

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

**Department of the Treasury**

Release Number: **201808022**  
Release Date: 2/23/2018  
Date: November 30, 2017

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND**

UIL: 4945.04-04

B= program 1  
C= program 2  
D= library  
e= number  
f dollars= amount  
g= numbers  
h dollars= amount

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**

Your letter indicates that you will operate educational grant programs called B and C.

The purpose of B and C is to advance the understanding of botanical science and art, plant biology, gardens, landscape design, the uses of plants and plant conservation. Your grant programs will support practitioners, students, scholars and professionals who demonstrate promise, talent and expertise in plant-, landscape- and garden-related fields by offering financial awards, support, guidance, and, in certain cases, mentorship opportunities to enable grantees to deepen their education, experience and skills in these fields.

You have identified two varieties of grant programs you plan to offer. The first grant program is the B. You will provide fellowship grants and internship awards, generally of one year or less, to individuals who possess a high level of promise, talent, ability and expertise in areas of study that further your charitable mission. These areas include, but are not limited to, the ecology and evolution of plants, the art of plants, gardens and landscape design, horticultural practice, and the uses of plants, including sustainable agriculture. Recipients may be students, professionals or aspiring practitioners, including rising or well-established leaders in the aforementioned fields. The program will provide direct financial support to deserving candidates seeking to improve their skills or talents in these fields. Accordingly, the awards will cover expenses in furtherance of these objectives, including research and study in the aforementioned fields, and professional travel costs, such as fees and expenses associated with participation at exhibitions or academic conferences and visits to D.

Your second grant program is the C. You will award single or multi-year fellowship grants to individuals at the post-undergraduate or post-doctoral level who are early in their careers. The fellowship program will be a collaborative endeavor involving an intermediate grantee organization, which will directly receive the grant funds and distribute them to individual grantees jointly selected by you and the partnering organization. Fellows will be chosen among individuals working or studying in areas related to plants, gardens and landscapes. The objective of the program will be to cover fellows' expenses related to the pursuit of intellectual and educational projects and endeavors that advance science, arts and humanities as they relate to plants, gardens and landscapes. Fellows will base themselves at your partnering organization, but you will also host them each year so that they may visit and utilize the facilities of the estate and library, research its collections, and receive support and guidance, and in some cases directed mentoring.

The exact quantity and amount of B and C awarded each year will depend on a number of factors, including the quantity, qualifications, and particular needs of the applicants and will be determined at your discretion. You anticipate you will award approximately e grants for an estimated total amount of f dollars, and g of the C grants for an estimated total amount of h dollars.

Information about your grant programs may be available through a number of outlets, such as your website, newsletter and blog; other websites and online grant databases; social media; correspondence with administrators or faculty at colleges, universities, museums, and libraries; application invitations distributed by electronic and/or regular mail to individuals interested or working in plant-, garden- and landscape-related fields; and calls for applications sent to organizations involved in such fields.

The B program will generally be open to students and professionals who possess at least a high school or equivalency diploma and an interest in plant-, garden-, or landscape-related fields. In certain cases, recipients may be selected among students enrolled in or graduating from—or professionals affiliated with—particular artistic, academic, scientific or other such institutions.

Individuals at the post-undergraduate or post-doctoral level in plant, garden, or landscape sciences will generally be eligible to apply for C. In some cases, these fellowships may be open to a smaller pool of scholars who—as the emerging preeminent experts in a distinctive sub-discipline of plant, landscape and garden sciences that you wish to foster - are understood to be qualified to carry out the program's purposes.

The grant programs will support students and scholars who show exceptional promise, ability, and expertise in areas of study that further your charitable mission. Accordingly, the primary criteria for the selection of B shall include, but are not limited to, demonstrated ability, talent, achievement or skill in botany, landscape design, horticulture, garden art, plant studies and similar fields; commitment to these fields; and potential for significant contribution to and/or leadership in these fields. Individuals' originality or diversity of perspective, ability to integrate theory and practice, and approach may also be taken into consideration.

C will be chosen largely based on the same criteria as B, but with an emphasis on higher levels of promise or accomplishment in areas of science, arts and humanities relating to plants, gardens and landscapes.

Your selection committee for B will be composed of distinguished experts in plant-, garden-, and landscape-related fields and chaired by a member of your staff. In certain cases, you may enlist a nominating committee, comprised of staff and/or independent experts, to do an initial-round review of applications and choose a pool of fellowship semi-finalists, from which the selection committee will select the final recipients.

The C program will entail a selection process whereby a member of your staff and a member of the intermediary institution receiving and disbursing the original grant money will choose grant recipients together.

No grants will be awarded to your founder, creator, officers, board members, or staff, or their families, or any disqualified person.

Recipients of multi-year fellowships must submit annual and final reports fully accounting for the funds received under the grant and describing their progress and/or accomplishments with respect to the grant. Your continued support will be contingent upon at least yearly reviews of such progress. Recipients participating in fellowship or internship programs of one year or less in duration will be required to submit final reports providing the information described above.

When a required annual or final report is not submitted, if the submitted report is unsatisfactory, or if you learn that all or any part of the funds from a grant you have awarded are being diverted from their intended purposes, you will take all reasonable and appropriate steps to recover the funds and/or ensure restoration of the diverted funds to the purposes of the program. This would include legal action if such action is deemed appropriate under the circumstances.

You will retain complete records with respect to all grants awarded, as required by the applicable Treasury regulations. These records will include all information obtained by you to evaluate applicants, the identification of recipients, the completed application of each recipient, the amount of each grant, periodic reports from recipients, and any additional information that you have obtained during the grant administration process.

### **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,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements