

DISTRICT OF COLUMBIA
FILM TELEVISION AND ENTERTAINMENT REBATE FUND

D.C. Law 21-0081 (2016)

(a) There is established as a special fund the Film, Television and Entertainment Rebate Fund ("Fund"). The Fund shall appear as a separate program line within the budget of the Office of Cable Television, Film, Music, and Entertainment. The Fund shall be funded by annual appropriations.

- (1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.
- (2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

(b) Subject to § 2-1204.11a, § 2-1204.11b, § 2-1204.11c, § 2-1204.11d, § 2-1204.11e, § 2-1204.12a and subject to the availability of funds, the Mayor may provide to an eligible production company, as an incentive for the production of movies, television shows, or other video productions in the District, a payment up to the following:

- (1) The sum of 35% of the company's qualified production expenditures that are subject to taxation in the District;
- (2) The sum of 21% of the company's qualified production expenditures that are not subject to taxation in the District;
- (3) The sum of 30% of the company's qualified personnel expenditures that are subject to taxation in the District;
- (4) The sum of 10% of the company's qualified personnel expenditures that are not subject to taxation in the District;
- (5) The sum of 50% of the company's qualified job training expenditures; and
- (6) The sum of 25% of the company's base infrastructure investment; provided, that if the base infrastructure investment is in a facility that may be used for purposes unrelated to production or postproduction activities, then the base infrastructure investment shall be eligible for the 25% incentive payment only if the Mayor determines that the facility will support and be necessary to secure production or postproduction activity.

(c) Subject to § 2-1204.11b and subject to the availability of funds, the Mayor may provide to an applicant, as an incentive for the creation of production and postproduction facilities in the District, a payment of up to 25% of the taxpayer's base infrastructure investment; provided, that if all or a portion of the base infrastructure investment is in a facility that may be used for purposes unrelated to production or postproduction activities, then the base infrastructure investment shall be eligible for the up to 25% payment only if the Mayor determines that the facility will support and be necessary to secure production or postproduction activity.

Production incentives

- (a) To qualify for a payment under § 2-1204.11(b), an eligible production company shall:
- (1) Spend at least \$250,000 in the District for the preproduction, production, or postproduction costs of a qualified production;
 - (2) File an application with the Mayor pursuant to subsection (b) of this section;
 - (3) Enter into an rebate agreement with the Mayor pursuant to subsection (d) of this section;
 - (4) Comply with the terms of the agreement;
 - (5) Not be delinquent in a tax or other obligation owed to the District or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to the District; and
 - (6) Agree to contain a 5-second long “Filmed in the District of Columbia” credit and logo provided by the Mayor in the final production and a link to the District of Columbia on the project’s web page, or an alternative recognition agreed upon by the Mayor that offers equal or greater promotional value to the District.
- (b) An eligible production company seeking a payment under § 2-1204.11(b) shall submit an application to the Mayor. The application shall be submitted in a form, and with such documentation and information, may be prescribed by the Mayor, including:
- (1) An estimate of qualified production expenditures;
 - (2) An estimate of qualified personnel expenditures;
 - (3) An estimate of qualified job training expenditures; and
 - (4) An estimate of and total investment in qualified film and digital media infrastructure projects in the District associated with an identified qualified production.
- (c) After receiving an application under subsection (b) of this section, the Mayor shall review the application and determine whether to enter into an rebate agreement pursuant to subsection (d) of this section with the eligible production company. In determining whether to enter into an rebate agreement with the eligible production company, the Mayor may consider:
- (1) The potential that, in the absence of a payment under § 2-1204.11b(a), the qualified production will be produced in a location other than the District;
 - (2)
 - (A) The qualified production is likely to promote the District as a tourist destination;
 - (B) The qualified production is likely to create contracting and procurement opportunities for certified business enterprises;
 - (C) The qualified production is likely to:
 - (i) Create jobs;
 - (ii) Job training opportunities; and
 - (iii) Apprenticeships for District residents;
 - (D) The qualified production will produce employment opportunities for District youth;

- (E) The qualified production is likely to promote economic development and neighborhood revitalization in the District;
 - (F) A payment under § 2-1204.11b(a) is likely to attract private investment for the production of other qualified productions or base infrastructure investments in the District; and
- (3) The record of the eligible production company in completing commitments to engage in a qualified production.
- (d) An rebate agreement entered into by the Mayor and the eligible production company shall include the following provisions:
- (1) The name of the eligible production company;
 - (2) The name and description of the qualified production;
 - (3) The eligible production company's:
 - (A) Estimated qualified production expenditures;
 - (B) Qualified personnel expenditures;
 - (C) Qualified job training expenditures; and
 - (D) The base infrastructure investment;
 - (4) A preliminary estimate of the payment to be made by the District pursuant to the agreement;
 - (5) Any obligations of the eligible production company, including obligations such a commitment to hire District residents, provide apprenticeship opportunities for District residents and youth, provide employment opportunities for District residents and youth, and to contract with certified business entities; and
 - (6) Any other provisions considered appropriate by the Mayor.
- (e) If the Mayor determines that an eligible production company, after it completes the qualified production, has complied with the terms of the agreement entered into under this section, the Mayor shall provide to the company the payment authorized by § 2-1204.11(b).
- (f) The Mayor shall reserve funds sufficient to pay the amount identified in subsection (d)(4) of this section.

Infrastructure Incentives

- (a) To be eligible for a payment under § 2-1204.11(c), an approved applicant shall:
- (1) Invest and expend at least \$250,000 for a qualified film and digital media infrastructure project in the District;
 - (2) File an application with the Mayor pursuant to subsection (b) of this section;
 - (3) Enter into an agreement with the Mayor pursuant to subsection (d) of this section;
 - (4) Comply with the terms of the agreement; and
 - (5) Not be delinquent in a tax or other obligation owed to the District, or be owned or under common control of an entity that is delinquent in a tax or other obligation owed to the District.
- (b) An approved applicant seeking a payment under § 2-1204.11(c) shall submit an application to the Mayor, in a form and with the documentation and information, including an estimate of total base infrastructure investment, as may be prescribed by the Mayor.
- (c) After receiving an application under subsection (b) of this section, the Mayor shall review the application and determine whether to enter into a rebate agreement with the applicant pursuant to subsection (d) of this section. In determining whether to enter into the rebate agreement, the Mayor may consider:
- (1) The potential that, in the absence of a payment under § 2-1204.11(c), the qualified film and digital media infrastructure project in which the base infrastructure investment will be made will be constructed in a location other than the District, or not constructed at all;
 - (2) The extent to which the qualified film and digital media infrastructure project is likely to:
 - (A) Create contracting and procurement opportunities for certified business enterprises;
 - (B) Create jobs, job training opportunities, and apprenticeships for District residents and District youth;
 - (C) Promote economic development and neighborhood revitalization in the District;
 - (3) The extent to which the qualified film and digital media infrastructure project is likely to attract motion picture, television, and video production to the District; and
 - (4) The record of the applicant in completing commitments to engage in qualified film and digital media infrastructure projects.
- (d) A rebate agreement entered into by the Mayor and the eligible production company shall include the following provisions:
- (1) The name of the applicant;
 - (2) A description of the qualified film and digital media infrastructure project;
 - (3) The applicant's estimated base investment;
 - (4) A preliminary estimate of the payment to be made by the District pursuant to this agreement;
 - (5) Any obligations of the eligible production company, including obligations such as a commitment to hire District residents, provide apprenticeship opportunities for District

residents and youth, provide employment opportunities for District residents and youth, and to contract with certified business entities; and

(6) Any other provisions considered appropriate by the Mayor.

(e) If the Mayor determines, after the qualified film and digital media infrastructure project is complete, that an applicant has complied with the terms of the agreement under this section, the Mayor may provide to the company the payment authorized by § 2-1204.11(c).

Definitions

For the purposes of this chapter, the term:

