Republic of the Philippines
Department of Finance
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
Mandaluyong City Metro Manila
Philippines

July 5, 2007

MS. WILMA P. ZAPATA
Director and Chief Financial Officer
Finance and Corporate Services
Ayala Foundation, Inc.
10/F BPI Building
6768 Ayala Avenue corner Paseo de Roxas
Makati City, 1226

SEC-OGC Opinion No. 07-13
Interpretation of Section 5 of the
Revised Guidelines on Foundations

Dear Madam:

This is in response to your letter dated April 2, 2007 requesting opinion on the interpretation of Section 5 of SEC Memorandum Circular No. 8-2006 or the Revised Guidelines on Foundations which provides that:

> *"Section 5. A registered Foundation shall attach to the sworn statement mentioned in the immediately preceding paragraph a Certification from the Office of the Mayor, or the Office of the Barangay Captain, or the Head of either the Department of Social Welfare and Development or Department of Health, on the existence of the subject Program/Activity in the locality on which it exercises jurisdiction."*

You mentioned that Ayala Foundation, Inc, a private non-stock, non-profit organization is currently undertaking a project to address the digital divide and to provide appropriate technology to secondary public schools in the Philippines. This nationwide educational program called Gearing-up Internet Literacy and Access for Students (GILAS) is a consortium of private corporations and civic organizations working in coordination and cooperation with the Department of Education to provide internet connectivity packages for the country's over 5,700 public high schools in the next five years.

The query posed is whether a Certification from the Head of the Department of Education on the existence of the program would be in compliance with the above requirement considering that: 1) the Department of Education is the recipient agency and beneficiary of its educational program and 2) securing a Certification direct from the Office

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of the Mayor or Barangay Captain of each and every school connected to the Internet would be a tedious and costly process for the foundation.

It is our opinion that such Certification would be in compliance with the requirement of the aforequoted section.

It should be noted that the rationale for the issuance of said Certification is to ensure the accuracy of the information provided by the foundation to the Commission pursuant to Section 4 thereof, which states that:

> *"Section 4. Upon the effectivity of this Circular, all registered Foundations shall submit, in addition to the General Information Sheet, its Audited Financial Statement which shall include a sworn Statement of its President and Treasurer on the following information that relates to the preceding fiscal year:*
>
> *a. Source and Amount of Funds;*
> *b.* ***Program/Activity planned, ongoing and accomplished:***
> *i. Complete name, address and contact number of project officer-in-charge;*
> *ii. Complete address and contact number of project office; and*
> *c. Application of Funds."*

Thus, Section 5 serves as a validation by the concerned government agency or officer that the reported program or activity is actually being implemented or conducted in the locality where it exercises jurisdiction.

In light of its purpose, Section 5 should be liberally interpreted. We opine that the enumeration of the government agencies and officers who can issue said Certification is not exclusive. In issuing the memorandum circular, the Commission did not intend to restrict a foundation from applying for a certification with other government agencies, especially those which are directly involved in the program or activity.

In sum, it is our position that a Certification issued by a government agency, department, bureau, office or officer other than those enumerated in Section 5 is valid as long as the issuer can attest, based on its knowledge or information, that the reported program or activity is actually being implemented in the locality where it exercises jurisdiction.

Very truly yours,

VERNETTE G. UMALI-PACO
General Counsel

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