



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

Date:  
08/01/2023  
Taxpayer ID number:  
  
Person to contact:

Release Number: 202343041  
Release Date: 10/27/2023

UIL: 4945.04-04

**LEGEND**

B = Program Name  
C = Location  
D = Location  
E = Date  
F = Name  
G = Date  
H = Organization  
J = Number  
K = Number  
L = Language  
M = Language  
y dollars = Dollar 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 a fellowship grant program called B in C. The purpose of your program is to increase professional skills, leadership, and social and community development through the training and mentorship of individuals. This includes intensive language training, educational touring of the country, and

other immersion type activities.

You intend to attract working professionals from the D to serve in the -month program at state-run institutions, established by private voluntary organizations and burgeoning local non-profit organizations.

B was launched in E by F, who currently implements the program. You anticipate expanding the program beginning in G, with the goal of taking over the program from F after a few years. Your procedures are enhanced over what F currently uses in terms of heightened monitoring, evaluation, built-in participation support, technical assistance, and supplemental program services.

You intend to work closely with and share information with H, an organization with whom you share board members and a close working relationship. You will utilize some of the lessons learned by H during their experiences with immersive-type fellowship programs.

Your sharing of information with H would include orientation materials on cultural similarities and differences and other icebreaker exercises, a roster of highest rated subject matter experts/speakers, contact information for guided educational weekly excursions to the regions, a language instruction booklet for running a successful intensive language course, and a shared database for registered job placement contacts. H would contribute to the assessment process, assisting with training sessions if needed.

You envision the program will sponsor up to J fellows per year, an increase from the current K fellows. The fellows would commit to a -month placement in C. The placements may include non-profits, state-run institutions, or one of the many Ministries. The fellows are kept at arms' length from influencing policy or lobbying and are assigned to concrete projects and program assistance in their area of expertise.

You will provide each fellow with a grant which represents a monthly living stipend to help offset their cost-of-living expenses. The amount of the grant will range from between y dollars per month. You will determine the dollar amount by the basic cost-of-living in C. You envision modifying this amount as inflation continues to impact cost-of-living expenses. For those that have unique skills, you intend to offer them a higher monthly stipend as an incentive to work in C to share their skills and knowledge with locals.

To be eligible for the fellowship grant program an applicant must meet the following two criteria below, with the third criteria listed as a preference, not a requirement:

- A Bachelor's degree with at least 5 years of relevant work experience or a Master's degree (or higher) with at least 3 years of relevant work experience;
- Must have studied and/or worked in the D for at least 5 years;
- Fluency in spoken M is highly desirable but not required

Your program is currently publicized on F's website as well as via their social media accounts. The B program staff go on different TV and radio programs to promote the program. You envision promoting the program on your website and the websites of other non-profit organizations once the program is passed to you.

You will conduct the initial selection based upon the eligibility criteria. A second tier of selection is based on the needs and requirements of the non-profit organizations and public institutions. You intend to have your representatives join the selection committee in the future which currently includes representatives of F and representatives of public institutions.

Your requirements for fellowship grant recipients to obtain, maintain, and qualify for a grant renewal include

the following:

- Execution of a document notifying them and obtaining their agreement that they are prohibited from lobbying, influencing, and promoting elections or their outcomes
- Work a minimum 40-hour work week and be present for monthly assessments with designated program staff
- Submit signed monthly time sheets from their supervisor outlining tasks accomplished
- Provide quarterly reports on what was learned and taught
- Maintain a flexible and open-minded attitude towards job opportunities
- Successfully complete an L adaptation language course (optional for those who are fluent)
- Respect the laws of C including the new rules applied during the COVID pandemic

Your program is envisioned as a     -month program, however shorter terms may be considered for those with expertise in an underserved priority area. Grants may also be extended beyond the     months (but in no case greater than     months) in cases where the fellow makes a significant impact in their placement. Criteria for an extension, or renewal, of their placement would be contingent upon proof of project/program impact to date and a strong justification using results as to why their extended time is critical to accomplishing the project/program goals, in consultation with their placement(s). After their program, participants can choose to stay and find work within the private sector, electing to repatriate longer-term.

You will take all reasonable and appropriate steps to recover grant funds if it appears that grant funds have been used for an improper purpose or that the individual grantee has diverted funds for a purpose other than that for which the grant has been granted. You will withhold further payments until you assure that grant funds have not been used and will not be used for an improper purpose.

You will comply with all United States statutes, executive orders, and regulations that restrict or prohibit United States persons from engaging in transactions and dealing with designated countries, entities, or individuals, and from otherwise engaging in activities in violation of economic sanctions administered by OFAC (Office of Foreign Assets Control). You understand you may need to secure a license from the United States government to continue your program should C be on the OFAC Specially Designated Nationals and Blocked persons list or on the United State Department list of embargoed or sanctioned countries in the future.

You will take all reasonable and appropriate steps to recover grant funds if it appears that grant funds have been used for an improper purpose or that the individual grantee has diverted funds for a purpose other than that for which the grant has been granted. You will withhold further payments until you assure that grant funds have not been used and will not be used for an improper purpose.

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