

INSTRUCTIONS FOR PREPARING AFFIDAVIT FROM FOREIGN GRANTEE

A foreign organization that applies for a grant from the Foundation -- free from the special restrictions of expenditure responsibility -- must establish that it has the characteristics of a domestic public charity described in Sections 501(c)(3) and 509(a)(1), (2) and (3) of the Internal Revenue Code. In order to be treated as equivalent to a domestic public charity, the foreign grantee must establish that it is organized and operated exclusively for charitable purposes, that it meets the other requirements for Section 501(c)(3) status (for example, that it does not intervene in a political campaign), and that it is not a private foundation.

To help the Foundation make these determinations, the grantee should be asked to supply the necessary information in affidavit form. While most of the questions on the accompanying affidavit are self-explanatory, some are not:

Question 2. Organizational Structure

Some foreign organizations are not created by a separate corporate or trust instrument but rather by charter, statute, or other enabling legislation. The relevant document must make clear that the grantee was established exclusively for one or more charitable purposes.

Question 3. Description of Activities

The response to this question need not be extensive, but should be sufficiently detailed to give an accurate idea of the grantee's specific activities and proposed future operations. The description must show that the grantee carries on activities similar to those of a domestic (U.S.) public charity and that it does not engage in activities that are precluded under Section 501(c)(3), such as intervention in political campaigns, attempts to influence legislation, or activities benefiting private individuals.

Question 4. Copies of Governing Instruments

The grantee should submit a copy, translated into English if possible, of its creating instrument (such as articles of incorporation, trust instrument, charter, or statutory law), and of the detailed rules that govern its activities (such as bylaws).

Question 5. Benefit of Private Individuals

A domestic (U.S.) public charity is barred from conferring improper benefits on private individuals, such as officers and shareholders. A positive response to this question establishes a record that the grantee's income and assets may not be diverted for the benefit of private persons, except in the following permissible circumstances: (1) the grantee may pay reasonable salaries to its officers and employees as compensation for services rendered and (2) the grantee may make payments to third parties equal to the fair market value of property that it purchases.

Question 7. Dissolution Provision

The grantee's governing instrument must show that its assets on dissolution would be distributed for charitable rather than private purposes. Examples of distributions that satisfy this requirement are distributions to governmental agencies and to other groups organized for charitable, religious, scientific, literary or educational purposes.

Questions 8. and 9. Legislative and Political Activities

These questions put the grantee on record that it does not engage in substantial lobbying activities or attempts to intervene in political campaigns.

Question 10. Control by or Operation in Connection with Other Organizations

This question is designed to ascertain whether there is any possibility of private benefit to individuals or organizations not operated for charitable purposes. It is permissible for a foreign grantee to be controlled by, or operated in connection with, an appropriate charitable organization or foreign government, exclusively for public purposes. The grantee's description of any affiliate must be sufficiently detailed to establish that it is charitable in nature.

Financial Information

This schedule is similar to the one used by domestic (U.S.) organizations that establish their "public charity" status by showing that they are substantially supported by grants and contributions from the government, charitable organizations and the general public.

GRANTEE AFFIDAVIT

Gupta Family Foundation
200 Presidents Plaza
198 Van Buren Street
Herndon, Virginia 20170-5338

The undersigned, in order to assist the Gupta Family Foundation in determining whether the _____ ("GRANTEE") is the equivalent of a public charity described in Section 509(a)(1), (2), or (3) of the United States Internal Revenue Code, makes the following statement:

1. I am the _____ [Title] of the GRANTEE.
2. The GRANTEE was created by _____ in _____ [Year], and is operated exclusively for:
 charitable
 religious
 scientific
 literary
 educational
 other: _____
purposes under the laws of _____.
3. The activities of the GRANTEE have included _____ [describe past activities and operations] and will include _____ [describe future activities and operations]. [Reference to attachment is permissible.]
4. Copies of the statute or the charter, bylaws and other documents pursuant to which the GRANTEE is governed are attached.
5. It is not possible under the laws and customs applicable to the GRANTEE for any of its income or assets to be distributed to, or applied for the benefit of, a private person or non-charitable organization, other than as payment of reasonable compensation for services rendered or as payment representing the fair market value of property which it has purchased. GRANTEE affirms that it has complied, and will continue to comply, with all such laws and customs.
6. The GRANTEE has no shareholders or members who have a proprietary or ownership interest in the income or assets of the organization.
7. In the event that the GRANTEE were to be liquidated or dissolved, under the laws and customs applicable to it, or under its governing instruments, all of its assets would be distributed to another not-for-profit organization with similar charitable, religious, scientific, literary or educational purposes. A copy of the relevant statutory law or provisions in the governing instruments that control the distribution of the organization's assets on liquidation is attached.

8. It is not possible, under the laws and customs applicable to the GRANTEE, for GRANTEE, other than as an insubstantial part of its activities,

(a) to engage in activities that are not for religious, charitable, scientific, literary or educational purposes, or

(b) to attempt to influence legislation, by propaganda or otherwise.

GRANTEE affirms that it has complied, and will continue to comply, with all such laws and customs.

9. It is not possible, under the laws and customs applicable to the GRANTEE, for the organization directly or indirectly to participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office. GRANTEE affirms that it has complied, and will continue to comply, with all such applicable laws and customs.

10. The GRANTEE is not controlled by or operated in connection with any organization other than_____.

11. The GRANTEE certifies that it is in compliance, and will continue to be in compliance, with all laws, statutes, and regulations restricting persons from dealing with any individuals, entities or groups subject to sanctions by the United States Office of Foreign Assets Control ("OFAC") and that GRANTEE does not and will not deal with any individuals, entities or groups subject to OFAC sanctions or any other persons known to GRANTEE to support terrorism or to have violated OFAC sanctions.

Attached hereto is a projected schedule of support for our organization for the next four years.

The undersigned affirms that the foregoing statements and any documents attached hereto are complete and accurate.

Date

Name, Title