- (1) "Above-the-line- crew" means a person employed by an eligible production company for a qualified production, such as a producer, director, writer, or actor, who is not otherwise identified as below-the-line crew, as defined in paragraph (2) of this section.
- (2) "Base infrastructure investment" means the cost, including renovation, rehabilitation, fabrication, and installation, expended by a person in the development of a qualified film and digital media infrastructure project for tangible assets of a type that are, or under the United States Internal Revenue Code will become, eligible for depreciation, amortization, or accelerated capital cost recovery for federal income tax purposes that are physically located in the District for use in a business activity in the District and that are not mobile tangible assets. The term "base infrastructure investment" does not include qualified production expenditure or qualified personnel expenditure.
- (3) "Below-the-line crew" means a person employed by an eligible production company for a qualified production after production begins and before production is completed, excluding above-the-line crew such as a producer, director, writer, actor, or other person in a similar position.
- (4) "Eligible production company" means an entity in the business of producing qualified productions.
- (5) "Postproduction expenditure" means a direct expenditure for editing, Foley recording, automatic dialogue replacement, sound editing, special or visual effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling, addition of sound or visual effects, and related expenses.
- (6) "Qualified film and digital media infrastructure project" means a film, video, television, or digital media production and postproduction facility located in the District, movable and immovable property and equipment related to the facility, and any other facility that is a necessary component of the primary facility. The term "qualified film and digital media infrastructure project" does not include a movie theater or other commercial exhibition facility.
- (7) "Qualified job training expenditure" means salary and other expenditures paid by an eligible production company to provide qualified personnel with on-the-job training to upgrade or enhance the skills of the qualified personnel as a member of the below-the-line crew for a qualified production.
- (8) "Qualified personnel expenditure" means an expenditure made in the District directly attributable to the preproduction, production, or postproduction of a qualified production and is a payment of wages, benefits, or fees to above-the-line or below-the-line crew members and includes a payment to a personal services corporation or professional employer organization for the services of qualified personnel as above-the-line or below-the-line crew members. The term "qualified personnel expenditure"

does not include salary, wages, and other compensation for personal services of above-the-line crew members that when combined exceed \$ 500,000 in salary, wages, or other compensation for personal services in connection with any qualified production activity.

- (9) "Qualified production" The term "qualified production" includes a music, sporting, interactive gaming, or other entertainment special event if it is determined that the event would not otherwise be produced in the District of Columbia without a production rebate. The term "qualified production" does not include:
- (A) A production that:
- (i) Consists primarily of televised news or current events;
 - (ii) Consists primarily of a live sporting event that would likely be staged in the District of Columbia without a production rebate;
 - (iii) Consists primarily of political advertising;
 - (iv) Primarily markets a product or service other than a qualified production; or
- (B) A radio program.
- (10)(A) "Qualified production expenditure" means the preproduction, production, and postproduction expenditures in the District directly related to the qualified production, including:
- (i) Set construction and operation;
 - (ii) Wardrobes, makeup, accessories, and related services;
 - (iii) Photography and sound synchronization, lighting, and related services and materials;
 - (iv) Editing and related services, including film processing, transfers of film to tape or digital format, sound mixing, computer graphic services, special effects services, and animation services;
 - (v) Rental of facilities in the District and equipment used in the District;
 - (vi) Establishment of office space in the District;
 - (vii) Leasing of vehicles;
 - (viii) Food and lodging;
 - (ix) Music, if performed, composed, or recorded by a District musician or published by a person or company domiciled in the District; and
 - (x) Any other production expense incurred in the District that is approved by the Mayor.
- (B) For goods with a purchase price of \$ 25,000 or more, the amount included in qualifying as a qualified production expenditure is the purchase price less the fair market value of the good at the time the production is completed.
- (C) The term "qualified production expenditure" does not include:
- (i) Qualified personnel expenditures;
 - (ii) Marketing and distribution expenditures; or
 - (iii) Non-production related overhead."

Film DC Special Account Fund

(a) There is established as a lapsing fund the Film DC Special Account Fund ("Fund"), which shall be used exclusively for the purposes set forth in subsection (b)(3) of this section. Any unexpended funds in the Film DC Special Account Fund at the end of a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(b)

- (1) There shall be deposited into the Fund the fees derived from film permits applied for or issued pursuant to § 2-1204.11d, other funds as may be designated by law, regulation, or reprogramming, and all interest earned on all deposits.
- (2) There shall be allocated annually to the Office of Cable Television, Film, Music, and Entertainment an amount that is equal to the total deposits and earnings that are estimated to remain unspent in the Fund at the end of the preceding fiscal year plus all deposits and earnings that are estimated to be received during the fiscal year for which the allocation is made.
- (3) The funds in the Fund shall be used solely to pay for operating expenses of the Office of Cable Television, Film, Music, and Entertainment; provided, that no funds in the Fund shall be used for personnel or personnel-related expenses.

References

All references in statutes, regulations, rules, orders, and other official documents to the "Film DC Economic Incentive Fund," "Incentive Awardee," and "incentive agreement" shall be deemed to refer, respectively, to the "Film, Television and Entertainment Rebate Fund," "Rebate Awardee" and "rebate agreement"