**Opinion**:

I, [Attorney Name], a qualified tax practitioner, hereby attest that I have reviewed the information provided to NGOsource by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ and have determined based on that information that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is a foreign government, agency or instrumentality thereof, or an international organization, as described in section 53.4945-5(a)(4)(iii) of the U.S. Treasury Regulations. The information I have reviewed appears sufficient to me to support these conclusions, and I do not have any knowledge that would cause me to doubt the accuracy of the materials upon which I have relied in reaching this conclusion.  The factual basis for this conclusion is summarized in the attached schedules.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“grantmaker”) is entitled to rely on this determination until \_\_\_\_\_\_\_, but not if grantmaker has knowledge that causes grantmaker to doubt the accuracy of this opinion or the material facts upon which it is based (as described in the attached sheet).

**Signed**:

**Dated**:

Notes for ops:

**For the GM:**

As discussed in the attached analysis, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Organization”) qualifies for equivalency as a non-U.S. government: specifically, it is a [government instrumentality](https://www.ngosource.org/blog/government-entities). The Organization was created pursuant to an act of government, is controlled by the government, and exemplifies other characteristics of a government instrumentality.  While this is slightly outside the determination, we wanted to make sure that you noticed that the Organization qualified as a government since we understand that the rules for private foundations and donor-advised funds making grants to governments are slightly different than the rules for making grants to public charities/public charity equivalents. For example, any grant to an organization referred to in subsection 53.4945-5(a)(4)(iii) of the U.S. Treasury Regulations must be made exclusively for charitable purposes.

**GM Note**: While outside the scope of the ED analysis, we note that the Organization conducts activities in at least \_\_\_ sanctioned countr\_\_ (\_\_\_\_\_\_\_\_\_\_\_), which may require that you take additional steps with respect to the transfer of funds. For more information, see the website of the U.S. Department of Treasury, at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>.

***If useful:***

Please replace edu questionnaire with govt questionnaire, and complete as follows:

* Q1: yes
* Q3: yes
* Q4: [demonstrate govt control]
* Q5: yes
* Q6: [public education and research]
* Q7: no
* Q8: yes
* Q9: yes
* Q10: [demonstrate govt supervision/oversight]
* Q11: [percentage of govt funding]
* Q12: yes
* Q13: [The University’s principal funder is the Government of ……..]

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| SUMMARY OF ORGANIZATION’S PUBLIC STATUS, GOVERNING DOCUMENTS, AND ACTIVITIES. |

**[PART 1]**

XXX (the “Organization”) was formed as a \_\_\_\_\_\_ on XXX in [Country]. Questionnaire, Charity Type 1; Address. The Organization certified that it is registered with XXX (nonprofit registration no. XXX). Questionnaire,Address.

The Organization certified that it is organized and operated exclusively for charitable purposes, primarily focused on the **[XXX]**. Questionnaire, **Charity Type 1;** Other Information; Operational Evaluation & Organizational Information. The Organization additionally certified that it is required to engage exclusively in charitable activities, that 0% of its activities are not charitable, and that it is not permitted by the laws of **COUNTRY** to engage in non-charitable activities, other than as an insubstantial part of its total activities. Id. at Organizational Information.

**IF GOVT AND NOT SCHOOL 🡪** The University certified itself to be an educational institution. Questionnaire, Charity Type 1. Although the University’s primary function is the presentation of formal instruction (consistent with educational organizations described under U.S. Treasury Regulation section 1.170A-9(c)(1)), its governing documents and additional available materials more readily support its qualification as a foreign government, agency or instrumentality thereof, as described in Regulation section 53.4945-5(a)(4)(iii). We are therefore certifying it as such. **IF self-certified GOVT 🡪** The Organization certified that it is a government agency or instrumentality. Questionnaire, Charity Type 1. It is a public entity, and therefore need not be organized or operated exclusively for charitable purposes. See Treas. Reg. § 53.4945-5(a)(4)(iii). As further described herein, the Organization satisfies a majority (or all) of the factors that the IRS considers to recognize an organization as an instrumentality of the government, and we are therefore certifying it as such. See Rev. Rul. 75-359, 1975-2 C.B. 79.

*If useful*:

While an instrumentality of several governments, the Organization nevertheless qualifies as such by virtue of its formation by government [agreement/act], its control by collective governments, and its public function in the service of governments. The Organization in this way resembles an interstate instrumentality. See Rev. Rul. 57-128, 1957-1 C.B. 311 (“An association organized and operated by the heads of the insurance departments of the several states, pursuant to express or implied statutory authority for the purpose of performing a governmental function in connection with the administration of state insurance laws, is an instrumentality wholly owned by the several states”). The Internal Revenue Service has in the past ruled that “a number of foreign governments may … collectively constitute a foreign government.” See Rev. Rul. 77-41, 1977-1 C.B. 226, *obsoleted by* Rev. Rul. 2003-99, 2003-34 I.R.B. 388.

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| WAS THE ORGANIZATION CREATED BY LEGISLATION, DECREE, OR SIMILAR GOVERNMENT ACT? |

**[PART 2]**

Yes. The Organization certified that it was created by legislation, decree, or similar governmental act. Questionnaire, Charity Type 1; [*Government Instrumentalities*]. …

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| IS THE ORGANIZATION UNDER THE CONTROL OF THE GOVERNMENT? |

**[PART 3]**

Yes. The Organization is controlled by the government. … / The Organization certified that it is controlled by the government, and an integral part of that government. Questionnaire, Charity Type 1;[*Government Instrumentalities*]. …

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| DO THE ORGANIZATION’S ACTIVITIES SERVE A PURPOSE OR HELP CARRY OUT A FUNCTION OF GOVERNMENT? |

**[PART 4]**

Yes. The Organization certified that its activities serve a purpose or help carry out a function of the government. [*Questionnaire, Government Instrumentalities*.]

