



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

Date:
07/17/2023
Taxpayer ID number:

Person to contact:

Release Number: 202341014
Release Date: 10/13/2023

LEGEND

UIL: 4945.04-04

X = Ethnicity
y dollars = Amounts

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 one-year fellowship program for native X filmmakers. Native X filmmakers are an under-served film-making population and your fellowship program will support the production of content that will educate the public about native X culture. You are committed to elevating the artistic voices of X filmmakers by empowering them with resources to explore how both documentary and narrative features can educate audiences, celebrate community, and bridge cultural divides. Your goal is to nurture and sustain the X film-making community and you will ensure each fellowship recipient benefits from programming that deepens and enriches the learning experience. Funded projects will include a broad spectrum of artistic directions, so long as the stories told are from a native X perspective and the projects supported are culturally significant. You will initially facilitate introductions between fellowship recipients. If there is cohort interest in building community through more formalized collaborations, you will support the establishment of discussion groups, webinars, and/or forums.

Each fellowship will be between in the range of y dollars to be used to support project expenses, including travel, and for the production of films by native X filmmakers. You intend to cast a wide net in publicizing your

fellowship program. Specifically, you will (a) establish a website that will contain application information; (b) conduct targeted outreach to nonprofits, arts organizations, educators, government entities, and other community-based organizations engaging with native X artists; (c) collaborate with national organizations supporting filmmakers and their allies; and (d) pursue paid advertising and promotion opportunities as needed. You anticipate awarding or fellowships annually. Fellowship recipients will retain ownership of all intellectual property they produce during the grant period. You will work with fellowship recipients to facilitate public showings of the films created to ensure the films are viewed by a wide and diverse audience.

The fellowship is available to X filmmakers with professional experience and a portfolio of work. You will accept showreels, website portfolios, or portfolios accessed through social media platforms. Each applicant is required to submit: (a) a curriculum vitae; (b) college and/or graduate school transcripts if applicable; (c) professional references; (d) a personal essay describing their proposed project and their experience as a X filmmaker; and (e) a project budget detailing how the funds will be used. The project must be reasonably concluded during a one-year fellowship. Each applicant must demonstrate the proposed project involves work that is culturally significant and contributes in a meaningful way to highlight, celebrate, and/or illuminate the X experience and/or culture. In addition, the project narrative and proposed budget must align. No fellowships will be awarded to non-U.S.-based filmmakers. As part of the application process, applicants will provide attestations confirming that they are eligible and able to fulfill the fellowship requirements.

In evaluating applications, you will assess the personal qualities of potential recipients, their interests and goals, experience, academic achievements, family background, financial need, track record of achieving objectives, artistic potential, technical skills, capacity to excel while working in a team and/or independently, creative vision, as well as the timeliness and relevance of the project. Further, you will review the professional portfolios and achievements of applicants, assess their written application material and project descriptions, contact references, and interview potential applicants. You will also weigh the life experience, gender expression, and ancestry of applicants to ensure diversity.

You anticipate fellowship renewals will be rare but recognize that renewals may occasionally be necessary to ensure a project's completion. Prior to approval of any fellowship renewal, you will require a full and timely financial and narrative report for the prior funded fellowship, as well as a written proposal justifying that fellowship's renewal.

You will administer the funds by:

- (a) Ensuring the fellowship agreement signed by recipients includes a detailed project budget, milestones, and deliverables; delineates recipients' responsibilities; and includes a right of return for all fellowship funds not expended as authorized by you within the year.
- (b) Monitoring the expenditure of all fellowship funds. Recipients will provide quarterly financial reports to you detailing project spending and explaining any variances.
- (c) Assessing project progress by reviewing quarterly narrative reports detailing project progress toward milestones and deliverables, highlighting any problems, and identifying solutions to these problems.

You anticipate that your Board of Directors will establish a selection committee made up of industry professionals, community-based partners, and/or educators. Your Board of Directors will appoint individuals to the selection committee based on their willingness to serve, identification with your mission, professional experience and expertise, and capacity to assist with application review.

No relative of members of the selection committee, or of your officers, directors, or substantial contributors are eligible for the fellowship program.

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