California Film & Television Tax Credit Program 2.0

GUIDELINES

March 2016*

*** Updated to include changes in 2nd Re-adoption Emergency ("Interim") Regulations**
For Projects with Credit Allocation Letters prior to July 1, 2016

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I. Introduction

The California Film Commission (CFC) prepared these guidelines to assist Production Companies and taxpayers in utilizing the California Film & Television Tax Credit Program 2.0. The material below contains information from the statute (Sections 17053.95 and 23695 of the Revenue and Taxation Code) and Program Regulations (Title 10, Chapter 7.75, Sections 5508-5516) in a more readable, organized format. It may add clarity to certain provisions of the statute and contains new and additional requirements. Applicants should read and understand the requirements of AB 1839 and the Emergency Regulations and are also strongly advised to consult with their legal and financial advisors. All the information contained in this document pertain to productions which received Credit Allocation Letters for Program Year 1 (from July 1, 2015 to June 30, 2016). Documents cited also pertain to Program Year 1.

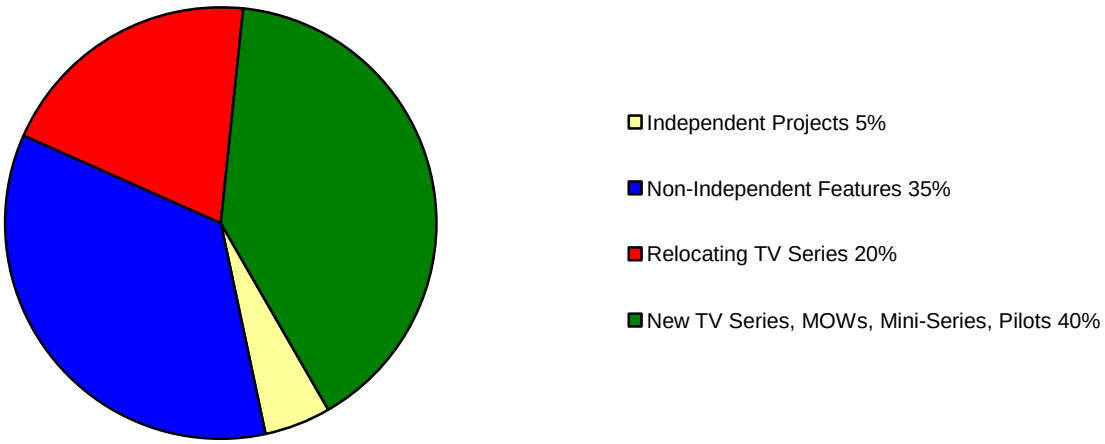
Detailed information on budget preparation, coding, and tagging is available in a separate document: Budget Tagging and Tracking Tips 2.0.

These guidelines contain terms whose meanings are defined in Section XVI. The defined terms will appear in **bold** and "quotations."

II. Program Funding and Project Eligibility

The California Film & Television Tax Credit Program 2.0 provides tax credits based on **"Qualified Expenditures"** for qualified productions that are produced in California. Enacted in September 2014, the 5-year, $1.55 billion program commenced on July 1, 2015. $230,000,000 is available in the 2015/16 fiscal year, and $330,000,000 is available each fiscal year through 2019/20. The California fiscal year is July 1 through June 30.

A. Tax credits will be allocated each fiscal year according to the following designated funding:



B. To apply for the California Film & Television Tax Credit Program 2.0, a film or television project must be one of the following:

1. A **"Feature Film"** with a minimum **"Production Budget"** of $1,000,000. Tax credits apply to the first $100,000,000. There is no cap on the total budget amount.

2. A **"Movie of the Week"** or **"Miniseries"** with a minimum **"Production Budget**" of $500,000.

3. A new **"Television Series"** licensed for any distribution outlet with a minimum episode budget of $1,000,000 and with a running time longer than forty (40) minutes, exclusive of commercials. **"Television pilots"** are also qualified and must have a minimum budget of $1,000,000. Pilots and series may be produced for distribution in any media outlet, including basic cable, pay (premium) cable, internet transmission, or network broadcast.

4. A **"Television Series that Relocated to California"** (Relocating Television Series) without regard to episode length that filmed its most recent season (minimum of 6 episodes) outside of California. There is a minimum **"Production Budget"** requirement of $1,000,000 per episode. The series may be produced for distribution in any media outlet, including basic cable, pay (premium) cable, internet transmission, or network broadcast.

5. An Independent Film with a minimum **"Production Budget"** of $1,000,000 that is produced by a company that is not publicly traded and that publicly traded companies do not own more than 25% of the producing company. While there is no budget cap, credits apply only to the first $10,000,000 of **"Qualified Expenditures."**

C. A **"Qualified Motion Picture"** must be an Independent Film, **"Feature Film," "Movie of the Week," "Miniseries," "Television Pilot"** or **"Television Series"** AND meet one of the following conditions:

1. A minimum of 75% of total **"Principal Photography"** days must occur wholly in California. **"Principal Photography"** days in California do not include the filming of primarily backgrounds, **"Visual Effects,"** action and/or crowd scenes by the second, stunt or visual effects units;

OR

2. A minimum of 75% of the **"Production Budget"** must be incurred and used for goods, services and/or wages within California.

D. Allowable Tax Credit for Qualified Motion Pictures

1A. **20% NON-TRANSFERABLE TAX CREDIT** (Non-Independent Productions) (plus 5% Uplift)

a. **"Feature Films":** $1,000,000 minimum budget; credit allocation applies only to the first $100,000,000 in **"Qualified Expenditures"**

b. **"Movies of the Week"** and **"Miniseries":** $500,000 minimum budget

c. **New "Television Series":** for any distribution outlet; $1,000,000 minimum budget per episode (at least 40 minutes per episode, scripted only)
d. **"Television Pilots":** $1,000,000 minimum budget (at least 40 minutes)

1B. **5% CREDIT UPLIFT** (Non-Independent Productions)
a. Filming outside the Los Angeles zone
b. Music Scoring and music track recording expenditures
c. **"Visual Effects"** expenditures (minimum spend required)
d. The maximum credit a production can earn is 25%.

2. **25% TRANSFERABLE TAX CREDIT** (Independent Productions) - maximum credit is 25%, uplifts do not apply.
Independent Productions: $1,000,000 minimum budget; credits apply only to the first $10,000,000 of **"Qualified Expenditures."** (Only independent projects may sell their tax credits.)

3. **25% NON-TRANSFERABLE TAX CREDIT** (Non-Independent Relocating Television Series: Any episode length that filmed its most recent season outside California; $1,000,000 minimum episode budget. Tax credits are non-transferrable. (Additional seasons are eligible for 20%)

E. The following types of productions are not considered qualified motion pictures and are not eligible for the program:

- Commercials
- Music videos
- News programs, current events or public affairs programs
- Talk shows; game shows; **"Strip Shows"**
- Sporting events
- Half hour (airtime) episodic TV shows (unless it qualifies under the conditions for a "**Television Series that Relocated to California"**)
- Animated productions
- Awards shows
- Productions that solicit funds
- **"Reality Programs,**" unscripted programs
- Student films
- Industrial films
- Clip-based programming where more than 50% of content is comprised of licensed footage
- Documentaries, informational programming
- Variety programs
- Daytime dramas
- Any production for which records are required to be maintained with respect to any performer in such production under Section 2257 of Title 18 of the United States Code (reporting of books, films, etc. with respect to sexually explicit conduct)

III. Qualified and Non-Qualified Expenditures

"Qualified Expenditures" are the portion of production expenditures that qualify for a tax credit allocation. These costs must be incurred and services performed in the State of California, and can include crew and staff salaries, wages, and fringe benefits; cost of facility rentals and equipment; production operation costs such as construction, wardrobe, food, lodging, and lab processing. Qualified wages also include payments to **"Qualified Entities,"** such as Loan-Out Corporations. In order for purchases and rentals to qualify, they must be purchased and/or rented and used in the state.

A. The Qualified Expenditure Charts and Budget Tagging and Tracking Tips (available on the CFC Incentives website) are helpful guides for determining which expenditures qualify in the calculation for credits. They also provide important information for budgeting, tracking and reporting **"Qualified Expenditures."**

B. **Non-Qualified Expenditures** do not qualify for tax credits and include, but are not limited to the following:

1. Wages paid to **"producers,"** writers, directors, actors, stunt performers, music directors, music composers and music supervisors, and performers. [Background actors (Extras) or off-camera stunt personnel do qualify.]

2. Expenses, including wages, paid or incurred with respect to acquisition, development, turnaround or any rights thereto.

3. Expenses, including wages, related to financing, overhead, marketing, publicity, promotion or distribution of a qualified motion picture, this includes but is not limited to digital cinema distribution copies and release prints.

4. Expenses, including wages, related to **"New Use," "Reuse," "Clip Use," "Licensing," "Secondary Markets," "Residual Compensation"** or the creation of any "**Ancillary Product"** including but not limited to, a soundtrack album, toy, game, video game, trailer or teaser.

5. Expenses for services performed outside the state of California, e.g., **"Visual Effects"** work which is physically performed out-of-state.

6. Certified Public Accountant Expenses for an independent Agreed Upon Procedures Report.

7. Federal Payroll taxes.

8. Expenditures paid or incurred prior to issuance of the "**Credit Allocation Letter (CAL)"** or 30 days after the process of **"Post-Production"** is **"Completed."**

IV. Budget and Calendar Requirements/Parameters

A. Applications must be submitted via our online application system during specific allocation periods. **"Principal Photography"** may not begin until the production has been admitted into the program and been issued a **"CAL."** *Any expenditures incurred for services, wages, or goods (whether paid or not) prior to the issuance of the **"CAL"** will not qualify for credits, (for the only exceptions to this rule, see "Budget Tagging and Tracking Tips").*

B. **"Principal Photography"** in California must commence no later than 180 days after the **"CAL"** is issued. A production may film outside of California prior to receiving a **"CAL."** If the production does not begin filming in California prior to the 180 day deadline, the tax credit allocation will be revoked. The production company may reapply when a firm start date is known during an open allocation period; however, there is no guarantee that tax credits will be available.

C. If a production implements a **"hiatus"** during the **"Principal Photography"** period, any and all **"Hiatus"** period(s) may be no longer than 120 calendar days in aggregate for the entire duration of the production. If the production does not resume within the 120 day period, the project will no longer be eligible for the program and cannot re-submit an application for that project in any future year. If a production has completed the scheduled number of **"Principal Photography"** days, has commenced **"Post-Production,"** and requires additional photography, the **"Hiatus"** provision is not applicable. The 2 weeks encompassing Christmas holiday and New Years are not included as part of a **"Hiatus"** period during that time of year. Hiatus periods are not applicable between television series seasons.

