

**Internal Revenue Service**  
P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Number: **201510053**  
Release Date: 3/6/2015

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**Date:** December 11, 2014

**LEGEND:**

X= program  
M= city

**UIL:**

4945.04-04

Dear \_\_\_\_\_ :

You asked for advance approval of your educational grant procedures under Internal Revenue Code section 4945(g)(3). This approval is required because you are a private foundation that is exempt from federal income tax.

**Our determination**

We approved your procedures for awarding educational grants. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding educational grants meet the requirements of Code section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

**Description of your request**

You will operate an educational grant program called X. The purpose of X is to provide merit-based fellowship grants to individuals who are M-based visual artists, curators, and critical writers in the area of contemporary art, allowing them to travel out-of-state on self-directed, self-organized, professional development. This would include participation in residencies, conferences, seminars, workshops, or such professional activities outside of a recipient's home area.

The goal is to build a strong contemporary art community, and X will ensure there are high-quality educational resources for recipients to expand their understanding and investigation of art and related fields. Recipients will also be able to enhance their overall practice by gaining access to places and people that will provide ideal environments to experiment, research, and challenge themselves personally and professionally.

Grants would be paid directly to the grantee, subject to all of the requirements which are set forth below. You expect to provide one or two grants every six months, for a total of up to four grants per year.

One fellowship per cycle will be given, meaning there will be two new fellows per year. In the future this may increase to two or more fellowships per cycle. An individual may be a new fellow a maximum of three times during their lifetime.

Fellows will receive funding to gain technical experience, enhance their creativity and skills, conduct research, increase their knowledge, and expand their professional network and community. X covers all expenses related to participating in programs up to and including travel to and from a location they have selected.

Potential fellows are identified through a nomination process conducted twice a year - spring and fall. A group of five nominators, who are made up of individuals with a professional standing in the arts community, will each nominate and submit to you the names of three individuals. You will contact these 15 nominees requesting they fill out an application in order to be considered for X.

Applications will then be assessed by your directors using a ranking system for determining quality and merit. The directors will have two weeks to review and rank the applications and make a determination. Applicants will be notified via e-mail whether or not they have received funding.

To be eligible a candidate must:

- Be a practicing visual artist, independent or institutionally affiliated curator, or individual currently producing critical writing about visual art. Practicing visual artists, curators, and writers possess the potential to contribute to the field of international contemporary art and are committed to high standards and intellectual rigor
- Be living and working in the M area
- Be an undergraduate, graduate, Ph.D. or Doctoral candidate
- Be 18 years of age or older
- Not be one of your employees, directors, or any other disqualified persons

The selection criteria includes:

- Prior achievements and a proven track record of performance in their practice
- Work samples
- Demonstration of creativity in their proposal, or a refined understanding of what they need to develop professionally
- A well-articulated explanation of the purpose of their proposal
- A well-articulated explanation of the impact it will have on them and their practice in accordance with the your stated objectives

Non-eligible expenses include:

- Equipment purchases - if an applicant has included equipment purchase as an expense they are not disqualified, however, the expense will not be covered
- Project-specific collaborators are not eligible and therefore are discouraged to apply. If an individual is applying for funding that includes expenses for another

individual they are temporarily collaborating with on a single, specific project, those expenses are not eligible for funding

- Expenses, or proposals in general, that are for research or projects based in the M area do not qualify. Funding is meant for individuals to study out-of-state or abroad

You will not pay any expense directly. Each fellow will have a file that includes their original funding request and a copy of their application/proposal. At the close of their funding period, the fellow will be required to provide both a written report of how funds were used on a financial statement and a brief analysis of the impact, successes or failures of their fellowship. This report will be kept in the fellow's file.

Additionally, fellows will be asked to create a statement of experience utilizing your web site as an outlet for creative reporting.

If you discover any funds were mistreated and not used for the intention stated, you will take prompt action to investigate further and take corrective action to recover funds from the individual.

You will publicize X through your quarterly newsletter, on your web site, and via social media outlets.

#### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is:
  - A scholarship or fellowship subject to section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii); or
  - A prize or award subject to the provisions of section 74(b), if the recipient of the prize or award is selected from the general public; or
  - To achieve a specific objective; produce a report or similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar skill or talent of the recipient.

To receive approval of its educational grant procedures, Treasury Regulations section 53.4945-4(c)(1) requires that a private foundation show:

- The grant procedure includes an objective and nondiscriminatory selection process.
- The grant procedure results in the recipients performing the activities the grants were intended to finance.

- The foundation plans to obtain reports to determine whether the recipients have performed the activities that the grants were intended to finance.

**Other conditions that apply to this determination**

- This determination covers only the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination applies only to you. It may not be cited as precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes in your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot make grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and must further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

We've sent a copy of this letter to your representative as indicated in your power of attorney.

Please keep a copy of this letter in your records.

If you have any questions, please contact the person listed at the top of this letter.

Sincerely,

Director, Exempt Organizations

Enclosures:  
Notice 437  
Redacted letter