

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

Department of the Treasury

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Contact person - ID number:

Contact telephone number:

LEGEND:

UIL: 4945.04-04

B = year
C = organization
D = foundation
E = city
F = council
G = award
H = geographic area
x dollars = amount
y = number

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 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

You will operate an educational grant program to foster development of the arts in your area and provide grants to organizations for the development of artists.

Since B, you have provided support for a multi-faceted arts program entitled C, which was administered by D, a public charity under IRC Section 501(c)(3). You intend to take over administration and management of this program.

The program enhances the development of art and artists in the E region. The C program has four components:

- a. Artist residency funds for arts institutions;

- b. Artist grants through F;
- c. The G program recognizing artists; and,
- d. This grant program, which will fund qualifying creative development projects of professional artists.

Under your program, you plan to fund grants of up to x dollars to individual artists for use in furthering their artistic and career goals. The grants will last for a timeframe of one to two year(s). You anticipate making approximately y grants per year, but you may consider increasing the number of annual awards.

You will promote the grant program online, and you also anticipate it will be promoted by your local partners, prior grant recipients, and other local arts organizations. Potential participants will be encouraged to submit an application online.

Those eligible to apply for grants are professional artists in any discipline or media with a significant body of original works of art, who are residents of H.

Your selection committee will focus on the following factors in selecting grant recipients:

- Breadth of the applicant's artistic works;
- Career development goals to be achieved through grant support;
- Potential of the applicant's proposal to advance the applicant's artistic career;
- Proposed project action plan; and
- Viability of the scope, timeline, and budget of the applicant's proposal.

Each applicant must submit an application, including the following:

- a. A description of the proposed project action plan;
- b. Evidence of the breadth of the applicant's artistic works;
- c. A description of how the proposed action plan will advance the applicant's growth and career in the arts;
- d. A budget for the proposed action plan; and,
- e. Other relevant information.

Initial review of the application will be performed by a panel of local artists, who will select a group of finalists. Then, a second panel, comprised of national art experts, will review the finalists' applications and select the grant recipients. Members of your staff will organize the review process and be present during each of the panel meetings to clarify aspects of applications or answer panelists' questions. However, no members of your staff will make recommendations with respect to, or vote on, any prospective grant recipient. You will notify grant recipients by letter soon after the final decision is made.

The identification and selection process for participants in the grant program will be objective and nondiscriminatory. Your selection committee will not discriminate based on race, gender, gender preference, gender identity, ethnicity or religion. No relatives of the members of either selection committee are eligible for the program, nor may any of your employees or relatives of your employees participate in the program. No disqualified persons in relation to you may participate in the program.

You will keep the following records to satisfy the requirements of Treasury Regulation Section 53.4945-4(c)(6):

- a. Materials you developed regarding potential grant recipients, including the application materials of potential grant recipients;
- b. Name, address and other contact or identifying information for each selected grant recipients;
- c. Any information on relationships that would cause a grant recipient to be a disqualified person with respect to you within the meaning of IRC Section 4946(a);
- d. All amounts disbursed pursuant to each grant made in accordance with the grant program;
- e. Identified goals and purposes for which the funds are awarded under the grant program;
- f. Progress and funding reports for each grant recipient; and
- g. Any measures taken to investigate the misuse of grant funds or to enforce grant terms.

You will supervise the expenditures for the grant program and require reports on the use of the funds and the progress made by the grantee toward achieving the purposes for which the grant was made in accordance with Treas. Reg. Section 53.4945-4(c)(3). You plan to distribute all funds directly to eligible grant recipients, pursuant to a letter agreement requiring the funds to be used in furtherance of the activities described in the recipient's application and setting forth reporting requirements. For grants exceeding one year in duration, each grant recipient will provide an interim report on the use of the funds. All grant recipients will provide a final report on the use of the funds.

You have established investigation and enforcement procedures to satisfy the requirements of Treas. Reg. Section 53.4945-4(c)(4). You will initiate an investigation if you do not receive the appropriate progress and funding reports. You will withhold any further payments until you have received all reports and/or determined that no part of the awarded funds have been used for improper purposes.

If you determine that any grant funds have been used for improper purposes, you will suspend any future payments to the grant recipient. You will also take all reasonable and appropriate steps to recover the improperly expended funds and ensure that any other funds disbursed for the grant program are used exclusively for the purposes set forth in the applicable grant documentation. If you recover any misused funds, receive any

delinquent report, and receive sufficient assurances from the grant recipient that future improper diversions will not occur, you may, under your discretion, make further payments to the grant recipient if you determine that to do so would further your charitable purposes.

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.

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

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements