



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
P.O. Box 2508
Cincinnati, OH 45201

Date: June 22, 2021

Release Number: **202137012**
Release Date: 9/17/2021

Taxpayer ID number:

Person to contact:

Name:

ID Number:

Telephone:

LEGEND

B = Adjective

C = Number

D = Range of Numbers

E = Adjective

UIL: 4945.04-04

Dear _____,

You asked for advance approval of your scholarship procedures under Internal Revenue Code (IRC) Section 4945(g)(1) and advance approval of your educational grant procedures under IRC Section 4945(g)(3).

This approval is required because IRC Section 4945 provides for the imposition of taxes on each taxable expenditure of a private foundation. IRC Section 4945(d)(3) provides that the term "taxable expenditure" includes any amount paid or incurred by a private foundation as a grant to an individual for travel, study, or similar purposes by the individual, unless the grant satisfies the advance approval requirement of IRC Section 4945(g).

Our Determination

We approved your procedures for awarding scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding scholarships meet the requirements of IRC Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in IRC Section 117(b)).

We also 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 IRC Section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

Description of your request

Your letter indicates you will award grants pursuant to IRC Sections 4945(g)(1) and 4945(g)(3).

Your purposes include providing financial support to charitable causes, including education, arts and culture, the environment, health and healthcare, women's causes, B causes, and social and human services. You will focus on

making grants to individuals from historically marginalized communities, such as E in the community.

Pursuant to IRC Section 4945(g)(1), you may award scholarships to students who plan to enroll or are enrolled at an educational institution of higher learning described in Section 170(b)(1)(A)(ii). The purpose of these awards is to improve access to tertiary education for deserving students lacking the financial resources to cover tuition and other educational expenses. The scholarships will provide for tuition, fees, books, supplies, equipment required, and for other expenses related to matriculation, such as housing and other related living expenses. You may award up to C scholarships per year, with the amount awarded not to exceed a recipient's annual qualified tuition expenses at an educational institution.

Pursuant to IRC Section 4945(g)(3), you will award grants to qualifying individuals to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent. The purpose of the grants under Section 4945(g)(3) is to support achievements and/or objectives that are consistent with your exempt purpose, and to support deserving individuals in their efforts to develop their skills or abilities. In addition, these grants will likely support artistic endeavors intended to facilitate dialogue around topics related to building a more just, equitable, and connected America and raise the profile of artists from underrepresented demographics. For example, you may support the creation of public art installations in local communities. You may also provide funding for mid-career artists from underrepresented minority groups or geographic areas, such as rural America as well as develop individual grant programming to support emerging artists and intellectuals whose ages are in the range of D. The amount of each award will be determined based on the resources required to support the specific objective of the individual grant.

To publicize the availability of all grants, you plan to use typical communication channels, including your website and targeted communications to interested stakeholders and potential applicants

To be considered for a grant under IRC Section 4945(g)(1), the applicant must generally:

- Demonstrate strong academic performance or excellence
- Submit transcripts for all completed terms in any program of secondary or postsecondary education and proof of enrollment or admission in the program for which funds are being sought
- Provide references
- Provide recommendations from instructors
- Demonstrate financial need by providing their current Free Application for Federal Student Aid (FAFSA)
- Provide Information used to determine whether the applicant is a "disqualified person" within the meaning of Section 4946(a)
- Provide letters of support and/or participate in a personal interview.

To be considered for a grant under IRC Section 4945(g)(3), the applicant must have either demonstrated excellence in their applicable field or exhibit potential to achieve the specific purpose of the grant as well as provide supporting documentation which may include the following:

- A short biographical statement
- Information regarding financial need
- A description of the specific objective, skill, or course of study for which the grant is being sought
- Information used to determine whether the applicant is a "disqualified person" within the meaning of Section 4946(a)
- One or more letters of support and/or participate in a personal interview

All application materials will be reviewed by a Selection Committee. Further, you anticipate that the persons responsible for selecting individual grant recipients will consist of (i) your directors and officers; (ii) your staff; and/or (iii) external experts in fields relevant to the objective of the individual grant. Any such Selection Committee will be subject to your Board's ultimate direction and authority.

In selecting individual grant recipients from eligible applicants, the Selection Committee will use objective and non-discriminatory criteria. The Selection Committee will not discriminate on the basis of race, gender, sexual orientation, ethnicity, nationality, or religion. However, the Selection Committee may consider the accomplishments of applicants who have overcome significant obstacles, including barriers presented by their economic circumstances, physical disabilities, or membership in a minority group.

Objective criteria used by the Selection Committee to choose recipients may include:

- Financial need
- Prior academic performance, for scholarships pursuant to IRC Section 4945(g)(1)
- Demonstrated excellence or potential in their applicable fields, or demonstrated ability to achieve the specific objective or develop a specific skill in a manner that furthers your desired objective for grants pursuant to IRC Section 4945(g)(3)
- Recommendations from instructors for scholarships
- A written statement or personal interview which provides you with relevant information as to the applicant's motivation, character, ability, achievement, potential, and plans for the future.

Further, persons not eligible to receive awards are (i) your past or present directors or officers; (ii) any family members of such individuals; (iii) any person who is considered a “disqualified person” with respect to you with the meaning of IRC Section 4946(a).

You anticipate notifying each recipient with an award letter indicating the amount and applicable terms and conditions of the award. Standard terms and conditions will include the permitted purposes and use of the grant funds and the recipient’s reporting obligations. You will require the recipient sign and return the award letter indicating their acceptance of the terms and conditions.

Funds for grants under IRC Section 4945(g)(1) will generally be paid directly to the educational institution. Recipients of grants pursuant to Section 4945(g)(1) will then be required to provide a copy of their transcripts showing all courses taken in that academic year and the grades received. Each scholarship recipient will also be required to provide a final report upon completion of their course of study for which the scholarship was awarded.

Funds for grants under IRC Section 4945(g)(3) will generally be paid to the recipient. The recipients of these types of grants will be required to provide a report documenting their progress with respect to the grant’s objective and an accounting for the use of grants funds within six months of the first disbursement of grant funds and every six months thereafter including a final report after all grant funds have been used.

Concerning the renewal of grants, you anticipate that some of the individual grants may be renewable and you will take steps to ensure that individual grant recipients are using the funds in a manner consistent with the requirements of the awards before issuing any renewals. For example, for a scholarship, you will require a recipient provide a copy of their transcript showing all courses taken in that academic year and the grades received.

You represent that you will complete the following:

- Arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded,
- Investigate diversion of funds from their intended purposes,
- Take all reasonable and appropriate steps to recover the diverted funds and ensure other grant funds held by a grantee are used for their intended purposes, and
- 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 also 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 described above.

Basis for our determination

IRC Section 4945 imposes excise taxes on the taxable expenditures of private foundations. 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 the following requirements of IRC Section 4945(g) is not a taxable expenditure.

IRC Section 4945(g)(1) Requirements:

- 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 the provisions of IRC Section 117(a).
- The grant is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii).

IRC Section 4945(g)(3) Requirements:

- 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 IRC Section 117(a) and is to be used for study at an educational organization described in IRC Section 170(b)(1)(A)(ii).
 - A prize or award subject to the provisions of IRC Section 74(b), if the recipient of the prize or award is selected from the general public.
 - 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 Regulation 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 only covers 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.

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 questions, you can contact the person shown at the top of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements