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

Department of the Treasury

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Employer Identification Number:

Contact person - ID number:

Contact telephone number:

LEGEND

UIL: 4945.04-04

B = Program
C = City
D = Organization
E = Region
f dollars = Amount
g dollars = Amount
h dollars = Amount

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

Your letter indicates that you will operate an educational grant program called the B. Under B you will provide grants of up to f dollars to artists living and working in the C region to support artistic projects.

The specific objectives are to incentive arts to remain, live, work, and grow in the C region and to improve and enhance the artistic capacities of the grantees. The grants support the notion of risk-taking (in practice, content, process, and/or outcome) and equally value artistic integrity, strong ideas, feasibility, and communal meaning. The program is open to artists at any stage of their career and in all disciplines, and favors projects that have significant creative work left to accomplish.

Your mission is to improve the quality of life of individuals living and working in C and its surrounding communities. One of the priority areas of focus in achieving this mission is arts, culture, and media. For several years you have provided funding to D, a Section 501(c)(3) public charity, to administer B. You now wish to bring the program in-house as you believe you can leverage the resources you have readily available to make the program a great success.

You do not provide educational loans.

You will publicize primarily through your webpage, social media, and in person at events/workshops attended by a manager of your program. During the time your program was administered by D, they developed a well-established reputation in C's creative community, and many applicants learn about the program from previous grantees, colleagues, and friends.

To be eligible for B the applicant must be:

- A resident of C, or one of five specific surrounding counties at the time of application and when the grant is awarded
- A U.S. Citizen or permanent legal resident
- At least 21 years of age, and
- A practicing artist, who has actively and continually pursued their profession in this discipline for more than three years (as evidenced on the resume included with the application).

The following are not eligible for B:

- Organizations
- Full time or part time students in a degree-earning program, and
- Your current board members, committee members, staff, or consultants or their immediate family members.

Your selection committee uses criteria for B, which is based on the following:

- Artistic Merit and Skill - Evaluated using the work represented in the samples provided by the applicant
- Feasibility of the Project - The likelihood that the project can be realized based on the budget, timeline, and proposed logistics, and
- Creativity of the Project - Whether the project is an innovative step for the artist or is a significant deepening of their current artistic practice.

You anticipate allocating g dollars each year to fund up to h dollars of grants in each the following categories: media arts, performing arts, literary arts, and visual arts. The number of actual grants is variable and depending on amounts applicants request. Applicants may request up to f dollars per project, but many request less.

You require grant recipients to meet the following:

- The grantee must submit two reports describing progress made on their project: one 6 months after the grant is awarded and the other 12 months after the grant is awarded.
- Grantees must permit you to use their name, image, biographical information, and project information for non-commercial, promotional, marketing, and educational purposes.
- Grantees must spend all grant money within 12 months of receiving the grant.
- Grantees must acknowledge you by including your logo and a statement of credit when promoting or publicizing their project.
- Grantees must notify you if changes arise in the project or if they cannot bring their project to completion as indicated in their application.

Grant recipients will receive their awards in three payments:

- Upon grant notification and return of a signed grant agreement, recipients receive 60 percent of their grant award amount
- After submission of a midterm report 6 months after the grant is awarded, recipients receive 30 percent of their grant award, and
- After submissions of a final report twelve months after the grant is awarded, recipients receive the final 10 percent of their grant award amount.

Additionally, your manager will communicate regularly with grantees through monthly newsletters, quarterly meetings, and at grant related events.

There will be a separate selection committee for each of the four categories of awards that are offered: media arts, performing arts, literary arts, and visual arts. At least 75 percent of the members of each committee must be based in the E corridor and at least one member of each committee should be based outside of such region. Each committee member serves for one grant cycle.

You will select committee members based on recommendations by past committee members and a review of current news and notable persons in the arts. You may also invite past B grantees who have completed their grant cycle in good standing to join a selection committee.

You represent that you will (1) arrange to receive and review grantee reports annually and upon completion of the purpose for which the grant was awarded, (2) investigate diversions of funds from their intended purposes, and (3) take all reasonable and appropriate steps to recover diverted funds, 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 diversions from occurring.

You represent that you will maintain all records related to the following: (1) individual grants including information to evaluate grantees, (2) grantees which are identified as a disqualified person, (3) how the amount and purpose of each grant was established, and (4) how you established supervision and investigation of the grants.

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 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 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