www.tnentertainment.com

Phone: 615-741-3456 Email: tn.entertainment@tn.gov

Tennessee Entertainment Commission ("TEC") Scoring Incentive Program

Guidelines and Instructions for Application

DISCLAIMER: These are intended to be guidelines only and are subject to revisions. Please check with the Tennessee Entertainment Commission prior to submitting any applications to verify you are using the latest guidelines.

Contents

The definitions of capitalized terms used herein that are not found in the text below can be found in Section 9

Section 1 – Program Overview

1.1 Amount of Incentive

1.1.1 General Percentage

The Tennessee Entertainment Commission ("TEC") Scoring Incentive Program offers up to a twenty-five percent (25%) grant on Qualified Tennessee Expenditures to Companies producing original scores for films, Television, animation, commercials, gaming and multi-media projects within Tennessee. Companies will enter into a Grant Contract with the Tennessee Department of Economic & Community Development ("ECD") upon review and approval from the ECD Grants Committee. Funds are distributed to Qualified Companies through a Grant Contract and no expenditures will qualify until the execution of a Grant Contract.

1.1.2 Program Funding

The TEC Scoring Incentive Program is funded through the Visual Content Modernization Act 2018. Funding is determined by the Tennessee General Assembly on an annual basis.

1.2 Purpose of Program

The program was enacted with the best interests of the State of Tennessee, which include, but are not limited to, marketing the state as well as job creation and economic development. This is not a "first come, first serve" program nor one of unlimited resources. The TEC & ECD shall have the sole discretion of awarding these incentives, in furtherance of the best interests of the State of Tennessee. The criteria for the TEC Scoring Incentive are described herein. Any questions and/or requests for clarification can be directed to the Tennessee Entertainment Commission.

1.3 Credits to Tennessee

Qualified projects must include an embedded "Scored in Tennessee logo" within the completed product or an alternative marketing option(s) as agreed upon with the Tennessee Entertainment Commission. Films, & Television Series will include static or animated logo in the end credits for the life of the project.. Additionally, the State may request that a logo linked to a state of Tennessee marketing website be included on the project's promotional website. Logo guidelines and assets will be provided to all approved grantees by the Tennessee Entertainment Commission.

Download the Score in TN Logos and Brand Guidelines

Section 2 – Eligibility Requirements

2.1 Types of Eligible Projects

Feature films, television episodes, television pilots and television commercials with national advertising messages that are broadcast on a National Network or a Cable Network, gaming, animation and multi-media projects creating original music written and produced specifically as an accompaniment to the visual production asset are eligible to apply for the incentive program.

Unless deemed in the best interest of the State all Live and recorded events, including news, sports, concerts and awards shows; talk shows, variety show formats; documentaries or docudramas; music videos; webisodes; unscripted television, reality or reality sub-genres; corporate marketing or training videos; projects consisting primarily of stock footage and/or interviews; trailers promoting theatrical films not filmed in Tennessee; photo shoots or still photography; website development; and anything that is not original content recorded in Tennessee, will NOT qualify to receive an incentive.

2.2 Minimum Spend & Program Cap

Those Grantees recording in Primary markets are required to have a minimum of $50,000 per project in Qualified Tennessee expenditures (QTE). Recordings in Secondary markets are required to have a minimum of $25,000 per project in (QTE). (Reference Section 9 for Definition of Primary & Secondary markets). The rebate is capped at $500,000 per company/per year.

2.3 Project Start Dates

Work must begin in Tennessee within 30 days from the Effective Date as defined in the Grant Contract.

2.4 Date Requirements for Eligible Expenditures

Any expenses incurred before the Effective Date do not qualify as Qualified Tennessee Expenditures. Expenses must be incurred within (4) months following the Effective Date. All financial obligations incurred in-state must be satisfied prior to submission of application for grant.

Section 3 – Application Process and Requirements

3.1 Required Forms

- Form A- Registration for Certification of Conditional Eligibility
- Form A: Annex I- Due Diligence Questionnaire

3.2 Timing of Forms

TEC recommends submitting Form A and Form A: Annex I - Due Diligence Questionnaire 30 days before accruing Qualified Tennessee Expenses to allow for adequate time for the TEC to complete the application review and award process (see Section 4).

3.3 Other Required Information

- Detailed preliminary budget
- Written description of project
- List of creative elements, if known (i.e. composer, engineer, talent)
- Plans for distribution
- Description of the source(s) of financing

Section 4 – Application Review and Award Process

4.1 Certificate of Conditional Eligibility

Upon the satisfaction of the initial application procedures by the Company and the approval of the Production by the ECD Grants Committee, the TEC will issue a Certificate of Conditional Eligibility ("CCE") for the TEC Scoring Incentive Program to the Company. The CCE will certify that the Form A and Form A: Annex I - Due Diligence Questionnaire filed on behalf of this Company for participation in the program have been approved and the requested funds have been reserved for the Company. The CCE will outline the approved estimate of Qualified Tennessee Expenditures and provide the anticipated incentive amount.

The receipt of the CCE does not guarantee availability of the incentive funds nor the amount of funds ultimately awarded, as these are contingent on the final budget and the production meeting the requirements of the incentive program. Application approval is at the discretion of the ECD Grants Committee.

4.2 Grant Contract

The Company will enter into a Grant Contract, typically within two weeks of the issuance of the CCE, with the Department of Economic and Community Development. No expenditures will qualify until a Grant Contract is fully-executed by both parties and the effective date has been assigned. Any anticipated increase in the Company's Qualified Tennessee Expenditures, must be submitted to the TEC in writing and approved by the ECD Grants Committee or the additional expenditures will not be eligible for qualification. Any requests for the additional reservation of funds need to be submitted to the TEC on Form D and approved by the ECD Grants Committee. The allocation of additional funds is subject to the availability of funds and the discretion of the Grants Committee. If it is determined that the Company has attempted to circumvent ANY of these guidelines, ECD may exercise its right to terminate the Grant Contract.

Upon the final award payment being received by the Company, the Grant Contract will be administratively closed out by ECD.

4.3 Pre-Production Meeting

The Grantee must meet with TEC to discuss the project before recording begins.

Section 5 – Qualified Expenditures

- Expenditures are considered Qualified Tennessee Expenditures only to the extent that the costs are clearly and demonstrably incurred in Tennessee.
- Incurred in Tennessee means payments made for goods or services used in the state in connection with a Qualified Project AND purchased from a Tennessee Vendor or paid to a Tennessee Resident for a Qualified Project.
- Refer to Appendix B for a description of eligible expenditures.

5.1 Common Eligible Expenditures and Criteria for Qualification

- Qualified Tennessee Expenditures directly associated with the scoring project including Studio rental fees and associated fixed costs; artist and musician salaries; Mixing & Mastering; instrument and equipment rentals.
- Wages, salaries, fees, per Diem and fringe benefits (**including pension, workers compensation and health and welfare payments**) of Tennessee Resident (whether paid to an individual, Loan-out Company or any other entity).
- Eligible spend is limited to the first $50,000 in gross wages, salaries, fees, per diem and fringe benefits paid to a Tennessee Resident.
- Housing (in-state), living allowances and per diems paid to Tennessee Residents and non-Residents related to services performed in Tennessee.
- Travel to/from and within Tennessee, when purchased from a Tennessee Vendor (does not include private/charter flights)
- Insurance when purchased through a Tennessee Vendor and purchased specifically for a Qualified Project.
- For work done in the State of Tennessee, Nonresident composers may be eligible upon request and must be approved by the Commission

5.2 Common Ineligible Expenditures

The following are examples of common expenditures incurred by a Company that are not eligible for the TEC Scoring Incentive Program. This is not intended to be a complete list and is only provided for reference for typical Projects.

- Unless deemed qualified by the department, any wages, salaries, and/or fees, of non-residents
- Costs/fees associated with advertising, marketing, distribution& financing
- Alcohol and tobacco
- Cell phone reimbursements
- Contingency fees
- Development fees
- Profit sharing payments
- Gifts/prizes
- In-kind services/goods
- Expenditures incurred in Tennessee for portions of the project occurring out-of-state. (i.e. travel, equipment rental, crew/talent hires)
- Any expenditures for an approved project that is related to portions of a Qualified Project that did not physically occur in Tennessee.
- Payments made directly to the government (federal, state, county or city), including permits, and employer payroll taxes (FICA, SUI, etc.).
- Expenditures made to Section 501(c), non-profit organizations (including Goodwill, Salvation Army, churches, museums, schools, etc.)
- No On-line purchases will be considered eligible as Qualified Tennessee Spend.
- All cost associated with duplication, packaging, marketing and distribution

5.3 Pass-Through Companies

A Tennessee Vendor cannot be a pass-through company. If the vendor is a Tennessee Vendor but appears to be a pass-through company, then only those dollars that are of benefit to Tennessee will be allowed for the TEC incentive.

