation must withhold further payments to the extent possible until any delinquent reports have been submitted.

Section 53.4945-4(c)(4)(ii) of the regulations provides that in cases in which the grantor foundation determines that any part of a grant has been used for improper purposes and the grantee has not previously diverted grant funds to any use not in furtherance of a purpose specified in the grant, the foundation will not be treated as having made a taxable expenditure

solely because of the diversion so long as the foundation (a) Is taking all reasonable and appropriate steps either to recover the grant funds or to insure the restoration of the diverted funds and the dedication (consistent with the requirements of (b)(1) and (2) of this subdivision) of other grant funds held by the grantee to the purposes being financed by the grant, and (b) Withholds any further payments to the grantee after the grantor becomes aware that a diversion may have taken place until it has received the grantee's assurances that future diversions will not occur, and required the grantee to take extraordinary precaution to prevent future diversions from occurring.

Section 53.4945-4(c)(6) of the regulations provides that a private foundation shall retain records pertaining to all grants to individuals for purposes described in section 4945(d)(3). Such records shall include: (i) All information the foundation secures to evaluate the qualification of potential grantees; (ii) Identification of grantees (including any relationship of grantee to the foundation sufficient to make such grantee a disqualified person of the private foundation within the meaning of section 4946(a)(1); (iii) Specification of the amount and purpose of each grant; and (iv) The follow-up information which the foundation obtains in complying with subparagraphs (2), (3), and (4) of this paragraph.

Section 4945(h) of the Code provides that the expenditure responsibility referred to in subsection (d)(4) means that the private foundation is responsible to exert all reasonable efforts and to establish adequate procedures: (1) to see that the grant is spent solely for the purpose for which made, (2) to obtain full and complete reports from the grantee on how the funds are spent, and (3) to make full and detailed reports with respect to such expenditures to the Secretary.

Section 53.4945-5(b)(3) of the regulations provides that in order to meet the expenditure responsibility requirements of section 4945(h), a private foundation must require that each grant to an organization be made subject to a written commitment signed by an appropriate officer, director, or trustee of the grantee organization. Such commitment must include an agreement by the grantee (i) To repay any portion of the amount granted which is not used for the purposes of the grant, (ii) To submit full and complete annual reports on the manner in which the funds are spent and the progress made in accomplishing the purposes of the grant, except as provided in paragraph (c)(2) of this section, (iii) To maintain records of receipts and expenditures and to make its books and records available to the grantor at reasonable times, and (iv) Not to use any of the funds (a) To carry on propaganda, or otherwise to attempt, to influence legislation (within the meaning of section 4945(d)(1)), (b) To influence the outcome of any specific public election, or to carry on, directly or indirectly, any voter registration drive (within the meaning of section 4945(d)(2)), (c) To make any grant which does not comply with the requirements of section 4945(d)(3) or (4), or (d)To undertake any activity for any purpose other than one specified in section 170(c)(2)(B).

Section 53.4945-5(b)(5) of the regulations provides that with respect to a grant to a foreign organization (other than an organization described in section 509(a)(1), (2), or (3) or treated as so described pursuant to paragraph (a)(4) or (a)(5) of this section), subparagraph (3)(iv) or (4)(iv) of this paragraph shall be deemed satisfied if the agreement referred to in subparagraph (3) or (4) of this paragraph imposes restrictions on the use of the grant substantially equivalent

to the limitations imposed on a domestic private foundation under section 4945(d). Such restrictions may be phrased in appropriate terms under foreign law or custom and ordinarily will be considered sufficient if an affidavit or opinion of counsel (of the grantor or grantee) is obtained stating that, under foreign law or custom, the agreement imposes restrictions on the use of the grant substantially equivalent to the restrictions imposed on a domestic private foundation under subparagraph (3) or (4) of this paragraph.

Rev. Rul. 77-380, 1977-2 C.B. 419, holds that grants made by a private foundation primarily in recognition of past achievement, with the funds being unrestricted and not earmarked for subsequent travel or study are not taxable expenditures within the meaning of section 4945(d)(3) of the Code.

Based upon the information submitted, and assuming your F program 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 in the proposed F program comply with the requirements of section 4945(g)(1) of the Code. 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.

Your procedures for selecting non-scholarship grant recipients in the F program will assure that grants will be made to achieve a specific objective, produce a report or similar product, improve or enhance a literary, artistic, musical, scientific, teaching or similar capacity, skill or talent of the grantee. Thus, these grants are not taxable expenditures described in section 4945(d)(3).

Your awards for past achievement under the F program, unlike your grants for specific projects, are not intended to finance any future activity of the recipient. As was the case in Rev. Rul. 77-380, there are not conditions or requirements to be met subsequent to receiving the awards. Thus, the awards are not grants to individuals for travel, study or similar purposes by such individuals. Accordingly, your awards for past achievement are made for purposes other than stated in section 4945(d) and, thus, are not subject to advance approval.

We rule that grants under the G program are not taxable expenditures within the meaning of section 4945(d)(4) because you have complied with all applicable expenditure responsibility requirements under section 4945(h).

We also rule that your proposed F and G grant programs are consistent with the continuation of your exempt status as an organization described in section 501(c)(3) of the Code.

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 understanding that no grants will be awarded to your organization's 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.

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)(1) and 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.

We are informing the TE/GE office 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(k)(3) of the Code provides that it may not be used or cited as precedent.

If you have any questions about this ruling, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Gerald V. Sack

Gerald V. Sack
Manager, Exempt Organizations
Technical Group 4