*For public schools/universities or hospitals, if useful*:

The provision of [public education/public healthcare] is a common function of government. See, e.g., Rev. Rul. 57-75, 1957-1 C.B. 28 (noting that public school teachers serve an essential governmental function); see also *Instrumentalities*, IRS 1990 EO CPE Text, page 8, at <https://www.irs.gov/pub/irs-tege/eotopice90.pdf> (“What activities involve exercise of an ‘essential governmental function’ is generally decided on a case-by-case basis. … Qualifying activities may include public education; … operating a public hospital or other public health facilities; or providing public recreation facilities.”)

*Or, if useful:*

See also ORGANIZATIONS CLOSELY AFFILIATED WITH STATE OR INDIAN TRIBAL GOVERNMENTS REFERENCE GUIDE, IRS EO CPE Text (2004), at <https://www.irs.gov/pub/irs-tege/eotopich04.pdf> (“A municipal hospital or municipal hospital district, fire department, public library, park district, state college or university, Indian tribal economic development organization, and port authority are examples of organizations that are closely affiliated with state or local governments.”).

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| CONFIRM THAT THE ORGANIZATION DOES NOT DISTRIBUTE ITS INCOME OR ASSETS TO PRIVATE INDIVIDUALS OR OTHERWISE SERVE PRIVATE INTERESTS. |

**[PART 5]**

Confirmed. The Organization certified that: (i) the laws and customs governing not-for-profit status in its country do not permit it to give its assets to a private person or non-charitable organization; (ii) it does not have any shareholders or members who gain a personal or private benefit from, or have an ownership interest in, the Organization’s income or assets, other than fair compensation for services; and (iii) it does not have a substantial purpose of operating for the private benefit of individuals, companies, or similar non-charitable organizations. Questionnaire, Personal Benefit.

*If additionally completed govt questionnaire*:

[The Organization additionally certified that it does not serve private interests, for instance by having private shareholders or other private parties to whom it distributes its income or assets. Id. at Government Instrumentalities.]

No contrary evidence arose during the review of the application and the available information.

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| IF IT WERE DISSOLVED, WOULD THE ORGANIZATION’S ASSETS REVERT TO THE GOVERNMENT, OR WOULD THE GOVERNMENT HAVE THE RIGHT TO DECIDE HOW THE ASSETS WOULD BE DISTRIBUTED? |

**[PART 6]**

Yes. The Organization certified that, if it were dissolved, its assets would revert to the government, or the government would have the right to decide how the assets would be distributed. Questionnaire, Government Instrumentalities. ……

If useful:

As the IRS has noted, it is not uncommon for organizations created by statute to not have “organizing documents incorporating standard dissolution clauses,” and “[s]uch entities may find it difficult to secure amendments to their organizing documents as where … they were created by statute. In most cases, it is clear the entities will operate exclusively for charitable purposes, and, if they dissolve, their assets will be returned to the governmental units that created them.” See *Instrumentalities*, IRS 1990 EO CPE Text, page 18, at <https://www.irs.gov/pub/irs-tege/eotopice90.pdf>.

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| IS THE ORGANIZATION SUPERVISED BY, AUDITED BY, OR REPORTS TO A GOVERNMENT BODY? |

**[PART 7]**

Yes. The Organization certified that it is supervised by, audited by, or reports to a government body. Questionnaire, Government Instrumentalities.

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| DOES THE ORGANIZATION RECEIVE AT LEAST 20% OF ITS OPERATING FUNDS FROM THE GOVERNMENT OR RECEIVE A SIGNIFICANT PORTION OF ITS CAPITAL ASSETS FROM THE GOVERNMENT? |

**[PART 8]**

Yes. While the exact amount is unknown, the Organization …

[Or: Yes. The Organization certified that …. Questionnaire, Government Instrumentalities.]

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| ARE THERE ANY OTHER FACTS THAT ARE MATERIAL OR HELPFUL TO DETERMINING THAT THE ORGANIZATION IS A FOREIGN GOVERNMENT AGENCY OR INSTRUMENTALITY? |

**[PART 9]**

Yes. The Organization self-identified as a government or government instrumentality. Questionnaire, Charity Type 1.

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| IF THIS IS A RENEWAL CERTIFICATION, DID THE ORGANIZATION REVIEW AND CERTIFY THAT EITHER THE FACTS AND DOCUMENTS PROVIDED FOR THE LAST CERTIFICATION HAVE NOT CHANGED, OR OTHERWISE PROVIDED ANY APPROPRIATE UPDATES? |

**[PART 10]**

**AUTO-RENEWAL (no changes):** For this equivalency determination, the Organization recently certified in \_\_[month and year]\_\_\_\_, in a Statement in Support of NGOsource Equivalency Determination (“ED”) Process (“Statement in Support”), that there have been no material changes to the information entered on the Questionnaire and supporting documentation previously submitted. *See* Statement in Support.

**(changes):** [Upon a review of these amendments, we found no material change to the Organization’s governing documents or purposes.] [The Organization did provide a list of changes in the Statement of Support, all of which have been reviewed and incorporated into this analysis, as appropriate; no information provided materially impacts the determination.] [,except for a non-material amendment in ---- to ----.