5.4 Related Party Transactions

Payments exchanged between immediate family of owners or management and/or multiple enterprises having the same or similar owners must be "arm's-length" and must be disclosed in the request for incentive reimbursements. Related parties shall be interpreted to include companies approved to receive the incentive, payments that are made to that company's owner, partner or principal. In order to substantiate that the Company is conducting transactions at "arm's-length," the Company must document the circumstances of all related party transactions. Compensation, such as payroll transactions or loans, made between related parties must be reasonably comparable to industry standards. With the exception of payroll-type transactions, the Company must solicit and maintain documentation of three bids from non-related parties, to perform the same services or provide the same products as the related party enterprise. To be a Qualified Tennessee Expenditure the amount paid to related party enterprise may be no more than the lowest of the three non-related party bids as well as meet the requirements as laid out in Section 5.

5.5 Residence and Related Reporting Requirements

The Company shall maintain a Form B - *Tennessee Declaration of Residency* for each individual for whom the Production Company is seeking an incentive. Tennessee Residents must meet Tennessee Resident criteria, which require a Tennessee driver's license or identification (ID only) license. According to state law new residents or those returning to Tennessee and holding a driver's license from another state must obtain a Tennessee driver's license no later than thirty (30) days after establishing residency. All new or returning residents must surrender their out-of- state license at time of application for a Tennessee license. Tennessee law does not allow a resident of this state to hold more than one valid driver's license or ID. Only foreign country licenses/IDs may be retained. All applicants obtaining an ID only license must meet the same standards for proof of identity, legal presence and residency as required for any driver's license. In order for expenses to qualify the individual must have a Tennessee driver's license or Identification (ID Only) license prior to each payment by the Company .

When submitting the Declaration of Residency Forms, part of the supporting documents for Form C, provide a copy of Form B for each resident and attach proof of residency. Alphabetize the Residency Forms with the proof of residency by last name (no use of commas, "&" and any special characters in the file name).

Section 6 – Financial Compliance (CPA Agreed Upon Procedures)

For those projects spending greater than $250,000 in QUALIFIED TENNESSEE EXPENDITURES a CPA review will be required by the State at the expense of the grantee. All other qualified Projects spending less than $250,000 in QUALIFIED TENNESSEE EXPENDITURES will be reviewed by TNECD Internal Audit.

6.1 Process and Timing

A Certified Public Accountant ("CPA") hired by the Company will issue an Independent Accountants' Report on Applying Agreed Upon Procedures ("AUP") including the procedures required in Section 6.2 in accordance with attestation standards established by the American Institute of Certified Public Accountants. The Accountants Report & Form C Documents are to be submitted to TEC within Six 6 Months of the Effective Date as defined by the Grant Contract. Companies spending less than $250,000 in QUALIFIED TENNESSEE EXPENDITURES will be required to submit all required Form C Documents to the TEC within Six (6) months of the effective Date for review by TNECD Internal Audit. Companies can request an extension in writing. All extension requests will be reviewed by the Tennessee Entertainment Commission on a case by case basis.

6.2 Specific CPA Agreed Upon Procedures

The agreed-upon procedures will be as follows:

1. The CPA/TNECD will read the regulations and guidelines of the Incentive.
2. The CPA/TNECD will obtain from the Company a general ledger listing of all expenditures the Company determines to be Qualified Tennessee Expenditures.
3. The CPA/TNECD will test Qualified Tennessee Expenditures that the Company deems eligible, paid to individuals (payroll) selected from the general ledger, whether they were made to an individual or a loan-out company. The items will be selected in accordance with Appendix F. For each item selected, the CPA/TNECD will verify to supporting records (timecard or equivalent documentation):
    a. The agreement of the date the expense was incurred
    b. The individual/loan-out company name
    c. Amount of the expense
    d. Tennessee Resident status of the employee
    e. Qualification in accordance with the TEC Guidelines
    f. For payments made to loan-out companies or other entities, the CPA/TNECD will verify that the loan-out company or other entity is a Tennessee Vendor.
4. The CPA/TNECD will test Qualified Tennessee Expenditures, other than payments to individuals (non-payroll) selected from the general ledger. The items will be selected in accordance with Appendix F. For each item selected, the CPA/TNECD will verify to supporting records (invoice or equivalent documentation):
    a. The agreement of the date the expense was incurred
    b. The vendor name
    c. Amount of the expense
    d. Qualification in accordance with the TEC Guidelines
    e. For payments made to loan-out companies or other entities, the CPA will verify that the loan-out company or other entity is a Tennessee Vendor.

5. The CPA/TNECD will apply the rate of misstatement based on the number of exceptions identified in procedure 3 and 4 above, if any. The rate of misstatement will be calculated by dividing the number of exceptions identified by number of transactions tested. The CPA/TNECD will attach a listing of those misstatements. The exceptions will be removed from the original schedule of Qualified Tennessee Expenditures (QTE) to arrive at a revised amount of QTE. The rate of misstatement will then be extrapolated to the revised amount of QTE adjusted for the known exceptions.
6. The CPA/TNECD will recalculate the amount of project incentive. After reducing the QTE by both the known exceptions and the extrapolated errors, the remaining adjusted QTE will be multiplied by the 25% rate of incentive. The result will be the eligible amount that could be reimbursed.

6.3 General Requirements

- The cost report must be in US dollars.
- The period during which the expenditures were incurred must be disclosed.
- For selected payments made to loan-out companies or other entities, the CPA/TNECD must verify that the loan-out or other entities are Tennessee Vendors.
- The costs to be recorded are actual costs and shall not include any mark-ups or profit additions on the part of the production entity receiving the rebate.
- It is the Company's responsibility to ensure that all of the required information is provided.
- CPA shall be a licensed firm who has undergone a successful peer review in the most recent reporting cycle. Prior to the State's acceptance of the Independent Accountants' Report the Production Company must submit to the State a copy of the CPA's license & most recent peer review.
- All Qualified Tennessee Expenditures must be net of any refunds, rebates or insurance claims.

- The Company should administer Petty Cash expenditures using standard accounting best practices. All documentation must be legible and must include the purchase date. The production company should maintain all Petty Cash Receipts and other pertinent documents in an orderly manner and available for review until after the final incentive payments have been processed.

Section 7 – Reporting Process

7.1 Forms

Form B: Tennessee Declaration of Residency (for each Resident the Company is claiming credit for)
Form C: Incentive Application must be completed in its entirety and submitted to the TEC along with all required attachments prior to finalization and payment of the incentive.

7.2 Timing

All expenditures must be incurred within the four (4) Month Qualification Period and all required Form C; Form C material and Accountants Report shall be submitted to TEC for final review within six (6) months of the Effective Date.

7.3 Data Reporting Requirements

See Appendix D – "Tracking Tips and Data Requirements" for complete set of data submission requirements and helpful hints for recording expenses during the Production.

7.4 Demonstration of Work

Prior to finalization and payment of the incentive, the grantee will be required to verify completion of work to the State of Tennessee.

7.5 Final Credit Award and Payment

The Company will not be entitled to receive any incentives, nor will they file any of their claims with the state, until the internal evaluation of program requirements shows that the Company has complied with all its obligations under this program. Payments will be made by direct deposit **upon** the completion of the review process.

In order to receive the TEC Scoring Incentive, the Company must enter into a payment contract with the State of Tennessee and will also be required to submit an invoice for 25% of the amount of adjusted Qualified Tennessee Expenditures listed in the Independent Accountants' Report on Applying Agreed Upon Procedures, a substitute Form W-9 (download at http://tn.gov/film/PDF/Incentives/SubstituteW9.pdf), and the ACH Form (download at http://tn.gov/film/PDF/Incentives/ACHregistration.pdf) along with the required voided check or deposit slip.

7.6 Hold Harmless

The payment contract requires the Company to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Company, its employees, or any person acting for or on its or their behalf relating to the project .

Section 8 – Confidentiality

8.1 Tennessee Public Records Act

The Tennessee Public Records Act is found in Tennessee Code Annotated ("TCA") § 10-7-101 and the sections that follow it. For purposes of access to public records, the operative provision is found in TCA § 10-7-503, which says: "All state county and municipal records ... shall at all times, during business hours, be open for public inspection by any citizen of Tennessee, and those in charge of such records shall not refuse such right of inspection to any citizen, unless provided by state law."

"Records" are defined in TCA § 10-7-301 as "all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business of any governmental agency."

In summary, documents that come into possession of a governmental agency either by virtue of receipt of the documents by the agency, or creation of the documents by the agency, are public records that must be made available for public inspection unless they are exempt from the disclosure by state law. TCA § 10-7-505(d) says the law "shall be broadly construed so as to give the fullest possible public access to public records."

TCA § 10-7-504 lists several records and categories of records that are exempt from disclosure. In addition, this same provision lists cross-references to many statutes that exempt certain records from disclosure.

8.2 ECD Public Records Provision

Supplemental to the Tennessee Public Records Act, the Department of Economic and Community Development ("ECD") has adopted departmental open records provisions found at TCA § 4-3-730. Unless a specific exception applies, the information and documents maintained, received, or produced by ECD are open for inspection by the public, including proprietary information, state contracts, and related documentary materials.

Section 9 - Definitions

Cable Network: Non-broadcast television programming that is transmitted to the viewer via cable, satellite, wireless, or internet protocol for a subscription, per program or per channel fee.

Company: Any corporation, partnership, limited partnership, limited-liability company or other entity or individual that is principally engaged in producing a project and that controls the project during all stages of production The applicant is the qualified taxpayer that upon final approval will receive the grant.

ECD Grants Committee: Committee made up of ECD senior management that oversees the allocation of ECD program funds.

Effective Date: Date of the finalization of the Grant Contract and the date at which Qualified Tennessee Expenditures are permitted to begin being incurred by the Company.

Estimated Tennessee Spend: The amount of Qualified Tennessee Expenditures a project anticipates incurring in Tennessee through the Qualification Period.

Feature Film: Means a production of a film intended for commercial distribution to a motion picture theater, directly to the home video market, or via the Internet that has a running time of at least seventy-five (75) minutes in length.

Four (4) Month Qualification Period: Means Four (4) months after the Effective Date, the date by which all Qualified Tennessee Expenditures must be incurred.

Grant Contract: TN prescribed contract entered into between the Company and ECD setting the terms and periods of performance as related to the Production Incentive.

National Network: A broadcaster which carries television programs through a series of local affiliates across the country.

Primary Market: Counties defined as the Nashville Metropolitan Area

Production: A Feature Film, Television Episode, Television Pilot or Television Commercial with National advertising message.

Qualified Tennessee Expenditures: Goods or services used in Tennessee in connection with a Qualified Project AND purchased from a Tennessee Vendor or paid to a Tennessee Resident for projects occurring in Tennessee incurred within the Qualification Period.

Qualification Period: F rom the Effective Date through the Four (4) Month Completion Date.

Qualified Production: Is a project scored in Tennessee that has met all criteria of the program and been approved by ECD Grants Committee.

Secondary Markets: Counties defined as the Metropolitan Areas of Knoxville, Chattanooga and Memphis which are located within the boundaries of the State.

Six (6) Month Submission Date: Six (6) months after the Effective Date, the date by which the Accountant Report (if applicable) and all form C materials must be submitted to TEC for final review.

Thirty (30) Day Start Date: Thirty (30) days after the Effective Date, the date by which the project must begin.

Television Commercial with National Advertising Message: A span of television programming produced and paid for by an organization, which conveys a message, typically to market a product or service on a national level.

Television Episode: A distinctive and separate twenty-two (22) to sixty (60) minute program which is part of a television series.

Television Series: A segment of content intended for broadcast on television. It may be a one-time production or part of a periodically recurring series.

Television Pilot: The initial episode produced for a proposed television series.

Tennessee Resident: An individual with a permanent Tennessee Driver's License or Identification (ID Only) license.

Tennessee Vendor: For procurement purposes, TCA 12-4-12 (c) (2) says that a Tennessee vendor/bidder means a business that "is incorporated in this state; that has its principal place of business in this state; or that has an established physical presence in this state."