

**Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Department of the Treasury**

Release Number: **20162912**

Release Date: 7/15/2016

**Date: April 21, 2016**

**Employer Identification Number:**

**Contact person - ID number:**

**Contact telephone number:**

Legend:

UIL: 4945.04-04

V = Organization Name

W = Organization Name

X = Organization Name

Y = Organization Name

Z = Organization Name

Dear :

You asked for advance approval of your educational grant procedures under Internal Revenue Code section 4945(g)(3). This approval is required because you are a private operating foundation that is exempt from federal income tax.

**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 Code section 4945(g)(3). As a result, expenditures you make under these procedures won't be taxable.

**Description of your request**

Your purpose is to support innovative thinking through work in the arts, literature, natural sciences and other fields of creative inquiry. To accomplish this you offer residencies without a fee that provide the gift of time and space at your remote inspirational location to eligible applicants. All residents are chosen through a national selection process by an external selection panel made up of arts and science professionals.

The grant program in which you are seeking approval will fund various kinds of financial support to offset other costs while the individuals are in your residency program. These awards are to enable the residents of demonstrated capacity to produce creative research/ work in the visual, literary, performing arts or sciences and to devote him/her to such work exclusively without concern for making a living.

You receive much of your funding from such entities as V, W, X, Y or Z to name a few. When you apply for grants you are requesting funding for your operations as well as other unique costs allowable and stipulated by each funder. These stipulations vary from year to year, funder to funder. The number of grants awarded will be determined by the amount of funds designated to be available by your funders and allocated contingent upon the number of qualified and eligible recipients. This number will be varying. The amounts awarded will be determined by a rubric of need, length of residency, activities performed, travel and other costs related to funds set aside for determination per year.

Being accepted for a residency is what makes individuals initially eligible to receive grants/stipends from the granting organizations such as V, W, X Y, or Z. Many grant scenarios are possible but they all require the recipient to be first accepted into your residency program.

You provided the following examples:

- a. Y recently awarded you grant funding for this year and next. One-half of the funds are to be made available to:
  - Practicing visual artist currently producing works of art;
  - Be a full time resident of a certain state for at least 36 months prior to application; deadline and remain a resident through the duration of the grant period.
  - Be 30 year of age or older at the time of the application;
  - Provide evidence through appropriate documentation of a sustained level of commitment to his or her medium with seven or more years of active professional practice; and
  - Not enrolled in a degree-seeking program, either part-time or full-time at the time of the application or during the successive grant period.
- b. Z is awarding you grant funding. Approximately 67% of that grant is to be used as grants/stipends limited to artists engaged in folk traditions such as basket weaving, silver-smithing, and saddle-making.
- c. In the future, a grantor organization could award you a grant where part of the monies would be restricted grants/stipends for scientists who participate in your residency program.
- d. Likewise, another grantor organization could make grants/stipends available to residents meeting certain other criteria.

Your executive director will determine which residents are eligible for the grant stipends provided by your funders based on the grantor organizations' requirements. Grant stipends or awards will be made directly to the resident. One-half is paid upon arrival for his/her residency, with the remainder paid at the completion of his/her residency. A final report must be submitted to you within 60 days after the residency has been completed.

The final report is a signed narrative describing activities conducted and uses of funds. In the event, the recipient fails to complete the residency or the final report; he/she will not receive the second half of the payment.

You represent that you will complete the following: (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversion of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover the diverted funds, ensure other grant funds held by a grantee are used for their intended purposes, and (4) 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 will maintain case histories and document recipients of grants, including names, addresses, amount of grants, purpose of grants, manner of selection and proof that they were not related to officers, trustees or donors. In addition, when able, you will compile photographic documentation, publications and other materials to be used to augment this documentation of grantees and their products.

#### **Basis for our determination**

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code section 4945). 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 of the following requirements of Code section 4945(g) is not a taxable expenditure.

- The foundation awards the grant 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 section 117(a) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii); or
  - A prize or award subject to the provisions of 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 Regulations 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 covers only 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 precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes in your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service  
Exempt Organizations Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

- You cannot 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 must further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code 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.

Please keep a copy of this letter in your records.

If you have any questions, please contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements