



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

Date: 07/03/2023

Taxpayer ID number:

Person to contact:

Name:

ID number:

Telephone:

Release Number: 202339046

Release Date: 9/29/2023

LEGEND

B = City

C = Number

E = State

y dollars = \$

z dollars = \$

UIL: 4945.04-04

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 to improve or enhance the scientific research, artistic skill, or other similar capacity or skill that promotes your exempt purpose.

The purpose of your grant program is to provide financial support for artists in music, theater, dance, and interdisciplinary performance. In addition, the artists will receive professional and creative growth opportunities, thus allowing those individuals to focus on creating new work in the performing arts. Selected awardees will be provided with professional development and training opportunities that help put their work on the national and international stage.

The y dollars grant, which will be paid in three installments of z dollars to a chosen cohort of C artists, will enable the grant recipient to create new work, free of the stressors of making a living wage.

You will publicize the grant on your website, social media and by providing information sessions.

To be eligible for a grant the applicant must:

- self-identify as mid-career with a focus in music, theater, dance, or interdisciplinary performance
- be out of school or training programs (the last program attended) for years or possess equivalent years of experience in their area of focus
- be a resident of B, lived in E for at least months before the application deadline, and be able to work legally in the United States
- not be a current student in a full or part time degree-granting or training program or equivalent at the same time of application or throughout the award period
- maintain residency in B during their award period with the understanding that future payments may be forfeited if they leave the area
- not be a previous recipient of the award, nor one of your current employees, relatives, or board members
- have received at least one local or national grant for their artistic work before the application period

You will use the following as selection criteria:

- Potential for impact. The artist should have a record of creative and impactful works, a history of documented career development, demonstrated responsibility with funding, self-directed work, and prior completed projects.
- Financial need. In certain instances, financial need and a commitment to B will also be considered and, would need to be documented on the application.
- Artistic accomplishment. Work that is compelling, unique, creative, imaginative, and skillful that highlights the historical, cultural, and professional practices of their chosen field.

Detailed information will be requested, such as forecasted project expenses, additional sources of funding and an attestation stating the grant will support an achievement related to your purposes.

You will solicit nominations for grant recipients from a range of field experts throughout B, with diverse backgrounds, demographics, and areas of concentration in the performing arts. Applicants will be vetted for eligibility and invited to apply. The top nominations will have to complete an application. Your staff will conduct an internal review for ineligible candidates and incomplete applications. local experts in the performing arts will review the completed applications with the best of scored applicants interviewed.

Your board of directors or a person to whom the Board has delegated selection authority will make the final selections and the winners will be announced at a recognition dinner. In all cases you will ensure that the applicants selected will not gain any direct or indirect private benefit. All people with selection authority will be required to complete a conflict-of-interest form.

Your employees, members of your board of directors, substantial contributors, or relatives by blood or marriage to any of the listed, will not be eligible for grants.

You will provide single year grants as well as multi-year grants. To receive a renewal, applicants will be measured by their accomplishments during the period the award was received. You may allow for an extension or make additional grants if the recipient continues to meet eligibility criteria and stays in compliance with the grant agreement. Grants will be disbursed directly to the recipient.

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 grants 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.

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