

Phyllis Landers is committed to disaster relief and education in Latin America. She decides she wants her foundation to make grants to organizations based in Latin America or, in some cases, directly to local governments in areas where hurricanes, floods, or earthquakes have occurred. She also wants to award scholarships to students in Latin America who want to study civil engineering and medicine and express an interest in applying their skills in Latin America.

When Phyllis brings up the idea at a foundation board meeting, her lawyer explains that the foundation should not just “write a check.” He offers a daunting array of precautions:

- If the grant recipient is an organization not recognized by the IRS as a public charity, a grant agreement and other special steps are required under U.S. tax law.
 - Although the tax law does not mandate a grant agreement when the grantee is a foreign government (or a foreign government’s agency or instrumentality), it would be prudent for the foundation to put the terms of the grant in writing anyway.
 - A scholarship recipient does not have to sign an agreement, but the foundation must instead adopt an objective and nondiscriminatory procedure for the selection of scholarship recipients. This procedure, at a minimum, must:
 1. Require that scholarship winners be selected from a pool sufficiently large to constitute a charitable class;
 2. Enumerate suitable criteria for selecting scholarship winners (for example, academic performance, performance on tests designed to measure ability, aptitude, and motivation, recommendations from instructors, financial need, and conclusions drawn during an interview process concerning ability, character, etc.);
 3. Require that members of the selection committee not be in position to derive a personal benefit if one prospective scholarship winner is selected rather than another one;
 4. Require that the grant either be in the nature of a prize or an award, or for a scholarship for study at an academic institution, or a grant for the achievement of a specified educational objective (producing a report, enhancing an artistic or musical skill or talent, etc.); and
 5. Impose a reporting system, to allow the foundation to monitor the courses taken by the scholarship winner, grades received, degrees attained, articles written, research completed, music composed, etc.
 - Before implementation, the scholarship procedure must be filed with the IRS for approval. The procedure is deemed approved if the IRS raises no objections within 45 days.
 - Scholarships must be for study at a college or university and must be structured so that they would be excluded from the recipient’s gross income — not under current tax law but under the law as in effect until 1986.
 - Other rules apply if individuals receive grants that are not scholarships — for example, grants to enhance a scientific or similar skill, to recognize a specific achievement, or to relieve poverty or distress.
- Phyllis and the other members of the board discuss these requirements at length and realize that they cannot, as volunteers, adequately handle the workload. The board votes to begin a program of Latin American grants and scholarships — but only after the foundation hires an administrative assistant who can dedicate 1 to 2 days a week to running the program.