D. **"Post-Production"** must be **"Completed"** within 30 months of the issuance of the **"CAL."** The process of **"Post-Production"** will be considered complete when a final composite answer print, air master or digital cinema files of the qualified motion picture is/are produced. Final elements do not include international versions or archival elements.

V. The Application Process and the Queue – Phases I & II

A. Phase I is a specific open allocation period in which **"Applicants"** can submit application information via the CFC's online portal and includes the submission of a detailed synopsis of the project. All **"Applicants"** must have their schedule and budget information in order to input requested details into the online application. Please refer to the Budget Tagging and Tracking Tips before creating your **"Qualified Expenditure"** budget so that it contains the correct "tagging" methodology. Upon inputting all requested schedule and budget information, a Jobs Ratio number will be generated and projects will be ranked within their category according to that number. (See Section VI: Jobs Ratio Ranking).

B. In Phase II of the application process, the top 200% ranked projects (double the amount of projects for which tax credits are available) will be notified to submit, within 3 days via the online portal, the following **supporting documentation:**

1. **Budget** must be submitted ***in an industry standard budgeting program without security lock, including fringe accounts***.

   a. Budget must contain **only "Qualified Expenditures" * -** The detailed **"Qualified Expenditure"** (QE) budget should include **"Qualified Expenditures,"** wages and fringes. Non-Qualified Expenditures (NQ) must be tagged and grouped as NQ and excluded in the QE budget. The QE budget amount stated in the application must match the total in the submitted QE budget, including completion bond and/or contingency. These expenditures should be based on the budget which, after revisions, will become the locked **"Production Budget"** utilized by the completion Bond Company, Production Company and/or studio for the purposes of tracking costs. Qualified Expenditure Charts provide detailed information on qualified and non-qualified expenditures for different types of productions. If the QE budget contains non-qualified spend, **"Applicant"** may be asked to revise it. Revised budgets should address only those line items which require adjustment – budget revisions with increased **"Qualified Expenditures"** are not permitted.

      ***** If not detailed, the maximum set construction labor cost allowed is 70% labor / 30% materials.

   b. The tax credit allocation, if approved, will be based on the **"Qualified Expenditure"** estimate; only the actual amount of **"Qualified Expenditures"** (equal to or less than the estimate) will be eligible for tax credits upon completion.

   c. A **"Television Series"** may submit pattern and amortization budgets of **"Qualified Expenditures"** in an industry standard budgeting program in lieu of the budget listed above. The same tagging methodology applies.

   d. A Contingency of not more than 10% of the **"Qualified Expenditure"** budget total may be included in the contractual portion of the budget.

   e. A bond fee of not more than 2% on the **"Qualified Expenditure"** portion of the **"Production Budget"** may be included in the **"Qualified Expenditure"** budget. This figure should appear in the contractual section of the budget only.

   f. Insurance costs must be included as a budgeted line item and properly tagged – not in the contractual section.

2. **One-Line Shooting Schedule with Scene Numbers and Descriptions** ("Production Board") - Production schedule **must** indicate any anticipated **"Principal Photography"** days outside the "**Los Angeles zone"** and/or outside of California and any **"Principal Photography"** days in a "**Production Facility.**" *[PDF File via Online Portal]*

"Television Series" may submit a **Production Calendar** [*PDF file via Online Portal*] and a summary in lieu of a one line schedule, which must include:

- The estimated start and end dates of the season.
- The number of in-state and out-of-state **"Principal Photography"** days.
- The number of **"Principal Photography"** days scheduled in a "**Production Facility.**"
- The number of **"Principal Photography"** days scheduled outside the "**Los Angeles zone."**
- The total number of episodes.

3. "**Pick-up Order"** – A **"Television Pilot,"** new **"Television Series"** and relocating Television Series must submit evidence that the project has received a **"Pick-up Order"** and is thus "greenlit." The amount of episodes indicated in the **"Pick-up Order"** for a series must be the same as the number of episodes on the application. If additional episodes are ordered during the same season, the **"Applicant"** may submit a new application during the next allocation period. *[PDF File or equivalent format via Online Portal]*

4. **Screenplay with scene numbers that match the schedule** - A **"Television Series"** may provide a script from one episode, or if not available, from the **"Television Pilot"** episode. If application is for a **"Television Pilot"** without a script, a detailed synopsis will suffice. *[PDF File via Online Portal]*

5. **Detailed Narrative Statement** - Provide a written statement on letterhead establishing that the tax credit is a significant factor in the **"Applicant's"** choice of location for the project. Include information about whether the project is at risk of not being filmed or specify the jurisdiction where the project will be located in absence of the credit. The statement must be signed by an officer or executive of the **"Applicant."** *[PDF file via Online Portal]*

6. **Relocation Statement -** All relocating television series **"Applicants"** must submit a letter on letterhead stating that the tax credit provided is the primary reason for relocating. Detailed narrative statement (#5) is not required if submitting this document. *[PDF File via Online Portal of scanned, signed statement]*

7. **Financing "backup" documentation -** Establish proof that 60% of the funds are available by providing accounting statements, brokerage or bank statements, or commitment letters from an established motion picture company or lender. *[PDF File via Online Portal]*

8. For **"Applicants"** that are a partnership or single member LLC and not owned more than 25% by a publicly traded company (this applies to independent corporations as well) 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. *[PDF File via Online Portal]*

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. *[PDF File via Online Portal]*

9. 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 assigned. *[PDF File via Online Portal]*

   b. If readily available, a **listing** of all states, provinces or other jurisdictions in which any of those members finance motion picture productions. *[PDF File via Online Portal]*

C. Any project with missing or inadequate application materials during Phase II will not be eligible for tax credit allocation. Failure to provide requested materials may result in removal from the queue.

1. If there are more qualified **"Applicants"** than funds available, the **"Applicants"** within the top 200% ranked projects which did not receive tax credits will be notified and placed on the waitlist within their project type category. Should tax credits become available in a category, the CFC will notify the **"Applicant"** at the top of the waitlist in that category to determine if that **"Applicant"** is still interested in receiving a tax credit allocation. Waitlist **"Applicants"** are requested to notify the CFC if they have a change in status e.g., filming out of state or if project is not going forward. The waitlist expires when the next allocation period begins for the same project category.

2. Waitlisted productions that begin **"Principal Photography"** in the state prior to receiving a **"CAL"** are not eligible for the program.

3. **"Applicants"** should not submit more than one application per project per allocation period. If the CFC receives duplicate applications for the same project, both applications will be disqualified from the tax credit program.

4. A **"Television Series"** must submit one application for the entire season as indicated in the **"Pick-up Order."**

5. Any **"Television Series"** approved and accepted into the program will receive priority placement in the queue for subsequent seasons. The returning series will be ranked based on the fiscal year of original credit allocation. If further prioritization is necessary, the jobs ratio for the series in the current allocation period will be used. Subsequent seasons of a

Relocating Television Series in California are considered Returning **"Television Series"** and receive a 20% tax credit.

6. Television **"Producers"** are requested to notify the CFC in writing prior to the next open allocation period if the series will be returning so the CFC can set aside credits prior to the open allocation period. A new application must be submitted for each season.

7. Additional episodes for the same season require a new application and should indicate that production is requesting credits for additional episodes by adding a ".5" to the season, e.g. "*TV Series Title* 1.5". Once accepted, the back order episodes will receive a **"CAL"** and require a separate Agreed Upon Procedures and final review.

8. **"Television Pilots"** accepted into the Program that receive a **"Pick-up Order"** for a **"Television Series"** will be given first priority if an application for the new **"Television Series"** is submitted for a subsequent allocation period. If necessary, prioritization is as described above for Returning **"Television Series."**

VI. Jobs Ratio Ranking

A. The jobs ratio ranking process is statutorily mandated in order to identify those projects which create the most jobs and increase economic activity in the state. **"Applicants"** are required to input, via the online application portal, qualified wages and qualified non-wage expenditures. To determine the jobs ratio of each project, 35% of the non-wage expenditures are automatically added to the qualified wage amount, which is then divided by the amount of tax credits requested. This results in the Base Jobs Ratio. [NOTE: Qualified Wages must be paid directly by the **"Applicant"** or its payroll service in order to be included in this calculation as a wage; labor paid via third party contracted vendor must be identified as a qualified (non-wage) expenditure]. **"Qualified Expenditures,"** for the purposes of the jobs ratio ranking, do not include contingency or bond amounts.

B. Please refer to the Qualified Expenditure Charts (QEC) on the CFC website which delineate the types of expenditures, wages, box rentals, allowances and fringes considered "wage" and "non-wage" expenditures.

C. The Base Jobs Ratio may be increased based on activity in any or all of the following areas. These are referred to as the "bonus points:"

1. "**Visual Effects"** performed in-state – Please refer to the applicable Qualified Expenditure Charts (QEC) to determine which expenditures qualify for the bonus points; they are the SAME expenditures that qualify for the 5% uplifts. (Section VII) *There is no minimum VFX spend requirement with respect to bonus points.*

2. **"Principal Photography"** days at a "**Production Facility**" – **"Principal Photography"** days incurred at a "**Production Facility**" qualify for bonus

points. Bonus points are determined by the percentage of **"Principal Photography"** days at a facility in relation to total **"Principal Photography"** days in the state. Productions must utilize a facility approved by the fire department on the Production Facility List on the CFC website. Facility Days must be indicated in the one-line schedule or production calendar. Facility Days are defined as days in which the shooting crew utilize the facility for 6 hours or more. This must be noted on production reports. For projects with **"CALs"** beginning in 2016, productions must receive written approval from the CFC prior to **"Principal Photography"** to utilize an unlisted building or ranch whose primary use is film, television, commercial or digital production.* **Ranches & other facilities not on the fire department listing, but acceptable by the CFC, appear at the end of the Fire Department approved listing on the website. Contact the CFC to receive written approval for your production.*

3. **"Principal Photography"** days outside the **"Los Angeles zone"** (OZ) - Bonus points are determined by the percentage of **"Principal Photography"** days outside the **"Los Angeles zone"** in relation to total **"Principal Photography"** days in the state. The first scene of the day must be shot outside the zone in order for the day to be considered an OZ day.

   Bonus point ranges per project type are posted on the CFC website under Jobs Ratio Calculator.

VII. 5% Additional Tax Credit ("Uplifts") – Non Independent Productions

A. Non-Independent Productions (excluding relocating television series in its first season in the state) are eligible for an additional 5% in tax credits ("Uplifts") if spending occurs in any or all of the 3 categories listed below:

   1. **"Visual Effects"** performed in the state – Please refer to the applicable QEC to determine which VFX expenditures qualify for the uplift; they are the SAME expenditures that qualify for the bonus points and are indicated with a green "VU" tag. In order to qualify for VFX uplift, a production must spend a minimum of $10 million in qualified **"Visual Effects"** (includes all qualified VFX, not just VFX that qualify for bonus points/uplift) or at least 75% of the total worldwide VFX expenditures must be incurred in California for qualified VFX.

   2. **Music Scoring** and/or **Music Track Recording** – Please refer to the applicable QEC for expenditures that qualify for this uplift; these expenditures are indicated with a green "MU" tag.

   3. Qualified wage and non-wage expenditures outside the **"Los Angeles zone"** (OZ) during the **"Applicable Period."**

      a. Qualified wages for labor performed outside the zone must be tagged ZW (in addition to QW) in the budget and when tracking incurred wages outside the **"Los Angeles zone."**

b. Qualified non-wages (excluding Post-Production costs, insurance costs & premiums, production and music legal costs, completion bond, and contingency labeled PST and QE), will be calculated via the online portal based on the percentage of **"Principal Photography"** days outside the **"Los Angeles zone"** in relation to the total **"Principal Photography"** days.

c. Optional: Productions which can provide adequate documentation on non-wage expenditures purchased and/or rented outside the **"Los Angeles zone"** and totally consumed outside the **"Los Angeles zone,"** to the CPA performing the Agreed upon Procedures, will be allowed 100% of the cost of these items. Examples of property that can be considered totally consumed are included in Appendix A. of this document and may be tracked as "ZC". Totally consumed expenditures are not included in the estimated OZ **"Qualified Expenditure"** calculations as indicated in the application.

VIII. Issuance of Tax Credit Allocation Letter – Phase Three

A. Within 20 business days of receipt of the completed application, and all requested supporting documents, the CFC will notify the **"Applicant"** by e-mail of accepted or rejected status. Upon approval, a **"CAL"** will be issued to the **"Applicant"** indicating the amount of credits reserved pending the project's continued eligibility and final documentation.

B. The date of issuance of the **"CAL"** is the same date by which the program's date-sensitive parameters will be assessed: e.g. (1) date when monies paid or incurred are considered **"Qualified Expenditures;"** (2) 180 day deadline to commence **"Principal Photography;"** and (3) 30 month deadline to complete the motion picture.

C. No later than four (4) weeks prior to **"Principal Photography,"** the production accountant is required to attend an orientation meeting with the CFC, along with any or all of the following production personnel: a primary **"Producer,"** Unit Production Manager (UPM), and/or other appropriate personnel; Post-Production accountants and post supervisors are encouraged to attend as well. **"Applicants"** are advised to schedule their orientation meeting as soon as the production team is in place to be better informed of the requirements of the program, tagging methodologies and the process necessary to obtain the **"Credit Certificate."** Please inform the CFC of production personnel who have previously attended a CFC 2.0 Orientation Meeting as they are not required to re-attend, but may do so at their election.

D. Each **"CAL"** is issued to the specific project (synopsis, script, schedule and budget) which was submitted. Exchanging the approved project for another project is strictly prohibited and will result in revocation of the tax credit reservation. **"Producers"** with projects, which for unforeseen reasons do not move forward into production, are asked to notify the CFC as soon as possible so that the credits may be reallocated.

IX. Approved Applicant Responsibilities

The following must be submitted by e-mail to incentiveprogram2@film.ca.gov. *Please include Queue number and title of project in subject line.*

A. A call sheet, signed by the UPM, on the first day of **"Principal Photography."**

B. Final Production Reports for each day of **"Principal Photography,"** signed by the UPM; may be submitted on a weekly basis in arrears.

C. Production Updates - Notify the CFC via e-mail indicating any substantive changes: e.g., start date change, title change, revised # of episodes scheduled, **"Hiatus"** start/stop dates, any significant reduction of budget or schedule.

X. Career Readiness Requirement

Career Readiness Requirement - All **"Applicants"** must participate in a career based learning and training program approved by the CFC. Participation may involve internships, workshops by production professionals, professional skills tours and/or set visits, continuing education for educators, or a financial contribution. This is an opportunity to inspire, train, and give back to the next generation of filmmakers. This requirement may be fulfilled during any phase of the project. Please refer to the CAREER READINESS section on the CFC website for detailed instructions on this requirement.

XI. Screen Credit and Marketing Materials

A. All productions that receive a **"Credit Certificate" must** provide an on-screen acknowledgement in this exact wording: **"The State of California and the California Film Commission,"** except where that acknowledgement may be prohibited by the Children's Television Act or any other local, state, or federal government policy. Please inform your credits administrator or Post-Production supervisor of this requirement.

B. All productions that receive a **"Credit Certificate"** MUST include the CFC LOGO in the end credits. Contact the CFC for access to the digital file containing the logo in the format needed for your production.

C. Production Stills - Five (5) production stills in digital file format cleared by the production company and with cast approvals (if cast members are included in the stills) for promotional use by the CFC. The CFC prefers stills that contain interesting California locations, as well as acting talent. Submit via flash drive with final documentation.

XII. Process for Obtaining the Credit Certificate – Phase IV

Upon completion of the project* and prior to the issuance of the **"Credit Certificate,"** the **"Applicant"** must provide to the CFC the documentation listed below. All documents must be saved in a USB flash drive (No CDs). Documents required in hard copy must be placed in a soft cover binder with a press mechanism, and sections labeled with tabs. Packet, along with USB, must be mailed to the CFC.

Please e-mail the Incentive Program 2.0 mailbox incentiveprogram2@film.ca.gov and inform the CFC to change your on-line project status to PHASE IV. You will be able to gain access to the Expenditure Summary Report (Form FF-1 for Non-Independents; FF-2 for Independent Projects) and upload documents.

***Note**: Approved applicants are encouraged to submit final documentation to the CFC once 30 days have passed after completion of the final element, the Agreed Upon Procedures is complete, and all documentation is ready for review. However, there is no formal deadline for submitting final documentation.

A. Expenditure Summary Report: CFC Form FF-1 or FF-2 [*download via on-line portal; print PDF copy and include hard copy with audit materials*].

B. Copyright certificate (Form PA), evidencing registration of the screenplay or teleplay OR completed television episodes, **"Miniseries," "Television Pilot,"** or **"Movie of the Week."** The copyright holder may be the **"Qualified Taxpayer,"** its **"Affiliate"** or an unaffiliated company for which the qualified **"Applicant"** is producing the motion picture. [*Paper copy and electronic PDF file saved in USB*].

C. Final Cast, Crew, and Vendor Lists – Please do not include social security numbers. *[Electronic PDF files saved in USB].*

D. Main and End title final "checker" or "galley" or actual credit roll – The checker or galley the actual layout of the titles normally produced by a Title House or other Post-Production Facility. Must contain an End Credit Acknowledgement to the State of California and the California Film Commission and the CFC Logo (available upon request). *[Electronic PDF File, Word, QuickTime or similar electronic format, saved in USB].*

E. Five (5) Production Stills – electronic digital files with cast approvals cleared for CFC usage. [*JPG files only saved in USB*].

F. Local Community Expenditure Report, if filming at a location outside the 30-mile **"Los Angeles zone"** outside of LA County (request form from CFC). [*Electronic PDF file saved in USB*].

G. Copy of Script Supervisor's Lined Script of the project; **"Television Series"** must submit episodes 2 and 5 of the series. [*Electronic PDF scan of lined script(s) saved in USB*].

H. Television Distribution Verification

1. **"Miniseries"** - Documentation verifying that its initial distribution on TV consists of two or more episodes with a total running time of at least 150 program minutes. *[Electronic PDF file saved in USB].*

2. **"Movie of the Week"** - Documentation verifying its initial distribution on TV with a minimum of 75 program minutes broadcast in one part. *[Electronic PDF file saved in USB].*

I. Updated Information: Updates to the information provided in Section V(B)(7-9).

J. Documentation from the Career Readiness designated representative, verifying participation in a career-based learning and training program. [*Paper copy of the Career Readiness Verification Form, with wet signature, and electronic PDF file; if applicable, copy of receipt for financial contribution attached*.]

K. Agreed Upon Procedures Report, performed by a CPA who has attended a CFC CPA 2.0 Orientation meeting (listing available upon request). *[Electronic PDF File on USB flash drive plus a paper copy].*

1. Required AUP documentation (discuss with your CPA): All audit documents must be uploaded via the on-line portal as well as printed and mailed to the CFC, (except where noted otherwise), along with the Expenditure Summary Report, Form FF-1 or FF-2.

   a. Vendor Final Element Creation letter (see template on CFC website) - from the Post-Production Facility (or Post-Production department), on letterhead with original signature. The process of **"Post-Production"** is considered finished when a final composite answer print, air master or digital cinema files of the qualified motion picture is/are produced. Does not include archival or international elements. In the case of a **"Television Series,"** the required letter should refer to the final episode of the season. *[Paper copy of letter printed on letterhead and electronic PDF file].*

   b. Verification of In-state Work – Vendor Verification Form Letter (see template on CFC website). On company letterhead from each **"Visual Effects,"** title, post sound, and/or digital effects company contracted by the production company, indicating the total dollar amount of work performed within the State of California with original signature *[Paper copy of letter, printed on letterhead and electronic PDF file].*

   c. Related Party Disclosure List - Listing of all related party transactions. *[Electronic PDF file saved in USB].*

   d. Verification Letter from **"Applicant"** – Verification of accuracy of related party disclosure list attesting that the related party disclosure list is complete and accurate and (if applicable) verification that all insurance claims related to **"Qualified Expenditures"** have been credited on cost report. *[Electronic PDF file saved in USB].*

e. Listing of Electronic Assets with a value of more than $250.00 including; copiers, printers, cameras, drives, monitors, DVD players, computers, etc. *[Electronic PDF file saved in USB].*

f. Listing of Assets over $10,000 – Individual assets do not include set pieces constructed from multiple materials unless purchased as a whole. *[Electronic PDF file saved in USB].*

g. Payroll representative letter verifying no outstanding invoices no less than 30 days after creation of final element. *[Electronic PDF file saved in USB].*

h. If applicable, statement from insurance company if premium/fee is prorated. *[Electronic PDF file saved in USB].*

2. During the audit process, in addition to verifying **"Qualified Expenditures,"** the CPA will recalculate the Jobs Ratio based upon actual wage and non-wage spend. Based on a comparison of the approved Jobs Ratio versus the Jobs Ratio based on actual expenditures, if the information submitted with the application was overstated, the **"Applicant"** may be penalized with a reduction of tax credits unless "**Reasonable Cause**" can be documented. **"Applicants"** are to contact the CFC to discuss events that fall within the definition of "**Reasonable Cause**" that may adversely affect their recalculated Jobs Ratio ranking. Overstatement penalties are as follows:

   a. <u>Non-Independent Projects</u>: If the Jobs Ratio has been reduced by more than 10%, the credit will be reduced by an equal percentage, unless reduction is due to **"Reasonable Cause."** If the Jobs Ratio has been reduced by more than 20%, the **"Qualified Taxpayer"** (**"Applicant"**) or any member of the **"Qualified Taxpayer's"** controlled reporting group may not apply for the Program for a year from the date of that determination.

      Example: **"Applicant's"** initial Jobs Ratio was 4.5; the final actual Jobs Ratio was reduced to 4.0. The Jobs Ratio was decreased by 11% and therefore the tax credit amount will be decreased by 11%.

   b. <u>Independent Projects</u>: If the Jobs Ratio has been reduced by more than 30%, unless there is **"Reasonable Cause,"** the tax credit amount will be reduced by the amount of overstatement plus 10%.

      Example: Independent **"Applicant's"** approved Jobs Ratio was 4.5; the final adjusted Jobs Ratio is 3.0. The Jobs Ratio was decreased by 33%. In this scenario, the Independent **"Applicant's"** approved adjusted final tax credit amount will be reduced by 43% (33% + 10%).

Failure to provide the requested documentation may result in loss of the credit.

XIII. Approval / Disapproval of Tax Credit Allocation

A. The CFC will review all the required materials submitted by the **"Applicant"** and CPA to determine if the **"Applicant"** meets all the criteria for the program and will approve or disapprove the request for the **"Credit Certificate."** During the review, the CFC may request additional documentation to determine if the production is a qualified motion picture and to verify the **"Qualified Expenditures."**

B. The amount of tax credit allocated shall be based on the percentage of the **"Qualified Expenditures"** and Jobs Ratio confirmed in the Agreed Upon Procedures Report. This amount may be less than the amount indicated on the **"CAL"**.

C. If the request for a **"Credit Certificate"** is denied, the CFC will provide the **"Applicant"** with a notice of disapproval stating the reasons for such. Disapproval is final and not subject to administrative appeal or review.

XIV. Confidentiality

The CFC is mandated by statute to post the following information on its website: **"Applicant"** name, project title, tax credit amount, number of **"Principal Photography"** days in the state, number of estimated jobs created, total qualified wages, total **"Qualified Expenditure"** budget amount. All other information submitted to the tax credit program is considered proprietary and is **not** subject to the California Public Records Act.

XV. Utilizing the Tax Credits

Tax Credits may be utilized beginning in the tax year in which the **"Credit Certificate"** is issued. Independent productions may transfer tax credits to an unrelated party. Non-independent productions must utilize the credits against state income tax liability, sales or use tax liability, and may also assign credits to an **"Affiliate."** For detailed information on utilizing the tax credits, please refer to the CFC website document "USING THE TAX CREDITS: FACT SHEET".

XVI. Definitions

"Affiliate" means a Qualified Taxpayer's affiliated corporation that has been assigned any portion of the credit amount by the Qualified Taxpayer.

"Ancillary Product" means any article for sale to the public that contains a portion of, or any element of, the qualified motion picture.

"**Applicable Period**" refers to production outside the Los Angeles zone, but in the state of California that commences with Pre-Production and ends when original photography

concludes outside the Los Angeles zone. It includes the time necessary to strike a remote location and return to the Los Angeles zone.

"Applicant" is any corporation, partnership, limited partnership, limited liability company (LLC) or other entity or individual that is principally engaged in the production of the "qualified motion picture" and that controls the film or television program during pre-production, production and post-production. The applicant is the Qualified Taxpayer that upon final approval will receive the Credit Certificate.

"California Film Commission" (CFC) is a state entity established and described in Government Code sections 14998 et. seq. that, among other functions, facilitates and promotes motion picture and television production in the State of California.

"Clip Use" means a use of any portion of a motion picture, other than the qualified motion picture, used in the qualified motion picture.

"Completed" means when the process of post-production has been finished. The process of post-production shall be considered finished when a final composite answer print, HD air master, or digital cinema files of the qualified motion picture is/are produced.

"Credit Allocation Letter" (CAL) is the document issued by the California Film Commission reserving an amount of tax credits to an applicant having a "qualified motion picture" based on an estimate of "qualified expenditures."

"Credit Certificate" means the certificate issued by the California Film Commission upon completion of the qualified motion picture reflecting the credit amount allocated after qualified expenditures have been verified.

"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.

"Hiatus" means a break or interruption in the continuity of work.

"Licensing" means any grant of rights to distribute the qualified motion picture, in whole or part.

"Los Angeles zone" means the area within a circle 30 miles in radius from Beverly Boulevard and La Cienega Boulevard, Los Angeles, CA and includes Agua Dulce, Castaic, including Lake Castaic, Leo Carillo State Beach, Ontario International Airport, Piru, and Pomona, including the Los Angeles County Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch property is within the Los Angeles zone.

"Miniseries" means a motion picture based on a single theme or storyline which is resolved within the piece. A Miniseries consists of two or more episodes with a total running time of at least three broadcast hours (150 program minutes).

"Movie of the Week" which may also be known as "MOW" or "made for television movie," is defined as a motion picture, produced for initial exploitation on television,

which contains a scripted storyline requiring a minimum of 75 program minutes in length, broadcast in one part.

"New Use" means any use of a motion picture in a medium other than the medium for which it was initially created.

"Pick-up Order" means a contractual obligation from a licensee-exhibitor that a pilot or television series has been ordered or renewed for the production of an initial episode or episodes to be delivered within a specific timeframe.

"Post-Production" means the final activities in a qualified motion picture's production, including but not limited to editing, foley recording, ADR, sound editing, negative cutting, color correction and sound mixing.

"Pre-Production" means the process of preparation for actual physical production which begins after a qualified motion picture has received a firm agreement of financial commitment. Customarily includes but is not limited to activities such as location scouting, hiring of key crew members, and establishment of a dedicated production office.

"Principal Photography" means the phase of production during which the motion picture is actually shot, as distinguished from pre-production and post-production. Principal photography days refer to the number of days shot by the principal unit with the director and lead actors usually present. Principal photography days in California do not include the filming of primarily backgrounds, visual effects, action and/or crowd scenes by the second, stunt, or visual effects units.

"Producer" means any individual who receives an on-screen producer credit including but not limited to any of the following titles: producer, co-producer, line producer, executive producer, co-executive producer, associate producer, supervising producer, post producer, or visual effects producer.

"Production Budget" means the Budget used by the qualified taxpayer and production company and shall include but is not limited to Above-The-Line costs including wages, and Below-The-Line costs including post-production, insurance, rights, and music and clip licensing fees. Production Budget shall include wages, goods, and services performed and incurred within and outside of California. It does not include costs which are not directly associated with the pre-production, production or post-production of the project, such as: distribution prints and advertising, marketing, film festival participation, financing or distribution costs such as theater rentals and DVD manufacturing.

"**Production Facility"** means (1) any facility used by the entertainment industry for the purpose of film, television, commercial or digital production that is in compliance with Title 24, Chapter 48 of the California Fire Code, as determined by the fire authority having jurisdiction or (2) a building, ranch or other facility, whose primary usage is film, television, commercial or digital production, verified by the CFC prior to the start of principal photography.

"Production Period" means the period beginning with pre-production and ending upon completion of post-production.

"Qualified Entity" means a personal service corporation (as defined in Section 269(b)(1) in the Internal Revenue Code), a payroll services corporation, or any entity receiving qualified wages with respect to services performed by a qualified individual.

"Qualified Expenditure" means amounts paid or incurred to purchase or lease tangible personal property used within the state in the production of a qualified motion picture. It includes payments, including qualified wages, for services performed within the state in the production of same.

"Qualified Taxpayer" is the entity who has paid or incurred qualified expenditures and to whom the final Credit Certificate will be issued.

"Reality Program" means a program depicting real events and non-actors through actual footage which presents persons engaged in purportedly unscripted situations; no fictional characters are created.

"Residual Compensation" means supplemental compensation paid at the time that a motion picture is exhibited through new use, reuse, clip use, or in secondary markets, as distinguished from payments made during production.

"**Reasonable Cause**" means unforeseen circumstances beyond the control of the applicant, including, but not limited to, an event of force majeure, the cancellation of a television series prior to the completion of the scheduled number of episodes, failure by third parties to perform, a change in essential talent such as the director, principal cast and the associated costs, and/or a change in production financing exigencies resulting in a significant reduction to the production budget.

"Reuse" means any use of a qualified motion picture in the same medium for which it was created, following the initial use in that medium.

"Secondary Markets" means media in which a qualified motion picture is exhibited following the initial media in which it is exhibited.

"Strip Show" means television programming in which three or more episodes are regularly produced in their entirety in one week (e.g., "Judge Judy", "Entertainment Tonight").

"Television Pilot" means the initial episode produced for a proposed television series. This category will include shorter formats which are known as "television presentation," a production of at least fifteen (15) minutes in length, produced for the purposes of selling a proposed television series, but not intended for broadcast.

"Television Season" means the initial exhibition of a set of television episodes lasting no less than six (6) episodes and no more than thirty (30) episodes within a period of twelve (12) months.

"Television Series" also known as "episodic television," means a regularly occurring production.

"Television Series that Relocated to California" means a television series, without regard to episode length or initial media exhibition, that filmed all of its prior season or seasons outside of California and for which the taxpayer certifies that the credit provided is the primary reason for relocating to California.

"Visual Effects" (VFX) means the creation, alteration, or enhancement of images that cannot be captured on a set or location during live action photography and therefore is accomplished in post-production. It includes, but is not limited to, matte paintings, animation, set extensions, computer-generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. "Visual effects" does not include fully animated projects, whether created by traditional or digital means.

Appendix A

CONSUMABLES

Tangible personable property purchased or leased outside the Los Angeles zone shall be considered completely consumed provided the property was of a type or nature such that it would have no residual material value remaining after its use or consumption. Examples of such include, but are not limited to:

- Food and catering items
- Rented Hotel or corporate housing usage
- Construction supplies and materials for sets
- Automotive or other fuels
- Security services
- Location and stage services
- Governmental permit fees
- Personnel services
- Printing
- Equipment rentals for the Applicable Period
- Transportation Services
- Dry Cleaning
- Shipping costs from within the state to the out of zone location

Please contact the California Film Commission if you have questions regarding the Film & Television Tax Credit Program 2.0 - we are here to assist you.

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