

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

Department of the Treasury

Release Number: **202004016**
Release Date: 1/24/2020
Date: **October 31, 2019**

Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

X= Committee name
Y= Committee name

Dear _____ :

You asked for advance approval of your scholarship and educational grant procedures under Internal Revenue Code (IRC) 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 program as proposed, we determined that your procedures for awarding educational grants meet the requirements of IRC 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 scholarship grant program 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 IRC Section 117(b)).

Description of your request

You will operate two different awards programs. Each is described below according to qualification under IRC Sections 4945(g)(1) and 4945(g)(3).

Section 4945(g)(1) Program

You will award scholarship or fellowship grants to be used at an educational institution described in IRC Section 170(b)(1)(A)(ii) for any course of study pursued by the recipient.

Recipients will be selected by your Board of Directors or a designated committee of the Board based on prior academic performance, the potential grantee's career aspirations, academic and other relevant experiences, and recommendations from the potential grantee's instructors and any others who have knowledge of their capabilities. Financial need may be considered but is not a required criterion.

The funds must be used for tuition and fees required for the enrollment or attendance of the student at a qualifying institution; fees, books, supplies and equipment required for courses of instruction at such an educational institution; and room and board.

Information about recipient's courses and grades for each academic period will be provided to you with verification from the educational institution at least once a year. Where study at an institution does not include taking of courses but rather the preparation of research papers or projects such as writing doctoral thesis, you will require a brief report from the educational institution on the progress of the paper or project at least once a year. Such report must have the approval of the faculty member supervising the recipient or by another appropriate official of the institution. Upon the recipient's completion of study at the educational institution, a final report is required.

You anticipate making one or more grants per year depending upon the strength of the applicants and how well they fit your mission. You will evaluate the merits of grant applications and award grants when the proposal and your mission are well-aligned.

The amount of the grants will vary based on the amount requested, the time and scope of the proposal, the resulting work product, and the degree to which funding is likely to be necessary to achieve the desired results. Grants will be awarded within your budgetary limitations as determined by your Board of Directors.

Section 4945(g)(3) Program

You will make grants to individuals to promote independent agricultural, medical, and scientific research that advances smoking cessation and eliminating the use of other forms of combustible tobacco.

Grantees will be selected based on the merits of a proposal, the relationship of the purpose of the proposal to your program activities and projects or areas of interest, and their priority in relation to other demands on your funds.

Applicants are required to provide information about themselves (including name, address, telephone number, website, geographic focus, contact email, and mailing addresses) and detailed information regarding any research to be conducted upon receipt of a grant, including the background or curriculum vitae of the individual who will participate in and be directly responsible for the research supported by the grant.

Research topics relevant to your purpose include:

- Data on the epidemiology of smoking and use of other nicotine products and associated behaviors; public perceptions and opinions on harms related to smoking, tobacco, and nicotine; public perceptions on smoking cessation and harm reduction; public perceptions and beliefs regarding products and services related to smoking, nicotine use, smoking cessation, and harm reduction;
- Data on the broader context for smoking, cessation, and harm reduction, including but not limited to the regulatory environment, product availability, and pricing and media activity;
- Alternatives to cigarettes and other combustible tobacco products;
- The development of innovative and therapeutic products and services related to smoking cessation and harm reduction;
- Assessments of the impact of harm reduction products and associated interventions on public health outcomes;
- Monitoring and publishing reports on activities of the tobacco industry and other commercial entities in relation to a smoke-free world and advancing the field of tobacco harm reduction;
- Assessment of the effect of the reduced demand for leaf tobacco on farmers;
- Exploration and promotion of sustainable agricultural and nutritional alternatives for tobacco farmers and the land devoted to growing tobacco; and
- Building the capacity of researchers in areas related to harm reduction, innovation, and alternatives to tobacco agriculture.

You will accept applicant submissions through several processes. You will solicit early phase concept memos and proposals from individuals known to be able to perform independent scientific research consistent with your mission and programs as well as issue periodic calls for grant applications, including through a published prospectus or request for proposal. You will also accept nominations of individuals by sponsoring institutions described in IRC Section 501(c)(3), governments and governmental agencies or instrumentalities, and from persons not affiliated with you but having relevant professional experience in the field. Applicants must submit their requests through your online grant submission system.

One of your committees, either X or Y, will evaluate applicants, including their ability to appropriately administer a grant. Your Board of Directors, a scientific advisory board, and a legal team will also provide leadership and oversight.

Each grant made to an individual will generally be made pursuant to a written grant agreement which specifies:

- The purpose of the grant, including the proposed protocol, budget and work plan, with specified targets as may be appropriate;
- The length of time of the grant;
- The pay-out schedule of funds; and
- Eligible and ineligible costs under the grant.

The grant agreement requires that the funds only be used in accordance with the grant application and as detailed by the project budget. It requires the grantee to: (1) use valid and scientifically rigorous study protocols designed to yield results that advance scientific or medical knowledge, (2) present and interpret its study results accurately, (3) submit any resulting publications to appropriate peer review, (4) disclose that you are the source of the grant in any resulting publication, and (5) repay any portion of the grant funds which are not used for the purposes of the grant and to return any excess grants funds to you.

The agreement provides that the grant may not be used:

- For any purpose other than the charitable, scientific, or educational purposes specified in the grant agreement;
- To carry on propaganda or otherwise attempt to influence legislation;
- To influence the outcome of any specific election or to carry on, directly or indirectly, any voter registration drive;
- To make any grant to an individual for travel, study, or other similar purposes; or
- To make grants to organizations unless certain requirements are met, as specifically provided in the grant agreement.

You anticipate making one or more grants per year depending upon how strong the applications are and how well they fit your mission. You will evaluate the merits of grant applications and award grants when the grantee proposal and your mission are well aligned.

The amount of the grants will vary among grantees. The amount will be based on the amount requested, the time and scope of the proposal, the resulting work product, and the degree to which funding is likely to be necessary to achieve the desired results. Grants will be awarded within your budgetary limitations.

For all of your programs, you represent you will complete the following: (1) arrange to receive and review grantee reports annually and upon completion of the purpose for

which the grant was awarded, (2) investigate diversion of funds from their intended purposes, (3) take all reasonable and appropriate steps to recover the diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and withhold further payments to grantees until you obtain grantees' assurances that future diversions will not occur and that grantees will 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.

No grants will be awarded to officers, directors, or substantial contributors of your foundation, members of any the selection committees, family members of any of the preceding, or any disqualified person with respect to you.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (IRC 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 the following requirements of 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
 - 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 covers only the scholarship and grant programs described above. This approval will apply to succeeding scholarship and 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 precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes in 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 make scholarships or 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 must further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with IRC Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your scholarship/grant distributions with the IRS if necessary.

We've sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

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

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements