

Title 10
Chapter 7.75
CALIFORNIA FILM & TELEVISION TAX CREDIT PROGRAM

5501. Application Process For Tax Credit Allocation

(a) The open allocation periods for the California Film & Television Tax Credit Program shall be announced by the Director of the CFC prior to each new fiscal year. The California fiscal year is from July 1 to June 30. The announcement shall include a description of the application process and the application filing.

(b) Applications will be accepted on a first-come, first-served basis as determined by the date applications are received by the Director of the CFC. In the event that more than one application is received on the same date, a random selection process administered by the Director of the CFC shall determine the order of all applications received on the same date.

(c) Applicants for the tax credit allocation shall complete and submit the California Film & Television Tax Credit Program Application Form, CFC Form A (Rev. ~~10/20/2010~~~~11/18/2011~~05/03/2012), hereby incorporated by reference. One hard copy and one electronic copy in Portable Document Format (PDF).

(1) Completed applications shall be submitted at least thirty (30) calendar days prior to the start of Principal Photography in California. Any expenditures for services, wages, or goods incurred prior to application approval will not be considered Qualified Expenditures.

(2) An Applicant shall not submit duplicate applications for a project. Submittal of duplicate applications shall be good cause to disqualify an applicant from the tax credit program.

(3) A Television Series, shall submit one application for the entire Television Season of that Television Series.

(4) Incomplete applications shall not be eligible for tax credit allocation. The Director of CFC shall notify the Applicant of any deficiencies and shall require all information to be submitted within ~~three~~ five (35) business days of notification or the application ~~shall~~ may be removed from the queue.

(d) The initial application shall include the following supporting documentation:

(1) A Budget for the Qualified Motion Picture Project that shall include:

(A) A Budget indicating the Qualified Expenditures, minus financing cost. One hard copy and an electronic copy in an industry standard budgeting program. If completion bond fees affect the eligibility of a production to qualify for the California Film & Television Tax Credit Program, the costs are allowed to be deducted from the Budget. If the applicant omits the completion bond fee for the purpose of falling below the ten million dollar (\$10,000,000) or the seventy-five million dollar (\$75,000,000) thresholds, the completion bond fee shall not be considered a Qualified Expenditure.

(B) A Television Series shall be allowed to submit a pattern budget including all amortization costs, in lieu of documents required in subsection (d)(1)(A) above.

(2) One-Line schedule (“production board”). One hard copy and one electronic copy in ~~Portable Document Format (PDF).~~

(A) A Television Series shall be allowed to submit a production calendar, including the start and end dates of the season, the number of in-state and out-of-state principal photography days, and the total number of episodes, in lieu of a one-line shooting schedule.

(3) Synopsis of the screenplay, teleplay or series. One hard copy and one electronic PDF or Word document.

(4) Screenplay for the production, one electronic copy in PDF. If for confidentiality a script is not publicly available, submit a one-line schedule in continuity order.

(5) Include supporting documentation which confirms at least 60% of financing as provided for in the application, Section 4, Financing Sources. Applicant shall include documentation for each financing source e.g., commitment letters, financing agreements, term sheets, bank statements. Applications submitted without sufficient documentation will be considered incomplete and returned to applicant.

(6) Relocation Statement. For a TV Series that has filmed all of its prior season(s) outside of California (minimum of six (6) episodes), and intends to relocate to California, the applicant shall supply a certification stating that the tax credit provided is the primary reason for relocating. The certification shall be signed by the Qualified Taxpayer or a representative of the Qualified Taxpayer.

(e) Once it is determined that credits are available, the Applicant shall be notified and required to submit the following additional supporting documentation in a secure electronic format as specified by the CFC:

(1) Detailed Narrative Statement: Please provide a written statement on letterhead which describes the extent to which the credit is expected to influence or affect choice of filming location with respect to financial and business considerations. These may include hiring, and/or salary decisions, and should state to what degree the tax credit effects decision making with respect to choice of location.

(2) For applicants that are a partnership or single member LLC that is disregarded pursuant to Section 23038 and that are not more than 25% owned by a publicly traded company provide:

(A) Financial information, if available, including but not limited to the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results. This information is not subject to public disclosure.

(B) The names of all partners in a partnership or names of all members of a limited liability company (classified as a partnership not publicly traded for California income tax purposes). This information is not subject to public disclosure.

(3) For applicants that are publicly traded companies or affiliates of publicly traded companies provide:

(A) A listing of all members of the applicant's most recently filed California combined reporting group and any members to which the credit is ~~anticipated to be~~ assigned.

(B) ~~To the best of the applicant's knowledge, If readily available, a listing of all states, provinces or other jurisdictions in which any of those members of a combined reporting group have financed motion picture productions in the previous calendar year from which the application was submitted.~~

(ef) Within 20 business days of receipt of the completed application and all requested supporting documents, the Director of the CFC will notify the applicant of accepted or rejected status. An approved

application shall meet the Eligibility Requirements in Section 5502 of these regulations. Upon approval, a Credit Allocation Letter, CFC Form D, (Rev. 9/1/2009), hereby incorporated by reference, shall be issued to the applicant indicating the amount of tax credits reserved, as provided in Section 5504.

