



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

Cincinnati, OH 45201

Date:
05/02/2022
Taxpayer ID number:

Person to contact:
Name:
ID number:
Telephone:

Number: **202230018**
Release Date: 7/29/2022

UIL: 4945.04-04

LEGEND

B = Number
C = Number
D = Number
E = Number
y dollars = Amount

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 grant programs. The specific purpose of each grant program will be to produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill or talent of the grantee. You are seeking advance approval for grant procedures through which you may, directly or indirectly, offer a retreat program where selected artists will engage in one or more artistic projects and participate in programming offered by visiting artists and professionals in order to enhance their artistic capacities, skills and talents. Specifically, through your retreat program, you will offer grants to promising artists and writers who tell stories through illustration and pictures.

Regarding the retreat program, you do not expect to award cash grants to individuals in amounts more than y dollars. Your awards for the retreat program may also consist of non-cash awards where promising artists and writers are invited to participate in a retreat or artist's residency program. You will furnish the individual grantee

living accommodations and programming for a C to D week period. The value of these non-cash awards is not expected to exceed y dollars. The number of grants will vary depending on the focus of the particular grant program, the amount requested by the applicant and other grants being awarded that year. You estimate no more than B grants to individuals per calendar year. The amount of each individual award will depend on the focus of the particular grant program and the amount requested by the applicant.

You will publicize your grants through promotional materials, advertising at art schools, direct contact with possible grantees, and through any other medium you may deem effective including your website. Furthermore, applicants will be solicited through contacts with experts in the field of illustration and writing or such other relevant fields of study, educational institutions, direct contacts with the potential grantee, and, in some instances, other public dissemination of the grant criteria.

Eligible recipients for the retreat program will consist of artists and writers who tell stories through illustration and picture books, each of whom demonstrates one or more of the following characteristics: artistic talent, financial need, and an interest and the likelihood of success in developing their talent as an illustrator and/or writer of picture books. To be considered for the retreat program, applicants will be required to provide biographical information and supporting materials, which may include one or more of the following: a report on their academic and professional plans, a statement of their plans and commitments after the grant program, letters of reference and lists of publications. You expect to require applicants to describe only in general terms the type of artistic project they would engage in during the retreat program as part of the application process. You do not expect to require applicants to submit a detailed proposal specifying the exact artistic project. Grant recipients will be selected by a Selection Committee which you periodically designate and may include your employees as well as consist of artists and/or professionals in the art world and other persons interested in your exempt purposes. The Selection Committee will not include any persons who are in a position to derive a private benefit, directly or indirectly, if certain potential grantees are selected over others. The members of the Selection Committee will each have an equal vote and will pass all decisions as to recipients by majority vote.

The Selection Committee will use objective and non-discriminatory criteria without regard to race, gender, religion, national origin, sexual orientation or ethnicity in the selection of grant recipients. Specifically, the Selection Committee may select individual grantees on the basis of criteria reasonably related to the purposes of the grant, including the merits of information in the application, the credentials of the potential grantee, the relationship of the information in their application to your program activities, your projects or your areas of concern and your priorities in relation to other demands on your resources. You anticipate that recipients for the retreat program will be selected on the basis of their relative artistic talent, financial need, and interest and likelihood of success in developing their talents as an illustrator and/or a writer of picture books, as applicable, in each case, as determined by the Selection Committee.

No grants will be made to: (i) your substantial contributors, (ii) your directors or officers, (iii) any member of the Selection Committee, (iv) any family members of any of the persons listed in clauses (i) through (iv) above, or (v) to any disqualified person with respect to you within the meaning of IRC Section 4946.

The terms and conditions of each grant will be contained in an award letter sent to each recipient of such a grant. The recipient will be required to sign a copy of the award letter and return it to you in order to confirm their acceptance of the terms and conditions. Each award letter is expected to include: a description of the specific purpose of the grant; the duration of the grant; the total amount of the grant; and the requirements for narrative reports, including due dates for such reports. In each case, it will be stipulated that a renewal of the grant, if permitted, for any succeeding period will be contingent upon evidence of adequate performance at the time of review. Due to the unique opportunity of the retreat program and the large number of eligible and deserving artists, those selected would not be eligible to participate in a subsequent sponsored retreat or similar

opportunity by you for at least 5 years.

For prospective foreign grantees, you will operate in compliance with all statutes, executive orders and regulations restricting or prohibiting U.S. persons from engaging in transactions and dealings with terrorist designated countries, entities, individuals, or in violation of economic sanctions administered by the Office of Foreign Assets Control (OFAC). You will check the OFAC list of specially designated nationals and blocked persons. You will acquire from OFAC appropriate licenses and registrations where necessary.

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 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 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.

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,

Director, Exempt Organizations
Rulings and Agreements

Enclosures:
Letter 437

cc: