

**Application for Recognition of Exemption  
 Under Section 501(c)(3) of the Internal Revenue Code**

Use the instructions to complete this application and for a definition of all **bold** items. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at [www.irs.gov](http://www.irs.gov) for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I - XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

**Part I Identification of Applicant**

<b>1</b> Full name of organization (exactly as it appears in your organizing document)		<b>2</b> c/o Name (if applicable)	
<b>X.Org Foundation</b>		<b>Software Freedom Law Center</b>	
<b>3</b> Mailing address (Number and street) (see instructions)	Room/Suite	<b>4</b> Employer Identification Number (EIN)	
<b>1995 Broadway FL 17</b>		<b>26-4691413</b>	
City or town, state or country, and ZIP + 4		<b>5</b> Month the annual accounting period ends (01 - 12)	
<b>New York, NY, 10023-5882</b>		<b>12</b>	
<b>6</b> Primary contact (officer, director, trustee, or authorized representative)		<b>b</b> Phone: <b>212-461-1909</b>	
<b>a</b> Name: <b>Justin C. Colannino</b>		<b>c</b> Fax: (optional)	
<b>7</b> Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, <i>Power of Attorney and Declaration of Representative</i> , with your application if you would like us to communicate with your representative.		<input checked="" type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>8</b> Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role.		<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
<b>9a</b> Organization's website: <b>http://www.x.org/</b>			
<b>b</b> Organization's email: (optional)			
<b>10</b> Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ.		<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	
<b>11</b> Date incorporated if a corporation, or formed, if other than a corporation. (MM/DD/YYYY)		<b>01 / 15 / 2009</b>	
<b>12</b> Were you formed under the laws of a foreign country? If "Yes," state the country.		<input type="checkbox"/> <b>Yes</b> <input checked="" type="checkbox"/> <b>No</b>	

**Part II Organizational Structure**

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt. (See instructions.) **DO NOT file this form unless you can check "Yes" on lines 1, 2, 3, or 4.**

- 1 Are you a **corporation**? If "Yes," attach a copy of your articles of incorporation showing **certification of filing** with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification.  **Yes**  **No**

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- 2 Are you a **limited liability company (LLC)**? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application.  **Yes**  **No**

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- 3 Are you an **unincorporated association**? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments.  **Yes**  **No**

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- 4a Are you a **trust**? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments.  **Yes**  **No**
- b Have you been funded? If "No," explain how you are formed without anything of value placed in trust.  **Yes**  **No**

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- 5 Have you adopted **bylaws**? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected.  **Yes**  **No**

**Part III Required Provisions in Your Organizing Document**

The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT file this application until you have amended your organizing document.** Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1 Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language. Location of Purpose Clause (Page, Article, and Paragraph): Page 1, Article 3, Paragraph 1

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- 2a Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c.
- 2b If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. Page 2-3, Article 12, Paragraph 1
- 2c See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state: \_\_\_\_\_

**Part IV Narrative Description of Your Activities**

Using an attachment, describe your *past, present, and planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors**

- 1a List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual **compensation**, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures, if available. Enter "none" if no compensation is or will be paid. If additional space is needed, attach a separate sheet. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)
<b>Please see addendum</b>			

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

**b** List the names, titles, and mailing addresses of each of your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation. Do not include officers, directors, or trustees listed in line 1a.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

**c** List the names, names of businesses, and mailing addresses of your five highest compensated **independent contractors** that receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

The following "Yes" or "No" questions relate to *past, present, or planned* relationships, transactions, or agreements with your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, and 1c.

**2a** Are any of your officers, directors, or trustees **related** to each other through **family or business relationships**? If "Yes," identify the individuals and explain the relationship.  **Yes**  **No**

**b** Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees.  **Yes**  **No**

**c** Are any of your officers, directors, or trustees related to your highest compensated employees or highest compensated independent contractors listed on lines 1b or 1c through family or business relationships? If "Yes," identify the individuals and explain the relationship.  **Yes**  **No**

**3a** For each of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked, and duties.

**b** Do any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c receive compensation from any other organizations, whether tax exempt or taxable, that are related to you through **common control**? If "Yes," identify the individuals, explain the relationship between you and the other organization, and describe the compensation arrangement.  **Yes**  **No**

**4** In establishing the compensation for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, and 1c, the following practices are recommended, although they are not required to obtain exemption. Answer "Yes" to all the practices you use.

**a** Do you or will the individuals that approve compensation arrangements follow a conflict of interest policy?  **Yes**  **No**

**b** Do you or will you approve compensation arrangements in advance of paying compensation?  **Yes**  **No**

**c** Do you or will you document in writing the date and terms of approved compensation arrangements?  **Yes**  **No**

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- d Do you or will you record in writing the decision made by each individual who decided or voted on compensation arrangements?  Yes  No
- e Do you or will you approve compensation arrangements based on information about compensation paid by **similarly situated** taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms, or actual written offers from similarly situated organizations? Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No
- f Do you or will you record in writing both the information on which you relied to base your decision and its source?  Yes  No
- g If you answered "No" to any item on lines 4a through 4f, describe how you set compensation that is **reasonable** for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c.

- 5a Have you adopted a **conflict of interest policy** consistent with the sample conflict of interest policy in Appendix A to the instructions? If "Yes," provide a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," answer lines 5b and 5c.  Yes  No
- b What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you for setting their own compensation?
- c What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you regarding business deals with themselves?

**Note:** A conflict of interest policy is recommended though it is not required to obtain exemption. Hospitals, see Schedule C, Section I, line 14.

- 6a Do you or will you compensate any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, or 1c through **non-fixed payments**, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are determined, who is eligible for such arrangements, whether you place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No
- b Do you or will you compensate any of your employees, other than your officers, directors, trustees, or your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year, through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are or will be determined, who is or will be eligible for such arrangements, whether you place or will place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No

- 7a Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such purchase that you made or intend to make, from whom you make or will make such purchases, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine that you pay no more than **fair market value**. Attach copies of any written contracts or other agreements relating to such purchases.  Yes  No
- b Do you or will you sell any goods, services, or assets to any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such sales that you made or intend to make, to whom you make or will make such sales, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine you are or will be paid at least fair market value. Attach copies of any written contracts or other agreements relating to such sales.  Yes  No

- 8a Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f.  Yes  No
- b Describe any written or oral arrangements that you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine you pay no more than fair market value or you are paid at least fair market value.
- f Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.

- 9a Do you or will you have any leases, contracts, loans, or other agreements with any organization in which any of your officers, directors, or trustees are also officers, directors, or trustees, or in which any individual officer, director, or trustee owns more than a 35% interest? If "Yes," provide the information requested in lines 9b through 9f.  Yes  No

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- b Describe any written or oral arrangements you made or intend to make.
- c Identify with whom you have or will have such arrangements.
- d Explain how the terms are or will be negotiated at arm's length.
- e Explain how you determine or will determine you pay no more than fair market value or that you are paid at least fair market value.
- f Attach a copy of any signed leases, contracts, loans, or other agreements relating to such arrangements.

**Part VI Your Members and Other Individuals and Organizations That Receive Benefits From You**

The following "Yes" or "No" questions relate to goods, services, and funds you provide to individuals and organizations as part of your activities. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1a In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If "Yes," describe each program that provides goods, services, or funds to individuals.  Yes  No
- b In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If "Yes," describe each program that provides goods, services, or funds to organizations.  Yes  No
- 2 Do any of your programs limit the provision of goods, services, or funds to a specific individual or group of specific individuals? For example, answer "Yes," if goods, services, or funds are provided only for a particular individual, your members, individuals who work for a particular employer, or graduates of a particular school. If "Yes," explain the limitation and how recipients are selected for each program.  Yes  No
- 3 Do any individuals who receive goods, services, or funds through your programs have a family or business relationship with any officer, director, trustee, or with any of your highest compensated employees or highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c? If "Yes," explain how these related individuals are eligible for goods, services, or funds.  Yes  No

**Part VII Your History**

The following "Yes" or "No" questions relate to your history. (See instructions.)

- 1 Are you a **successor** to another organization? Answer "Yes," if you have taken or will take over the activities of another organization; you took over 25% or more of the fair market value of the net assets of another organization; or you were established upon the conversion of an organization from for-profit to non-profit status. If "Yes," complete Schedule G.  Yes  No
- 2 Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E.  Yes  No

**Part VIII Your Specific Activities**

The following "Yes" or "No" questions relate to specific activities that you may conduct. Check the appropriate box. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1 Do you support or oppose candidates in **political campaigns** in any way? If "Yes," explain.  Yes  No
- 2a Do you attempt to **influence legislation**? If "Yes," explain how you attempt to influence legislation and complete line 2b. If "No," go to line 3a.  Yes  No
- b Have you made or are you making an **election** to have your legislative activities measured by expenditures by filing Form 5768? If "Yes," attach a copy of the Form 5768 that was already filed or attach a completed Form 5768 that you are filing with this application. If "No," describe whether your attempts to influence legislation are a substantial part of your activities. Include the time and money spent on your attempts to influence legislation as compared to your total activities.  Yes  No
- 3a Do you or will you operate bingo or **gaming** activities? If "Yes," describe who conducts them, and list all revenue received or expected to be received and expenses paid or expected to be paid in operating these activities. **Revenue and expenses** should be provided for the time periods specified in Part IX, Financial Data.  Yes  No
- b Do you or will you enter into contracts or other agreements with individuals or organizations to conduct bingo or gaming for you? If "Yes," describe any written or oral arrangements that you made or intend to make, identify with whom you have or will have such arrangements, explain how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you pay no more than fair market value or you will be paid at least fair market value. Attach copies or any written contracts or other agreements relating to such arrangements.  Yes  No
- c List the states and local jurisdictions, including Indian Reservations, in which you conduct or will conduct gaming or bingo.

**Part VIII Your Specific Activities (Continued)**

**4a** Do you or will you undertake **fundraising**? If "Yes," check all the fundraising programs you do or will conduct. (See instructions.)  **Yes**  **No**

- mail solicitations
- email solicitations
- personal solicitations
- vehicle, boat, plane, or similar donations
- foundation grant solicitations
- phone solicitations
- accept donations on your website
- receive donations from another organization's website
- government grant solicitations
- Other

Attach a description of each fundraising program.

**b** Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you? If "Yes," describe these activities. Include all revenue and expenses from these activities and state who conducts them. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Also, attach a copy of any contracts or agreements.  **Yes**  **No**

**c** Do you or will you engage in fundraising activities for other organizations? If "Yes," describe these arrangements. Include a description of the organizations for which you raise funds and attach copies of all contracts or agreements.  **Yes**  **No**

**d** List all states and local jurisdictions in which you conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you.

**e** Do you or will you maintain separate accounts for any contributor under which the contributor has the right to advise on the use or distribution of funds? Answer "Yes" if the donor may provide advice on the types of investments, distributions from the types of investments, or the distribution from the donor's contribution account. If "Yes," describe this program, including the type of advice that may be provided and submit copies of any written materials provided to donors.  **Yes**  **No**

**5** Are you **affiliated** with a governmental unit? If "Yes," explain.  **Yes**  **No**

**6a** Do you or will you engage in **economic development**? If "Yes," describe your program.  **Yes**  **No**

**b** Describe in full who benefits from your economic development activities and how the activities promote exempt purposes.

**7a** Do or will persons other than your employees or volunteers **develop** your facilities? If "Yes," describe each facility, the role of the developer, and any business or family relationship(s) between the developer and your officers, directors, or trustees.  **Yes**  **No**

**b** Do or will persons other than your employees or volunteers **manage** your activities or facilities? If "Yes," describe each activity and facility, the role of the manager, and any business or family relationship(s) between the manager and your officers, directors, or trustees.  **Yes**  **No**

**c** If there is a business or family relationship between any manager or developer and your officers, directors, or trustees, identify the individuals, explain the relationship, describe how contracts are negotiated at arm's length so that you pay no more than fair market value, and submit a copy of any contracts or other agreements.

**8** Do you or will you enter into **joint ventures**, including partnerships or **limited liability companies** treated as partnerships, in which you share profits and losses with partners other than section 501(c)(3) organizations? If "Yes," describe the activities of these joint ventures in which you participate.  **Yes**  **No**

**9a** Are you applying for exemption as a childcare organization under section 501(k)? If "Yes," answer lines 9b through 9d. If "No," go to line 10.  **Yes**  **No**

**b** Do you provide child care so that parents or caretakers of children you care for can be **gainfully employed** (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**c** Of the children for whom you provide child care, are 85% or more of them cared for by you to enable their parents or caretakers to be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**d** Are your services available to the general public? If "No," describe the specific group of people for whom your activities are available. Also, see the instructions and explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**10** Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other **intellectual property**? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed.  **Yes**  **No**

**Part VIII Your Specific Activities (Continued)**

**11** Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution.  Yes  No

**12a** Do you or will you operate in a foreign country or countries? If "Yes," answer lines 12b through 12d. If "No," go to line 13a.  Yes  No

**b** Name the foreign countries and regions within the countries in which you operate.

**c** Describe your operations in each country and region in which you operate.

**d** Describe how your operations in each country and region further your exempt purposes.

**13a** Do you or will you make grants, loans, or other distributions to organization(s)? If "Yes," answer lines 13b through 13g. If "No," go to line 14a.  Yes  No

**b** Describe how your grants, loans, or other distributions to organizations further your exempt purposes.

**c** Do you have written contracts with each of these organizations? If "Yes," attach a copy of each contract.  Yes  No

**d** Identify each recipient organization and any relationship between you and the recipient organization.

**e** Describe the records you keep with respect to the grants, loans, or other distributions you make.

**f** Describe your selection process, including whether you do any of the following:

**(i)** Do you require an application form? If "Yes," attach a copy of the form.  Yes  No

**(ii)** Do you require a grant proposal? If "Yes," describe whether the grant proposal specifies your responsibilities and those of the grantee, obligates the grantee to use the grant funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges your authority to withhold and/or recover grant funds in case such funds are, or appear to be, misused.  Yes  No

**g** Describe your procedures for oversight of distributions that assure you the resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.

**14a** Do you or will you make grants, loans, or other distributions to foreign organizations? If "Yes," answer lines 14b through 14f. If "No," go to line 15.  Yes  No

**b** Provide the name of each foreign organization, the country and regions within a country in which each foreign organization operates, and describe any relationship you have with each foreign organization.

**c** Does any foreign organization listed in line 14b accept contributions earmarked for a specific country or specific organization? If "Yes," list all earmarked organizations or countries.  Yes  No

**d** Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes? If "Yes," describe how you relay this information to contributors.  Yes  No

**e** Do you or will you make pre-grant inquiries about the recipient organization? If "Yes," describe these inquiries, including whether you inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information.  Yes  No

**f** Do you or will you use any additional procedures to ensure that your distributions to foreign organizations are used in furtherance of your exempt purposes? If "Yes," describe these procedures, including site visits by your employees or compliance checks by impartial experts, to verify that grant funds are being used appropriately.  Yes  No

**Part VIII Your Specific Activities (Continued)**

- 15** Do you have a **close connection** with any organizations? If "Yes," explain.  Yes  No
- 16** Are you applying for exemption as a **cooperative hospital service organization** under section 501(e)? If "Yes," explain.  Yes  No
- 17** Are you applying for exemption as a **cooperative service organization of operating educational organizations** under section 501(f)? If "Yes," explain.  Yes  No
- 18** Are you applying for exemption as a **charitable risk pool** under section 501(n)? If "Yes," explain.  Yes  No
- 19** Do you or will you operate a **school**? If "Yes," complete Schedule B. Answer "Yes," whether you operate a school as your main function or as a secondary activity.  Yes  No
- 20** Is your main function to provide **hospital or medical care**? If "Yes," complete Schedule C.  Yes  No
- 21** Do you or will you provide **low-income housing** or housing for the **elderly or handicapped**? If "Yes," complete Schedule F.  Yes  No
- 22** Do you or will you provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes? If "Yes," complete Schedule H.  Yes  No

**Note:** Private foundations may use Schedule H to request advance approval of individual grant procedures.



**Part IX Financial Data**

For purposes of this schedule, years in existence refer to completed tax years. If in existence 4 or more years, complete the schedule for the most recent 4 tax years. If in existence more than 1 year but less than 4 years, complete the statements for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. If in existence less than 1 year, provide projections of your likely revenues and expenses for the current year and the 2 following years, based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. (See instructions.)

**A. Statement of Revenues and Expenses**

	Type of revenue or expense	3 prior tax years or 2 succeeding tax years				(e) Provide Total for (a) through (d)
		(a) From...1/1/11... To 4/26/11	(b) From...1/1/10... To 12/31/10	(c) From...1/1/09... To 12/31/09	(d) From...1/1/08... To 12/31/08	
<b>Revenues</b>	<b>1</b> Gifts, grants, and contributions received (do not include unusual grants)	0	3350.80	0	2801.95	6152.75
	<b>2</b> Membership fees received	0	0	0	0	0
	<b>3</b> Gross investment income	96.31	435.96	302.11	2057.35	2891.73
	<b>4</b> Net unrelated business income	0	0	0	0	0
	<b>5</b> Taxes levied for your benefit	0	0	0	0	0
	<b>6</b> Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)	0	0	0	0	0
	<b>7</b> Any revenue not otherwise listed above or in lines 9-12 below (attach an itemized list)	0	0	0	0	0
	<b>8</b> Total of lines 1 through 7	96.31	3786.76	302.11	4859.30	9044.48
	<b>9</b> Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)	0	0	0	0	0
	<b>10</b> Total of lines 8 and 9	96.31	3786.76	302.11	4859.30	9044.48
<b>11</b> Net gain or loss on sale of capital assets (attach schedule and see instructions)	0	0	0	0	0	
<b>12</b> Unusual grants	0	0	0	0	0	
<b>13</b> Total Revenue Add lines 10 through 12	96.31	3786.76	302.11	4859.30	9044.48	
<b>Expenses</b>	<b>14</b> Fundraising expenses	0	0	0	0	
	<b>15</b> Contributions, gifts, grants, and similar amounts paid out (attach an itemized list)	0	0	0	0	
	<b>16</b> Disbursements to or for the benefit of members (attach an itemized list)	60.90	8228.22	3678.90	15701.74	
	<b>17</b> Compensation of officers, directors, and trustees	0	0	0	0	
	<b>18</b> Other salaries and wages	0	0	0	0	
	<b>19</b> Interest expense	0	0	0	0	
	<b>20</b> Occupancy (rent, utilities, etc.)	0	3000	3000	0	
	<b>21</b> Depreciation and depletion	0	0	0	0	
	<b>22</b> Professional fees	0	0	0	0	
	<b>23</b> Any expense not otherwise classified, such as program services (attach itemized list)	20.25	8063.74	5909.89	28830.43	
	<b>24</b> Total Expenses Add lines 14 through 23	81.15	19291.96	12588.79	44532.17	

**Part IX Financial Data (Continued)**

**B. Balance Sheet (for your most recently completed tax year)**

Year End:  
(Whole dollars)

Assets		
1	Cash . . . . .	114036.85
2	Accounts receivable, net . . . . .	0
3	Inventories . . . . .	0
4	Bonds and notes receivable (attach an itemized list) . . . . .	0
5	Corporate stocks (attach an itemized list) . . . . .	0
6	Loans receivable (attach an itemized list) . . . . .	0
7	Other investments (attach an itemized list) . . . . .	0
8	Depreciable and depletable assets (attach an itemized list) . . . . .	0
9	Land . . . . .	0
10	Other assets (attach an itemized list) . . . . .	0
11	<b>Total Assets (add lines 1 through 10)</b> . . . . .	<b>0</b>
Liabilities		
12	Accounts payable . . . . .	0
13	Contributions, gifts, grants, etc. payable . . . . .	0
14	Mortgages and notes payable (attach an itemized list) . . . . .	0
15	Other liabilities (attach an itemized list) . . . . .	0
16	<b>Total Liabilities (add lines 12 through 15)</b> . . . . .	<b>0</b>
Fund Balances or Net Assets		
17	<b>Total fund balances or net assets</b> . . . . .	<b>114036.85</b>
18	<b>Total Liabilities and Fund Balances or Net Assets (add lines 16 and 17)</b> . . . . .	<b>0</b>
19	Have there been any substantial changes in your assets or liabilities since the end of the period shown above? If "Yes," explain.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Part X Public Charity Status**

Part X is designed to classify you as an organization that is either a **private foundation** or a **public charity**. Public charity status is a more favorable tax status than private foundation status. If you are a private foundation, Part X is designed to further determine whether you are a **private operating foundation**. (See instructions.)

- 1a Are you a private foundation? If "Yes," go to line 1b. If "No," go to line 5 and proceed as instructed.  Yes  No  
If you are unsure, see the instructions.
- b As a private foundation, section 508(e) requires special provisions in your organizing document in addition to those that apply to all organizations described in section 501(c)(3). Check the box to confirm that your organizing document meets this requirement, whether by express provision or by reliance on operation of state law. Attach a statement that describes specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document or by operation of state law. See the instructions, including Appendix B, for information about the special provisions that need to be contained in your organizing document. Go to line 2.
- 2 Are you a private operating foundation? To be a private operating foundation you must engage directly in the active conduct of charitable, religious, educational, and similar activities, as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations. If "Yes," go to line 3. If "No," go to the signature section of Part XI.  Yes  No
- 3 Have you existed for one or more years? If "Yes," attach financial information showing that you are a private operating foundation; go to the signature section of Part XI. If "No," continue to line 4.  Yes  No
- 4 Have you attached either (1) an affidavit or opinion of counsel, (including a written affidavit or opinion from a certified public accountant or accounting firm with expertise regarding this tax law matter), that sets forth facts concerning your operations and support to demonstrate that you are likely to satisfy the requirements to be classified as a private operating foundation; or (2) a statement describing your proposed operations as a private operating foundation?  Yes  No
- 5 If you answered "No" to line 1a, indicate the type of public charity status you are requesting by checking one of the choices below. You may check only one box.  
The organization is not a private foundation because it is:
  - a 509(a)(1) and 170(b)(1)(A)(i)—a church or a convention or association of churches. Complete and attach Schedule A.
  - b 509(a)(1) and 170(b)(1)(A)(ii)—a **school**. Complete and attach Schedule B.
  - c 509(a)(1) and 170(b)(1)(A)(iii)—a **hospital**, a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital. Complete and attach Schedule C.
  - d 509(a)(3)—an organization supporting either one or more organizations described in line 5a through c, f, g, or h or a publicly supported section 501(c)(4), (5), or (6) organization. Complete and attach Schedule D.

**Part X Public Charity Status (Continued)**

- e 509(a)(4)—an organization organized and operated exclusively for testing for public safety.
- f 509(a)(1) and 170(b)(1)(A)(iv)—an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- g 509(a)(1) and 170(b)(1)(A)(vi)—an organization that receives a substantial part of its financial support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.
- h 509(a)(2)—an organization that normally receives not more than one-third of its financial support from gross investment income and receives more than one-third of its financial support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).
- i A publicly supported organization, but unsure if it is described in 5g or 5h. The organization would like the IRS to decide the correct status.

**6** If you checked box g, h, or i in question 5 above, you must request either an **advance** or a **definitive ruling** by selecting one of the boxes below. Refer to the instructions to determine which type of ruling you are eligible to receive.

- a **Request for Advance Ruling:** By checking this box and signing the consent, pursuant to section 6501(c)(4) of the Code you request an advance ruling and agree to extend the statute of limitations on the assessment of excise tax under section 4940 of the Code. The tax will apply only if you do not establish public support status at the end of the 5-year advance ruling period. The assessment period will be extended for the 5 advance ruling years to 8 years, 4 months, and 15 days beyond the end of the first year. You have the right to refuse or limit the extension to a mutually agreed-upon period of time or issue(s). Publication 1035, *Extending the Tax Assessment Period*, provides a more detailed explanation of your rights and the consequences of the choices you make. You may obtain Publication 1035 free of charge from the IRS web site at [www.irs.gov](http://www.irs.gov) or by calling toll-free 1-800-829-3676. Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled. If you decide not to extend the statute of limitations, you are not eligible for an advance ruling.

**Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code**

For Organization

-----  
(Signature of Officer, Director, Trustee, or other authorized official)

-----  
(Type or print name of signer)

-----  
(Date)

-----  
(Type or print title or authority of signer)

For IRS Use Only

-----  
IRS Director, Exempt Organizations

-----  
(Date)

- b **Request for Definitive Ruling:** Check this box if you have completed one tax year of at least 8 full months and you are requesting a definitive ruling. To confirm your public support status, answer line 6b(i) if you checked box g in line 5 above. Answer line 6b(ii) if you checked box h in line 5 above. If you checked box i in line 5 above, answer both lines 6b(i) and (ii).
- (i) (a) Enter 2% of line 8, column (e) on Part IX-A. Statement of Revenues and Expenses. \_\_\_\_\_
- (b) Attach a list showing the name and amount contributed by each person, company, or organization whose gifts totaled more than the 2% amount. If the answer is "None," check this box.
- (ii) (a) For each year amounts are included on lines 1, 2, and 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each **disqualified person**. If the answer is "None," check this box.
- (b) For each year amounts are included on line 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each payer, other than a disqualified person, whose payments were more than the larger of (1) 1% of line 10, Part IX-A. Statement of Revenues and Expenses, or (2) \$5,000. If the answer is "None," check this box.

**7** Did you receive any unusual grants during any of the years shown on Part IX-A. Statement of Revenues and Expenses? If "Yes," attach a list including the name of the contributor, the date and amount of the grant, a brief description of the grant, and explain why it is unusual.  Yes  No

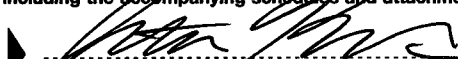
**Part XI User Fee Information**

You must include a user fee payment with this application. It will not be processed without your paid user fee. If your average annual gross receipts have exceeded or will exceed \$10,000 annually over a 4-year period, you must submit payment of \$750. If your gross receipts have not exceeded or will not exceed \$10,000 annually over a 4-year period, the required user fee payment is \$300. See instructions for Part XI, for a definition of **gross receipts** over a 4-year period. Your check or money order must be made payable to the United States Treasury. *User fees are subject to change. Check our website at [www.irs.gov](http://www.irs.gov) and type "User Fee" in the keyword box, or call Customer Account Services at 1-877-829-5500 for current information.*

- 1 Have your annual gross receipts averaged or are they expected to average not more than \$10,000?  Yes  No  
 If "Yes," check the box on line 2 and enclose a user fee payment of \$300 (Subject to change—see above).  
 If "No," check the box on line 3 and enclose a user fee payment of \$750 (Subject to change—see above).
- 2 Check the box if you have enclosed the reduced user fee payment of \$300 (Subject to change).
- 3 Check the box if you have enclosed the user fee payment of \$750 (Subject to change).

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

**Please Sign Here**

  
(Signature of Officer, Director, Trustee, or other authorized official)

**Stuart Kreitman**  
(Type or print name of signer)

**April 22, 2011**  
(Date)

**Treasurer**  
(Type or print title or authority of signer)

**Reminder:** Send the completed Form 1023 Checklist with your filled-in-application.

**Schedule G. Successors to Other Organizations**

**1a** Are you a **successor** to a **for-profit organization**? If "Yes," explain the relationship with the **predecessor** organization that resulted in your creation and complete line 1b.  Yes  No

**b** Explain why you took over the activities or assets of a for-profit organization or converted from for-profit to nonprofit status.

**2a** Are you a successor to an organization other than a for-profit organization? Answer "Yes" if you have taken or will take over the activities of another organization; or you have taken or will take over 25% or more of the fair market value of the net assets of another organization. If "Yes," explain the relationship with the other organization that resulted in your creation.  Yes  No

**b** Provide the tax status of the predecessor organization.

**c** Did you or did an organization to which you are a successor previously apply for tax exemption under section 501(c)(3) or any other section of the Code? If "Yes," explain how the application was resolved.  Yes  No

**d** Was your prior tax exemption or the tax exemption of an organization to which you are a successor revoked or suspended? If "Yes," explain. Include a description of the corrections you made to re-establish tax exemption.  Yes  No

**e** Explain why you took over the activities or assets of another organization.

**3** Provide the name, last address, and EIN of the predecessor organization and describe its activities.

Name: **X.Org Foundation LLC**

EIN: **98 - 0436689**

Address: **163 Tappan St. Brookline, MA 02445-5817**

**4** List the owners, partners, principal stockholders, officers, and governing board members of the predecessor organization. Attach a separate sheet if additional space is needed.

Name	Address	Share/Interest (If a for-profit)
Please see addendum	.....	
	.....	
	.....	
	.....	
	.....	

**5** Do or will any of the persons listed in line 4, maintain a working relationship with you? If "Yes," describe the relationship in detail and include copies of any agreements with any of these persons or with any for-profit organizations in which these persons own more than a 35% interest.  Yes  No

**6a** Were any assets transferred, whether by gift or sale, from the predecessor organization to you? If "Yes," provide a list of assets, indicate the value of each asset, explain how the value was determined, and attach an appraisal, if available. For each asset listed, also explain if the transfer was by gift, sale, or combination thereof.  Yes  No

**b** Were any restrictions placed on the use or sale of the assets? If "Yes," explain the restrictions.  Yes  No

**c** Provide a copy of the agreement(s) of sale or transfer.

**7** Were any debts or liabilities transferred from the predecessor for-profit organization to you? If "Yes," provide a list of the debts or liabilities that were transferred to you, indicating the amount of each, how the amount was determined, and the name of the person to whom the debt or liability is owed.  Yes  No

**8** Will you lease or rent any property or equipment previously owned or used by the predecessor for-profit organization, or from persons listed in line 4, or from for-profit organizations in which these persons own more than a 35% interest? If "Yes," submit a copy of the lease or rental agreement(s). Indicate how the lease or rental value of the property or equipment was determined.  Yes  No

**9** Will you lease or rent property or equipment to persons listed in line 4, or to for-profit organizations in which these persons own more than a 35% interest? If "Yes," attach a list of the property or equipment, provide a copy of the lease or rental agreement(s), and indicate how the lease or rental value of the property or equipment was determined.  Yes  No

Schedule H. Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures

Section I Names of individual recipients are not required to be listed in Schedule H.

Public charities and private foundations complete lines 1a through 7 of this section. See the instructions to Part X if you are not sure whether you are a public charity or a private foundation.

- 1a Describe the types of educational grants you provide to individuals, such as scholarships, fellowships, loans, etc.
b Describe the purpose and amount of your scholarships, fellowships, and other educational grants and loans that you award.
c If you award educational loans, explain the terms of the loans (interest rate, length, forgiveness, etc.).
d Specify how your program is publicized.
e Provide copies of any solicitation or announcement materials.
f Provide a sample copy of the application used.

2 Do you maintain case histories showing recipients of your scholarships, fellowships, educational loans, or other educational grants, including names, addresses, purposes of awards, amount of each grant, manner of selection, and relationship (if any) to officers, trustees, or donors of funds to you? If "No," refer to the instructions. [X] Yes [ ] No

3 Describe the specific criteria you use to determine who is eligible for your program. (For example, eligibility selection criteria could consist of graduating high school students from a particular high school who will attend college, writers of scholarly works about American history, etc.)

4a Describe the specific criteria you use to select recipients. (For example, specific selection criteria could consist of prior academic performance, financial need, etc.)

- b Describe how you determine the number of grants that will be made annually.
c Describe how you determine the amount of each of your grants.
d Describe any requirement or condition that you impose on recipients to obtain, maintain, or qualify for renewal of a grant. (For example, specific requirements or conditions could consist of attendance at a four-year college, maintaining a certain grade point average, teaching in public school after graduation from college, etc.)

5 Describe your procedures for supervising the scholarships, fellowships, educational loans, or other educational grants. Describe whether you obtain reports and grade transcripts from recipients, or you pay grants directly to a school under an arrangement whereby the school will apply the grant funds only for enrolled students who are in good standing. Also, describe your procedures for taking action if the terms of the award are violated.

6 Who is on the selection committee for the awards made under your program, including names of current committee members, criteria for committee membership, and the method of replacing committee members?

7 Are relatives of members of the selection committee, or of your officers, directors, or substantial contributors eligible for awards made under your program? If "Yes," what measures are taken to ensure unbiased selections? [X] Yes [ ] No

Note. If you are a private foundation, you are not permitted to provide educational grants to disqualified persons. Disqualified persons include your substantial contributors and foundation managers and certain family members of disqualified persons.

Section II Private foundations complete lines 1a through 4f of this section. Public charities do not complete this section.

1a If we determine that you are a private foundation, do you want this application to be considered as a request for advance approval of grant making procedures? [ ] Yes [ ] No [ ] N/A

- b For which section(s) do you wish to be considered?
• 4945(g)(1)—Scholarship or fellowship grant to an individual for study at an educational institution [ ]
• 4945(g)(3)—Other grants, including loans, to an individual for travel, study, or other similar purposes, to enhance a particular skill of the grantee or to produce a specific product [ ]

2 Do you represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover 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? [ ] Yes [ ] No

3 Do you represent that you will maintain all records relating to individual grants, including information obtained to evaluate grantees, identify whether a grantee is a disqualified person, establish the amount and purpose of each grant, and establish that you undertook the supervision and investigation of grants described in line 2? [ ] Yes [ ] No

**Schedule H. Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures (Continued)**

**Section II Private foundations complete lines 1a through 4f of this section. Public charities do not complete this section. (Continued)**

- 4a Do you or will you award scholarships, fellowships, and educational loans to attend an educational institution based on the status of an individual being an *employee of a particular employer*? If "Yes," complete lines 4b through 4f.  Yes  No
  
- b Will you comply with the seven conditions and either the percentage tests or facts and circumstances test for scholarships, fellowships, and educational loans to attend an educational institution as set forth in Revenue Procedures 76-47, 1976-2 C.B. 670, and 80-39, 1980-2 C.B. 772, which apply to inducement, selection committee, eligibility requirements, objective basis of selection, employment, course of study, and other objectives? (See lines 4c, 4d, and 4e, regarding the percentage tests.)  Yes  No
  
- c Do you or will you provide scholarships, fellowships, or educational loans to attend an educational institution to employees of a particular employer?  Yes  No  N/A  
 If "Yes," will you award grants to 10% or fewer of the eligible applicants who were actually considered by the selection committee in selecting recipients of grants in that year as provided by Revenue Procedures 76-47 and 80-39?  Yes  No
  
- d Do you provide scholarships, fellowships, or educational loans to attend an educational institution to children of employees of a particular employer?  Yes  No  N/A  
 If "Yes," will you award grants to 25% or fewer of the eligible applicants who were actually considered by the selection committee in selecting recipients of grants in that year as provided by Revenue Procedures 76-47 and 80-39? If "No," go to line 4e.  Yes  No
  
- e If you provide scholarships, fellowships, or educational loans to attend an educational institution to children of employees of a particular employer, will you award grants to 10% or fewer of the number of employees' children who can be shown to be eligible for grants (whether or not they submitted an application) in that year, as provided by Revenue Procedures 76-47 and 80-39?  Yes  No  N/A  
  
 If "Yes," describe how you will determine who can be shown to be eligible for grants without submitting an application, such as by obtaining written statements or other information about the expectations of employees' children to attend an educational institution. If "No," go to line 4f.
  
- Note.** Statistical or sampling techniques are not acceptable. See Revenue Procedure 85-51, 1985-2 C.B. 717, for additional information.
  
- f If you provide scholarships, fellowships, or educational loans to attend an educational institution to *children of employees of a particular employer* without regard to either the 25% limitation described in line 4d, or the 10% limitation described in line 4e, will you award grants based on facts and circumstances that demonstrate that the grants will not be considered compensation for past, present, or future services or otherwise provide a significant benefit to the particular employer? If "Yes," describe the facts and circumstances that you believe will demonstrate that the grants are neither compensatory nor a significant benefit to the particular employer. In your explanation, describe why you cannot satisfy either the 25% test described in line 4d or the 10% test described in line 4e.  Yes  No

ADDENDUM TO FORM 1023  
X.ORG FOUNDATION  
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Part I, Question 7

Form 2848 Power of Attorney enclosed for  
Justin C. Colannino  
Counsel  
Software Freedom Law Center  
1995 Broadway, 17<sup>th</sup> Floor  
New York, NY 10023  
(212)461-1909

Part II, Question 1

A copy of the X.Org Foundation articles of incorporation, showing certification of filing, is attached. There have been no amendments to the articles.

Part II, Question 5

A copy of the bylaws is attached. The bylaws were developed by the predecessor organization and adopted by the Foundation in September 2009.

Part IV

X.Org Foundation (the "Foundation") was formed in January, 2009, to maintain and advance a free and open source implementation of the X Window System, a software backbone for graphical user interfaces. Variants of the X Window System date back to 1984, and it was one of the first graphical user interfaces on the market. The X Window System underlies many of the most popular graphical user interface environments in use today. For example, the X Window System is used in all GNU/Linux desktop environments - including the popular Gnome and KDE environments. Other systems also use variants of the X Window System, including Hewlett-Packard's OpenVMS operating system, Apple's OS X v. 10.5 (Leopard)'s x11 application, and other UNIX like systems. There are also third party modifications of the X Window System for the Microsoft Windows operating system, such as Cygwin/X, which allow computers running the Microsoft windows operating system to run applications designed for the X Window System. Because of this widespread use in both the non-profit and for-profit sectors, the X Window System focuses on stability and open standards, and its source code serves as an important educational tool for members of the public interested in graphical user interface design.

The Foundation's mission includes offering the X Window System, and any other software the Foundation creates, to the general public under a free and open source software license. Free and open



source software is software released under a copyright license that grants the general public the freedom to copy, share, modify and redistribute the software. Because free and open source code is available to the public, it provides no-cost alternatives to high cost systems created by for-profit companies, and the efforts of the core group of programmers can be amplified by others who contribute to the improvement and further development of the software. The practical benefit of this approach is not only the development of high quality software, but also the universal availability of the technical knowledge underlying the software.

The Foundation is a Delaware non-stock corporation, organized to advance the X Window System through research and development, and to ensure that the public has access to educational and scientific literature that furthers their use of the X Window System, and related software.

Because there is no charge for obtaining the Foundation's software, and no registration is required, it is difficult to estimate the number of users worldwide. The X Window System software is included in major Linux distributions used by millions of users around the world. Many users also receive the Foundation's software through other sources. This widespread adoption demonstrates that the X Window System's availability at no cost undoubtedly benefits the community as a whole.

In addition to falling within the broad definition of charity as a purpose beneficial to the community, the creation, conservation, and curation of free and open source software by a nonprofit entity serves several explicitly recognized charitable purposes. These include advancing education, erecting a public work, and providing relief to the poor or underprivileged.

The Foundation's activities and software advance education by providing a comprehensive, no-cost, overview to the public on how to design and implement a graphical user interface windowing system. The Foundation's activities include publishing human-readable source code, documentation, and manuals. Each of these publications teaches the general public how to use and contribute to the software the Foundation creates. In particular, the publication of human readable source code instructs members of the public how to improve their ability to design and implement software, an activity beneficial to the community. For Example, the Second Circuit, in holding that the First Amendment protects human-readable source code, remarked:

A programmer reading a program learns information about instructing a computer, and might use this information to improve personal programming skills and perhaps the craft of programming. Moreover, programmers communicating ideas to one another almost inevitably communicate in code, much as musicians use notes.

*Universal City Studios, Inc. v. Corley* 273 F.3d 429, 448 (2d Cir. 2001). The X Windows source code reflects research and development in this area for over two and a half decades. In addition to these educational publications, the foundation holds conferences maintains an active mailing list and wiki for the general public to learn from each other and from the Foundation about how to use and contribute to

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the free and open source software the Foundation creates. Finally, the Foundation has continuing participation in Google's Summer of Code scholarship, and intends to run its own mentorship program called the Endless Vacation of Code (<http://www.x.org/wiki/XorgEVoC>). In each program, the Foundation assigns a member to be the mentor to student while the student develops a concrete improvement to the Foundation's software. Additionally, in the case of the Endless Vacation of Code, the Foundation will provide a monetary reward to the student if the student reaches the goals outlined in their application. These mentorship and internship programs are designed to educate young programmers by providing practical software development experience under the supervision of a veteran software engineer.

The Foundation erects a public work through the development and distribution of its software. The creation of certain works beneficial to the general public have been deemed charitable, such as establishing, maintaining and operating a public swimming pool, playground and other recreation facilities, or facilitating public transportation. By licensing the Project's software freely, the Foundation provides useful tools, without discrimination, for the benefit of the general public. The primary activity of the Foundation is to build and encourage the building of the X Window System that, through free and open source licensing, is dedicated to the public. X Widows is available, in unlimited quantity, to any who are interested, without regard to location, age, physical condition, or social or economic circumstances, such as race, creed, social rank, wealth, poverty, or occupation. In fact, these public works are, in effect, more accessible to the general public than traditional brick and mortar ones, since, as digital goods with licenses that permit copying, they may be downloaded and distributed to any who are interested. While a public swimming pool, playground, or other recreation facility confers a substantial benefit upon the community in which it sits, access to such facilities is naturally limited by practical considerations, such as occupancy limitations and convenience of physical location. Digital goods, such as those provided by the Foundation, may be copied at no additional cost and are subject to no such accessibility limitations. For example, the Foundation's works are accessible to all, regardless of location; even though the Foundation is organized in the State of Delaware, its works are accessible, via the Internet, to members of the general public everywhere.

The Foundation's activities of making and distributing digital programs for free to the public provides relief to the poor and underprivileged. The availability of the Foundation's software allows the general public, including other 501(c)(3) recognized entities to reduce their software design costs. As noted previously, many of the most popular programs and operating systems in use today are built on top of the X Window System, and all of these programs and systems were—and will continue to be—produced at lesser cost to developers, which reductions in price are then passed on to consumers. The Foundation seeks to provide infrastructure, free to all, that help the general public, including the underprivileged, obtain access to high quality software. Additionally, the work provides infrastructure that other charitable organizations use to build software within their mission. These organizations include other 501(c)(3) recognized organizations such as the GNOME foundation, the FreeBSD Foundation, and the NetBSD Foundation, as well as foreign nonprofit entities such as KDE e.V. and the OpenBSD Foundation.

A more detailed breakdown of the specific activities that the Foundation performs and will perform follows:

**Software Releases (80%)**

The Foundation produces multiple software distributions, made available to the public free of charge primarily via the X.Org website. The Foundation's software is distributed under the MIT, BSD, and other free and open source licenses, which grant to the general public the right to unencumbered redistribution of the software, and derivative works thereof. For all Foundation software distributions, the software, documentation and full source code are made freely available.

The Foundation welcomes contributions to the codebase of its projects. Irrespective of formal membership, any member of the public can access, modify, and republish the software the Foundation releases by virtue of the free and open source software license. Modifications that the members of the public wish to incorporate into the Foundation's main distributions can be submitted back to the Foundation to be considered for inclusion in future releases.

**Public Education(10%)**

The Foundation holds workshops and seminars to educate the public about the use and application of the Project. For example the annual X Developers' Summit was held in Toulouse, France, in 2010, and was held in Portland, Oregon in 2009. X.Org also participates at various related conferences, including Google Summer of Code (<http://code.google.com/soc/>), FOSDEM (<http://fosdem.org/>), and VideoHackfest (<http://gstreamer.freedesktop.org/wiki/VideoHackfest>).

The Foundation also maintains detailed documentation on its website (<http://www.x.org/wiki/>) to educate the public about current and prospective users of its software. The website provides downloads, documentation, and news. The Foundation also works to provide resources such as a mailing list and wiki for members of the public to contribute, share, and learn by hosting documentation and developing software standards. The website is made available to the general public free of charge.

The Foundation has continuing involvement with Google's Summer of Code scholarship program, and plans to run its own mentorship program, the Endless Vacation of Code. In each case, the Foundation assigns a member to mentor a student who proposes a concrete improvement to the Foundation's software. Additionally, in the case of the Endless Vacation of Code, the Foundation will provide a monetary reward to the student upon completion of their stated project goals. These programs educate students by providing practical experience in the field of software engineering under the supervision of a volunteer veteran in the field. They also serve to build a community around the Foundation's projects,

and contribute to the project's improvement and long term success by attracting younger programmers interested in the organization. All improvements made possible by either teaching program are and will continue made available to the public under the Foundation's free and open source software license.

**Website and Online Resources (5%)**

The Foundation maintains a website (<http://www.x.org/wiki/>) that provides information to the public about the Foundation and its software. The website also serves as a source for downloading various releases of the Foundation, maintaining a mailing list for members of the interested public along with means of asking for help using the software. The Foundation describes its structure and membership arrangements through the website and makes all relevant documentation accessible to the general public free of charge.

**Fundraising and Promotion (5%)**

X.Org solicits contributions from individuals and organizations to fund its activities. These fundraising activities may include individual requests made to community members as well as email solicitations, carried out by volunteers. X.Org solicits donations on its website. These activities are further described below in "Part VIII, Question 4a."

Part V, Question 1a

X.Org is directed by the following Board of Directors:

<u>Name</u>	<u>Title</u>	<u>Mailing Address</u>	<u>Compensation</u>
Eric Anholt	Director	5305 SE Stark St Portland, OR 97215	none
Alan Coopersmith	Director & Secretary	37171 Sycamore St. Apt. 1333 Newark, CA 94560	none
Alex Deucher	Director	1309 North Glebe Road Arlington, VA 22207	none
Matthieu Herrb	Director	3, Boulevard des Minimes A3 31200 Toulouse FRANCE	none
Matthias Hopf	Director	Lange Zeile 14 90419 Nuernberg GERMANY	none
Stuart Kreitman	Director &	4216 Los Palos Ave.	none

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	Treasurer	Palo Alto, CA 94306	
Bart Massey	Director	Portland State University PO Box 751 MS CMPS Portland, OR 97207	none
Keith Packard	Director	7615 SW 59th Ave. Portland, OR 97219	none

Part V, Question 2

Alan Coopersmith and Stuart Kreitman are employed by the same corporation, Oracle Corporation. Keith Packard and Eric Anhold are both employed by another corporation, Intel Corporation. Section 2.5 of the Foundation's by-laws state that all members, which is a prerequisite to be a director, must "declare any relevant affiliation to a company or other institution." Section 4.2 of the Foundation's by-laws provides that no more than two directors may have the same company affiliations.

Part V, Question 3a

Biographies of directors and officers:

**Eric Anhold, Director**, joined the X.Org Board in 2009. He originally became involved with X while working on the FreeBSD project, providing porting and driver maintenance. His first contributions directly to X.Org began in 2003, in experiments with new hardware acceleration architectures. He now works at Intel on developing the X.org 2D driver and OpenGL drivers and kernel infrastructure.

Eric works an average of .25 hours per week on X.Org matters. His duties include periodic review and approval of new members.

**Alan Coopersmith, Director and Secretary**, joined the X.Org Board in 2009. He has been a X Window System engineer at Sun (now Oracle) since 1999. He has been active in X.Org since its founding, and before that contributed to both XFree86 and the previous X.Org industry group, including leading the effort to add IPv6 support to the X standards. He has served on the X.Org board since 2009, and before that served for 2 years as a member of the OpenSolaris Governing Board, overseeing that open source community. Alan graduated from the University of California Berkeley with a B.A. Computer Science in 1999, and during his time there held leadership roles in several computing service organizations on campus.

Coopersmith works an average of 1 hour per week on X.Org matters.

**Alex Deucher, Director**, joined the X.Org Board in 2010. Alex got actively involved in X around 2000. He now works for AMD supporting open source software on AMD graphics hardware. Prior to starting at AMD, he worked in telecom engineering and intellectual property risk management. His current focus has been on 2D and 3D driver support and documentation for AMD hardware. He previously contributed to a number of other X drivers including drivers for hardware from S3 and Siliconmotion and mentored several Summer of Code projects. His focus as a board member is on increasing new user participation and finding solutions to legal obstacles to handling new technologies in the open source X graphics stack.

Deucher works an average of 1 hour per work on X.Org matters.

**Matthieu Herrb, Director**, joined the X.Org Board in 2009. He has been contributing to XFree86 and X.Org since 1992. Matthieu is a research engineer at LAAS/CNRS in Toulouse. He received a PhD from the University of Toulouse in 1991.

Herrb works an average of .75 hours per week on X.Org matters. His duties include organizing the XDS conference.

**Matthias Hopf, Director**, joined the X.Org Board in 2010. He has been active in X development for over five years. He is a strong advocate of Google Summer of Code and X.org's participation therein. Hopf received his diploma by the University of Erlangen, and his PhD by the University of Stuttgart. He is currently employed by the SUSE GmbH for research and development on X11 related technologies.

Hopf works an average of .4 hours a week on X.Org matters.

**Stuart Kreitman, Director and Treasurer**, joined the X.Org Board in 2011. Stuart has been an X Window System Engineer at Sun Microsystems (now Oracle) since 2000, and has been doing X internals engineering on and off for many years previous. He has been active in the commercial X group and helped promote the founding of X.Org and winding down of the old nonprofit LLC with the Foundation. Stuart has served on the X.Org board on and off since 2005, and has been the co-treasurer or Treasurer since 2005. He graduated from Columbia College with a B.A. in Chemistry in 1978 and Columbia SEAS with an MSCS in 1982.

Kreitman works an average of 1 hour per week on X.Org matters.

**Bart Massey, Director**, joined the X.Org Board in 2009. Bart Massey graduated Reed College in 1987 and spent two years as a software engineer at Tektronix, Inc. He received his this MSc in Computer

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Science from University of Oregon in 1992 and his PhD in 1999 for work with the Computational Intelligence Research Laboratory there. Since then, Massey has taught at Portland State University, where he is currently an Associate Professor, and for the Oregon Master of Software Engineering program. Massey's current research interests include open tech, software engineering, desktop interfaces and state space search.

Massey works an average of 1 hour per week on X.Org matters.

**Keith Packard, Director**, joined the X.Org Board in 2010. Keith Packard has been developing free and open source software since 1986, focusing on the X Window System since 1987, designing and implementing large parts of the current implementation. He is currently a Principal Engineer with Intel's Open Source Technology Center. Keith received a Usenix Lifetime Achievement award in 1999.

Packard works an average of .5 hours per week on X.Org matters.

#### Part V, Question 4g

The Foundation does not and has no plans to compensate its officers or directors. The Foundation also has no employees and does not plan to hire employees. Should the board ever deem it necessary to enter into a compensation arrangement, the Board intends to adopt a conflict of interest policy. Additionally, the by-laws contain provisions that deal with potential conflicts of interest, as detailed in the answer to Part V, Question 5b and 5c.

#### Part V, Question 5b and 5c

As stated in Part V, Question 4g, the Foundation does not and has no plans to compensate its officers or directors, and additionally has no plans to hire any employees. The by-laws of the Foundation, amendable by an affirmative vote of at least two-thirds of the Members of X.Org, contain provisions that deal with conflicts of interest. In particular, Section 2.5 imposes a duty upon all members to disclose all relevant affiliations, and Section 6.6 of the by-laws prevents entering into contracts unreasonably advantageous to the interests of a Member.

#### Part VI, Questions 1a and 1b

Applicant's overall program involves providing information to persons and organization regarding X.Org software and making X.Org software available as free and open source software to the public (as more fully described in Part IV of this addendum, above). As such, X.Org provides literature and other materials related to X.Org software to individuals, organizations, and to the general public. X.Org does not charge any fees for the services it provides.

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Part VI, Question 3

Free and open source software development is conducted by volunteers and contributors around the world. Due to the access that the license provides, anyone who is willing to spend time and energy to improve or change software may do so without restriction. Most of the directors and officers listed above have developed or are developing free software; these individuals may further contribute to free software generally by developing code in X.Org projects. Through their contributions, those directors and officers listed in "Part V, Question 3a" receive the same benefits as any other member of the public.

Part VII, Question 1

X.Org is a successor organization to X.Org Foundation LLC (the "LLC"), a Delaware limited liability company. Schedule G is attached.

Part VIII, Question 4a

To date, X.Org has not used physical materials for fundraising solicitations. The items checked represent kinds of fundraising activities the organization expects to undertake.

Part VIII, Question 4d

To date, the Foundation has only solicited donations online via its website and through personal contacts.

Part VIII, Questions 10

The Foundation owns intellectual property in the form of a common law trademark for the X Window System. It does not license this mark, and only uses it to indicate the source of the software X Window System. Copyright in the developed software is retained by the hundreds of volunteer and Member contributors in the Foundation's software, however, the Foundation obtains a free and open source license to use these and releases all software under a license that does not restrict its use.

Part VIII, Question 12b-d

X.Org makes its software freely available to users throughout the world, as discussed above in "Part IV." Furthermore, developers who donate their time to work on X.org software are located all over the world and number in the hundreds. The exact number of users of the X Window System is difficult to estimate, but the software itself has been incorporated into a multitude of systems in use at this time.

The Foundation's administrative operations occur in the United States pursuant to Delaware State and



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United States federal laws. To the extent that foreign laws allow, the Foundation only holds property interests (namely, trademark rights) in foreign property as a U.S.-based organization. The exact number of users of the Foundation's software is difficult to estimate worldwide, but the software itself has been incorporated into many Window systems. The widespread availability of the Foundation's software encourages worldwide participation in development, which in turn produces improved software, consistent with the charitable purposes outlined in Part IV.

Part VIII, Question 13b

The board may approve the distribution of funds to 501(c)(3) recognized entities whose charitable purposes include the advancement of and education about free and open source software. The project's software benefits from a vibrant free and open source software ecosystem, including use by organizations detailed in the response to Part IV. We believe that the public benefits from such cooperation between nonprofits.

Part VIII, Question 13d

The Software Freedom Law Center ("SFLC") is a 501(c)(3) organization whose public purpose is to represent free and open source software projects. X.Org has an attorney client relationship with SFLC. SFLC provides its legal services to X.Org pro bono, allowing X.Org to spend its resources promoting its charitable mission. The amount donated to SFLC is a donation for its work contributing to the free and open source software community generally, and is not an amount paid for legal services to X.Org.

Part VIII, Question 13e

The Foundation keeps a record of the board's vote regarding any disbursement, including a log that reflects the vote of each member of the board. Additionally, the Foundation retains a record of payment.

Part VII, Question 13f and 13g

As detailed in Question 13b, the board only plans to authorize distribution to 501(c)(3) entities that promote, advance, and create free and open source software.

Part IX, Question A

Itemized list from line 16:

2008 Foundation Related Travel Expenses:

R. Zanoni	\$1,784.00
D. Amelang XDS	\$ 89.40
C. Worth	\$1,922.00

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J. Glisse	\$1,599.00
B. Massey	\$1,540.00
T. Vignatti	\$2,611.00
P. Hutterer	\$1,920.00
P. Zanoni	\$1,901.00
T. Vignatti	\$2,335.34

2009 Foundation Related Travel Expenses:

S. Thum	\$ 620.00
J. Glisse	\$ 300.00
K. Hogsberg	\$1,252.54
Huddleston	\$1,327.16
B. Byer	\$ 179.20

2010 Foundation Related Travel Expenses:

O. Ainsworth	\$ 392.53
P. Hutterer	\$ 600.24
J. Sharp	\$3,000.00
M. Herrb	\$2,809.47
M. Dew	\$1,426.19

Itemized list from line 23:

2008:

Conference:	\$27,095.89
Infrastructure:	\$ 1,400.00
Bank Fees:	\$ 334.54

2009:

Conference:	\$5,582.48
Infrastructure:	\$3,000.00
Bank Fees:	\$ 327.41

2010:

Conference	\$7,612.65
Infrastructure:	\$3,000.00
Bank Fees:	\$ 451.09

2011:

Bank Fees:	\$ 20.25
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Schedule G, Question 2a

X.Org is the existing corporate entity that is organized to promote and support the X Window System. It was formed to provide a corporate structure to reflect member participation in the organization and reflect the nature of its nonprofit. The LLC authorized the transfer of its assets to X.Org upon its windup and is no longer functioning.

Organizing as an LLC did not actually reflect the way the X.org community had developed. It took quite some time to track down the original corporate LLC members to wind up and dissolve the old corporate entity as many of those members were no longer involved in the project.

Schedule G, Question 2b

The predecessor organization, X.Org Foundation, LLC, was a 501(c)(4) tax-exempt organization.

Schedule G, Question 2e

The corporate form of the LLC did not adequately reflect the nonprofit organization of the foundation – one with a board elected by members.

Schedule G, Question 3

The LLC previously conducted the project's activities, as described above in Part IV. The LLC is no longer active.

Schedule G, Question 4

<u>Name</u>	<u>Title</u>	<u>Mailing Address</u>
Stuart Anderson	Member	No longer active in the organization
Egbert Eich	Member	Brueder Knauss Str.6, 64285 Darmstadt, Germany
Jim Gettys	Member	Alcatel-Lucent 600-700 Mountain Avenue Murray Hill, NJ 07974-2008
Stuart Kreitman	Member	4216 Los Palos Ave. Palo Alto, CA 94306
Kevin Martin	Member	1289-A N. Fordham Blvd. #314

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Chapel Hill, NC 27514

James McQuillan	Member	No longer active in the organization
Keith Packard	Member	7615 SW 59th Ave Portland, OR 97219
Leon Shiman	Member	No longer active in the organization

Schedule G, Question 5

Keith Packard and Stuart Kreitman are directors of X.Org Foundation (the successor organization). Egbert Eich, Jim Gettys, and Kevin Martin are active members of X.Org. There are no agreements with any of these persons or with any for-profit organizations in which these persons own more than a 35% interest.

Schedule G, Question 6a

The Foundation has taken control of its predecessor's assets. These include:

- HSBC Acct # 619-63780-3
- HSBC Acct # 619-74705-6
- The domain www.x.org

Schedule G, Question 6c

A copy of the unanimous consent of members of the LLC to transfer all assets is attached.

Schedule H, Section I, Question 1a

The X.org Foundation intends to offer the Endless Vacation of Code program to sponsor student programming projects related to the Foundation's software. Enrollment is limited to Students. This program is designed to educate its participants by providing practical experience in the field of software engineering, including a mentor who is knowledgeable and accomplished in the student's field of interest. The program will also serve to improve the Foundation's software and to spark community involvement, especially involvement by young programmers, in the Foundation's projects.

Schedule H, Section I, Question 1b

As stated previously, a major purpose of the mentorship program is to instruct students in software

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engineering. It is intended that students will gain practical experience working on the Foundation's software, and will have an experienced mentor to communicate with when they have questions or concerns. Additionally, this program will build community around the Foundation's software, and contributes to its improvement and development. These improvements will be passed on to the public under the Foundation's free and open source software license. The amount of the grant will typically be \$4,500.

Schedule H, Section I, Question 1d

The program is publicized on the Foundation's website at: <http://www.x.org/wiki/XorgEVoC>.

Schedule H, Section I, Question 1e

As stated in Schedule H, Section I, Question 1d, the program is publicized at <http://www.x.org/wiki/XorgEVoC>.

Schedule H, Section I, Question 1f

There is currently no application for the program. It is expected that students will email proposed projects to the board of directors. The proposals will then be evaluated by the board in a manner consistent with the answer to Schedule H, Section I, Question 4a.

Schedule H, Section I, Question 2

The board expects to keep a record of each application and ultimate decision by the board, including a log that reflects the vote of each member of the board. Additionally, the board intends for students to keep a weblog of their progress, which will be published publicly on the Foundation's website.

Schedule H, Section I, Question 3

Enrollment is limited to students. Selections will be made on a non-discriminatory basis by the Board of Directors.

Schedule H, Section I, Question 4a

The board will evaluate each application on a case by case basis. The board intends to make selections on a non-discriminatory basis considering whether the project is relevant, feasible, and useful to the Foundation software's codebase.

Schedule H, Section 1, Question 4b

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The number of projects funded per year is determined both by the number of applications and on the number of funding requests received. The board will attempt to fund every application it deems relevant and appropriate to the technical goals of the Foundation's software.

Schedule H, Section 1, Question 4c

As mentioned in in Schedule H, Section 1, Question 1b, the amount paid during the mentorship will typically be \$4,500.

Schedule H, Section 1, Question 4d

Grants will not be renewed. However, prior students in the program may reapply with a new project application. The new application will be evaluated by the board in a manner consistent with the answer to Schedule H, Section I, Question 4a.

Schedule H, Section I, Question 5

The board will assign a mentor to supervise each student and ensure that they are making progress. Although X.Org will pay the student directly, the board ensures that its terms are not violated by only submitting payment after the goals outlined in the project application have been completed.

Schedule H, Section I, Question 6

The X.Org Board of Directors is responsible for approving funding requests. Please see the answer to Part V, Question 1a, supra.

Schedule H, Section I, Question 7

The board will make decisions in a manner consistent with Schedule H, Section 1, Question 4b and the by-laws, which include the conflict of interest provisions discussed in Part V, Question 5b and 5c. Additionally, to safeguard against disbursement to unqualified candidates, payment will only occur once work is complete.