(fg) Not less than four (4) weeks prior to the start of principal photography, the production accountant is required to attend an orientation meeting with the Director of the CFC or his/her designee, along with any or all of the following staff members: a primary producer, unit production manager, or other appropriate personnel.

(gh) Any Television Series that has been approved and issued a Credit Allocation Letter, shall be placed at the top of the queue for an open allocation period in each subsequent year in the life of that series whenever credits are assigned within a fiscal year. Queue placement in subsequent years will be based on the year of original application and original queue number assigned for that series. Each television series must submit a new application for each season prior to any open application period.

(hi) Principal Photography shall commence no later than 180 calendar days after the Credit Allocation Letter is issued. If the production does not begin filming prior to the 180-day deadline, the tax credit allocation shall be revoked. If a production implements a hiatus during the principal photography period, any and all hiatus period(s) may be no longer than 100 calendar days in aggregate for the entire duration of the production.

Note: Authority cited: Sections 17053.85(e)(g) and 23685(e)(g), Revenue and Taxation Code; and Section 11152, Government Code. Reference: Sections 17053.85(g) and 23685(g), Revenue and Taxation Code; and Section 14998.1, Government Code.

5506. Credit Certificate Issuance Process

(a) The Applicant shall be required to submit the following documents upon completion of the Qualified Motion Picture.

(1) Proof of copyright registration of the screenplay or teleplay or proof of copyright registration of the motion picture, television series or television movie.

(2) Documentation indicating the date of completion of post production e.g., the facility invoice evidencing the date the final element was completed.

(3) List of all Cast, Crew, and Vendors for the project. Submit one electronic copy in PDF format.

(4) Expenditure Summary Report, CFC Form F, (Rev. ~~1/10/2011~~11/18/2011~~05/03/2012~~), hereby incorporated by reference. One hard copy and one electronic PDF or Word document.

(5) An Agreed Upon Procedures Report in compliance with the Agreed Upon Procedures, dated (Rev. ~~1/10/2011~~11/18/2011), hereby incorporated by reference, and presented in the format required in Appendix B. One hard copy and one electronic PDF or Word document. The Agreed Upon Procedures Report shall be prepared and signed by a Certified Public Accountant (CPA) that has:

(A) An active license or practice privilege permit to perform attest services in California.

(B) Successful completion of a California Film Commission Orientation Meeting for CPAs performing Agreed Upon Procedures for the California Film & Television Tax Credit Program. The Orientation Meeting will be offered annually by the CFC.

(6) Main and End Title Final “Checker” or “Galley”, signed by a production representative which may include Credits Administration, Legal Affairs, or the Post Production Supervisor. The Checker or Galley is the actual layout of the titles normally produced by a Title House or other post-production facility. Submit one electronic copy in PDF format.

(7) Documentation from each visual effects, title digital effects and/or post sound company, contracted by the production company, indicating the total dollar amount of work performed within the State of California.

(8) A new television series shall submit documentation verifying that the series will have its initial distribution on basic cable.

(9) A Movie of the Week shall submit documentation verifying its initial distribution on television with a minimum of 75 program minutes broadcast in one part.

(10) A Miniseries shall submit documentation verifying that its initial distribution on television consists of two or more episodes with a total running time of at least 150 program minutes.

(11) Revised and/or updated information, as applicable, to the documentation requested in Section 5501 (e) in an electronic format as specified by the CFC.

(b) The production shall be completed in a timely manner as required in sections 17053.85(b)(15)(B)(ii) and 23685(b)(15)(B)(ii) of the Revenue and Taxation Code.

(c) The Qualified Motion Picture shall be considered complete when the process of post-production has been finished and a final composite answer print, delivery air master, or digital cinema files of the Qualified Motion Picture is produced.

(d) The Director of the CFC shall review all the required materials submitted by the applicant to determine the sufficiency of the required documentation and that the applicant meets all the criteria for the program. During the review, the Director of CFC may reject insufficient documentation not in compliance with the requirements in these regulations or may request additional documentation to determine if the production is a Qualified Motion Picture and to verify the Qualified Expenditures. The Director of CFC shall approve or disapprove the request for the Credit Certificate.

(e) Upon rejection of insufficient documentation or disapproval of the request for a tax credit certificate, the Director of the CFC shall provide the applicant with a notice of disapproval stating the reasons for the disapproval. Disapproval is final and not subject to administrative appeal or review.

(f) Upon approval, the Tax Credit Certificate, CFC Form M, (Rev. 9/1/2009), hereby incorporated by reference, shall be issued to the "Qualified Taxpayer" beginning on January 1, 2011. If the entity that incurs the Qualified Expenditures is a partnership, limited liability company or subchapter S corporation (pass-through entity), that entity is the "qualified taxpayer" for purposes of filing the tax credit application and receiving the final Tax Credit Certificate.

Note: Authority cited: Sections 17053.85(e)(g) and 23685(e)(g), Revenue and Taxation Code; and Section 11152, Government Code. Reference: Sections 17053.85 and 23685, Revenue and Taxation Code; and Section 14998.1, Government Code.