



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

Date:
01/08/2025
Taxpayer ID number:
Person to contact:
Name:
ID number:
Telephone:

Release Number: 202514014
Release Date: 4/4/2025

LEGEND

B = Program
C = City
D = number of grants
x = dollar value of grants

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 called B.

The purpose of B is to expand existing narratives of American visual art and amplify the diversity of voices contributing to the field by enabling individual artists to develop and create visual art that will be shared with the public. Examples include (but are not limited to) works of public art, exhibitions, temporary installations, performance art, and other types of artistic projects intended to be accessible and shared with the public.

Grants will be awarded as project-grants or research and development funds. Project-grants may be used to produce or fabricate new artistic projects and complete or expand projects in development. Research and development funds may be used to investigate concepts for new visual arts projects, as well as formulate plans and acquire the skills and knowledge required to realize such projects. In addition, grants may be used for

activities related to publicly sharing projects and practices, including (but not limited to) artist talks, tours, community events, or publications.

Initially, you will award grants to artists in the C metropolitan area, but you may expand your program to include artists in other parts of the U.S. You will award between D grants ranging from x; however, the dollar amounts of your grants may vary based on available funding and the costs of the projects or research.

You will publicize your grants on your website and communication channels, including e-news and social media, as well as announcements posted on websites that list similar opportunities for artists. Your recipients will also share the opportunity through their networks.

Eligible applicants must have an active visual-arts practice and history of executing visual-art projects; demonstrated engagement with research and civic issues, as well as regional, U.S., or Native histories, art, and art histories as a component of their artistic practice; connections to the community or communities in which the project will be presented; and an interest in broadly engaging with public audiences and other artists.

Eligible applicants must submit a description of the project and its connection to your program's guidelines; a curriculum vitae (CV) with exhibition/presentation history; work samples, such as an example of a relevant past project; description of the project with a timeline showing key phases of the project's development; a proposed budget with an explanation of how funds will be applied; and proof of C area residency during your initial pilot year(s).

In addition, project-grant applicants must describe their projects' format, components, location, and status toward completion; any individuals or organizations that have been or will be involved in the project; plans for presenting the project to the public via public programming and any related educational resources about the project; and any designs for, or documentation of, projects to be realized if awarded a grant. Applicants requesting research and development funds must explain the issues to be investigated and the related research activities, including any resources to be used and consultants or advisors.

Selection criteria will include the project's underlying concept and relationship to your program's goals and criteria; feasibility of the project plan and budget and likelihood that the artist will execute the project or research; and geographic diversity represented by C area communities in which projects will be presented.

You may utilize one or more review committees with rotating members that will include up to five artists, curators, or others with broad knowledge of contemporary art, along with no more than three members of your staff, to assist in the selection of your grant recipients. Members will remain anonymous to the public and to applicants during their terms on the committee(s). Your committee(s) will make recommendations to your executive staff as to whom should be selected and the amount of the grants. Your executive staff will make the final selections.

Once selections are made and recipients are notified and have entered into a written grant agreement, you will announce the recipients through your website, social media channels, and a press release. Grants will be paid directly to your recipients in one to three installments over a period of up to three years, depending on the length of the project. You anticipate most recipients completing their projects or research within six months to three years. Grants are not renewable; however, recipients may reapply for future grants after a three-year waiting period.

Each grant will be made pursuant to the terms of a written grant agreement between you and the selected artist. The agreement will limit the use of the funds to those described in the artist's approved project proposal.

Project grants may be used for such expenses as supplies, materials, equipment, third party services, reasonable administrative expenses, artist fees, public programming and documentation and publication costs. Research and development expenses may include research fees and materials, research travel expenses, and reasonable honoraria for project advisors. If you obtain information indicating that funds were misspent, you will attempt to recover the funds, and potentially withhold future payments until the matter is resolved.

You will maintain appropriate records in connection with the program. Upon completion of the projects or research, you will conduct follow-up interviews with recipients and require the submission of final reports that detail your recipients' accomplishments and account for the use of all grant funds.

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