



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

Date: 02/28/2022

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

Release Number: 202221021
 Release Date: 5/27/2022

UIL: 4945.04-04

LEGEND

- B = City, Country
- D = Facility
- E = Name
- G = Program
- H = Program
- x dollars = Amount
- y = Range

Dear _____ :

You asked for advance approval of your educational grant procedures under Internal Revenue Code (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 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 operate a grant program at D, a facility in B.

The purpose of your grant program is to offer one to two months residencies at D for individuals of exceptional vision to produce enduring works of arts, literature, and scholarship as well as to engage residents, members, and global audiences through an innovative program of exhibitions, lectures, and events. You anticipate to award in the range of y residencies annually.

The program is currently conducted by E and you plan to take it over. You will host residencies for mid-career professionals in the arts and humanities to concentrate on their fields of expertise. Your grant includes the travel

cost to D and x dollars per day while staying at D. Each recipient will be provided a private bedroom and bath, and a studio or study in which to work.

While in residence, recipients focus on the creative aspects of their work and engage with their peers and the community through cultural activities and events. During the stay, recipients are required to make one public presentation. Upon completion, recipients are also required to donate one drawing, publication, etc. created during their stay to be maintained at D. Should a publication come from their time at D, recipients are asked to recognize you and D in their acknowledgements.

You will continue to publicize on the website of E, and on the websites of G and H, the two main resources for artist residency programs around the world.

To be eligible for a grant the applicant must be an individual whose activities or whose funded project will achieve a specific objective or produce a report as outlined in the grant application process or improve/enhance a scientific skill or talent.

Applicants will provide the following during the application process:

- A completed application questionnaire along with an up-to-date vita no more than four pages long
- A brief description of what he or she would do while in residence at D, and the time needed to accomplish their goal
- Two letters of reference from a supervisor or colleague
- A description stating what he or she can offer to the B community while staying at D. (i.e., a presentation, workshop, reading or performance, etc.)
- Work samples

You will continue the selection process previously utilized by E, which works in three rounds. The first round of applications is reviewed by your executive director. The completed applications are then reviewed by independent juries composed of former recipients and invited artists in each field. In the final round, applications are reviewed and recipients are selected by your board of directors. Applicants will receive a response approximately two months after the deadline. Relatives of members of the selection committee, or of your officers, directors, or substantial contributors are not eligible for the grants.

In general, in reviewing the applications the following criteria are considered:

- Quality of the product
- Space available in D during the time requested
- Funding availability
- The applicant's ability to work independently and to live in the small community
- The applicant's ability to represent the residency program well
- The applicant's ability to speak at least some
- The dynamics of the residents occupying D at any given time

Grants will be paid directly to or on behalf of the grant recipient and are not renewable. You will comply with OFAC requirements. Each recipient must agree in writing to use the grant funds to defray the expenses associated with the approved project. Your executive director is on site and able to supervise the requirements of a public presentation and donation of work.

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 diversion from occurring.

You also represent that you will:

- Maintain all records relating to individual grants including information obtained to evaluate grantees,
- Identify 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.

- The foundation awards the grants 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); or
 - 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; 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 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.

- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the IRS at:

Internal Revenue Service
Exempt Organizations Determinations
TE/GE Stop 31A Team 105
P.O. Box 12192
Covington, KY 41012-0192

- You can't award 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 further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with IRC 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'll make this determination letter available for public inspection after deleting personally identifiable information, as required by IRC Section 6110. We've enclosed Letter 437, Notice of Intention to Disclose -Rulings, and a copy of the letter that shows our proposed deletions.

- If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us.
- If you agree with our deletions, you don't need to take any further action.

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

Enclosures:
Letter 437

cc: