

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

**Department of the Treasury**

Release Number: **201810012**  
Release Date: 3/9/2018  
Date: December 15, 2017

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

**LEGEND:**

B= grant program  
c dollars = award amount  
d dollars = award amount  
e dollars = award amount  
F= geographic area

**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 B to allow individuals to study the arts and enhance their theater skills through the production of a new theatrical work. B will be for c dollars, d dollars, e dollars, or some other appropriate amount based on available funding. The number of grants made annually will depend on the available funding. B will be publicized by announcements directed at high school and college aged individuals in F that are interested in the arts, and specifically, within other nonprofit organizations that service the same population. B is not renewable.

The criteria used to determine eligibility will focus on academic achievement, financial need, and a commitment to your purposes. Applicants will be evaluated based on a written application. The written application generally will include the theatrical production's script, a bio, an artistic statement, department heads with their own bios, a casting breakdown, potential actors, a budget, and a schedule. Finalists may also be interviewed.

The selection of the recipient will be based upon their level of preparedness, development, and capacity to execute their new theatrical work. By applying these criteria, B is intended to promote the arts by allowing artists the opportunity to flourish, grow and develop the craft.

The selection committee for B will be comprised of one of your trustees and one other individual, to be determined by the trustees. The initial selection committee consists of two individuals with professional expertise that makes them eminently qualified to evaluate grant applicants. No relatives of the trustees will be eligible for B.

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 (4) 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.

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.

#### **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