



Film Incentive Program Procedures & Definitions

The Colorado Film Incentive program is a performance based incentive plan that may rebate up to 10% of the cost of producing a film, documentary or television program, commercial and certain other production types when that project is filmed in Colorado.

All production companies seeking to participate in the Film Incentive Program rebate must complete and submit a “**Statement of Intent**” to the Colorado Office of Film, Television & Media, which will review and process the applications for the Colorado Creative Industries Division of the Colorado Office of Economic Development. All applications should be submitted prior to significant production work beginning on the project.

The production company must be notified, in writing, that the “Statement of Intent” has been approved by the Colorado Office of Film Television & Media and a signed Incentive Contract must be fully in force with the State of Colorado prior to be considered an approved project. A failure to obtain this approval prior to the beginning of significant production activities may result in a forfeiture of any funds reserved for that specific project.

The amount of the rebate cannot exceed the amount of available funding provided by the Colorado legislature for this program, or the amount initially requested by the production company regardless of actual expenditures.

1. Definition of Terms:

“Film” means any visual or audiovisual work, including, without limitation, a video game, or commercial that contains a series of related images, regardless of the medium by which the work is fixed and from which it can be viewed or reproduced, and that is primarily intended to be either:

- (a) Commercially exploited by being shown in theaters or on television, licensed for the home market or otherwise; or
- (b) For internal industrial, corporate or institutional use.

b. “Production Activities” – means the shooting of a film, support activities related to such shooting, and any pre-shooting or photo-shooting activities that are necessary to produce a finished film, including, but not limited to, editing and the creation of sets, props, costumes, and special effects.

c. “Production Company” – means a person including a corporation or other business entity that engages in production activities for the purpose of producing all or any portion of a film in Colorado.

d. “Qualified Local Expenditure” – means a payment made by a production

company in Colorado to a business in Colorado in connection with the production of a film that the production company is producing in Colorado. “Qualified Local Expenditure” shall include, but not limited to:

- i. Payments** made in connection with developing or purchasing the story and scenario to be used for a film;
 - ii. Payments** made for the costs of set construction and operations, wardrobe, accessories, and related services;
 - iii. Payments** made for the costs of photography, sound synchronization lighting and related services.
 - iv. Payments** made for the costs of editing, post-production, music and related services
 - v. Payments** made for the costs of renting facilities and equipment, including location fees, leasing/renting vehicles and providing food and lodging to people working on the film production
 - vi. Payments** for airfare purchased through a Colorado based travel agency or company
 - vii. Payments** for insurance and bonding purchased through a Colorado based agent
 - viii. Payments** for other direct costs incurred by the film production that are deemed appropriate by the Colorado Office of Film, Television & Media and the Colorado Creative Industries Council.
- e. “Qualified Payroll Expenditure”** means an expenditure made by a production company to pay the salaries of actors, management and crew who participate in film production activities and who are Colorado residents.

2. Colorado Screen Credit

In addition to the minimum spending and hiring requirements, listed below, the production company agrees that the closing credits will contain an acknowledgement that the production was filmed in Colorado unless waived, in writing, by the Colorado Office of Film, Television & Media.

3. Script Content

The production company agrees that the script cannot be obscene in nature. In order to ensure the script is not obscene a copy of the script must be submitted at the time of the “Statement of Intent”. If major script revisions are made to the submitted script after the project has received “conditional approval” the revised script must be submitted to the Office of Film, Television & Media as soon as practical for review.

4. Financial Obligations

The production company agrees that by submitting the “Statement of Intent” to the Colorado Office of Film, Television & Media and that seeking a rebate from the State of Colorado that they shall agree to pay all obligations the film production company has incurred in the State of Colorado.

5. Minimum Spending Requirements – Colorado Origination of Film

For a production company that originates the film production in Colorado, the total amount of the production company’s qualified local expenditures must be at least \$100,000.

- a.** For a production company that does **not** originate the film production

activities in Colorado, the total amount of the production company's qualified local expenditures must be at least \$250,000.

b. The Colorado Office of Film, Television & Media will determine whether a production company "originates" a film production in Colorado based on the state in which that production company is headquartered and has its principal place of business. The Office of Film, Television & Media is the sole determiner of the location of origin for a production company as it relates to qualifying for the Colorado incentive program.

7. Application Process – "Statement of Intent"

a. The production company shall submit a complete "Statement of Intent" application to the Colorado Office of Film, Television & Media as soon as practical once a determination that the project will be filmed in Colorado.

b. The Colorado Office of Film, Television & Media will review each application submitted by a production company. Based on the application the Colorado Office of Film, Television & Media shall make an initial recommendation of whether the production company will be eligible to receive the incentive and will estimate the amount of the incentive that will be due to the production company within Fifteen (15) days of receipt of a completed "Statement of Intent" application. The Office of Film, Television and Media will then issue the production company Conditional Written Approval within Twenty (20) days if it appears likely the application will be approved based on the information submitted.

c. The Colorado Office of Film, Television & Media will set aside funds for each conditionally approved project until funding is exhausted for that fiscal year to ensure that productions receiving preliminary conditional approval will have funds available to them upon completion of their projects. Under no circumstances will any funds be released until after all production related activities within Colorado are completed and final documentation is provided to, and approved by, the Colorado Office of Film, Television & Media and the Colorado Creative Industries Council.

8. Application Process – Final Application

Within Ninety (90) days of completion of production activities in Colorado (and prior to 60 days before the end of the incentive contract with the State of Colorado), a production company that has received conditional approval for a performance-based incentive from the Colorado Office of Film, Television & Media shall submit a "**Final Application**" including financial documents to the Colorado Office of Film, Television & Media. That "final application" will detail the expenses incurred in the course of the film production activities in Colorado. Information that the production company must provide to the Colorado Office of Film, Television & Media as part of the "final application includes:

i. A Ledger listing all businesses the production dealt with in Colorado and the amount spent with each vendor (full vendor names and addresses must be clearly legible!)

ii. Declaration of Colorado Residency forms including copies of proof of residency (attached to the Declaration of Residency forms), sorted alphabetically by last name.

- iii. A detailed list of all crew working on the production including state of residency for each crewmember
 - iv. Total budget for the production
 - v. Total dollar amount spent in Colorado
 - vi. Total number of Colorado crewmembers hired
 - vii. Average crew size (per day) for prep and shoot
 - viii. Number of prep days and number of shoot days (please include dates)
 - ix. List of all Colorado cities used for locations
 - x. Other information as required by the “Proof of Performance” and the contract with the State of Colorado.
- b.** The production company will also provide a signed **affidavit** stating that the financial documents provided are an accurate accounting of the production company’s qualified local expenditures and qualified payroll expenditures. If the amount of the production company’s actual qualified local expenditures and qualified payroll expenditures equal, or exceed, the minimum qualifying spend for their production as stated in statute the Colorado Office of Film, Television & Media shall forward to the Colorado Creative Industries Council a recommendation that the incentive be issued to the production company. However, in no case shall the amount of the incentive be larger than was initially applied for by the production company.
- c.** Upon receipt of a “Final Application” the Colorado Office of Film, Television & Media will have 30 days to review the application. If the Colorado Office of Film requires additional information, the review period will be extended until the Office has enough information to make a final recommendation. Once a recommendation has been made, that recommendation will be forwarded to the Colorado Creative Industries Council for action.
- d.** The Colorado Creative Industries Council shall have 45 days to review the information and take action upon receipt of a “Final Application” and an affirmative recommendation from the Colorado Office of Film, Television & Media.
- e.** Failure to file a completed “Final Application” to the Colorado Office of Film, Television & Media within ninety (90) days of completion of the project and (prior to sixty (60) days before the end of the contract) may result in a forfeiture of any funds reserved for that specific project.

9. Other Terms and Conditions

- a.** A production company with a Conditional Approval shall notify the Colorado Office of Film, Television & Media promptly if the project is cancelled or otherwise becomes ineligible for the projected incentive, so that funds earmarked for that project may be released.
- b.** The Colorado Office of Film, Television & Media, the Colorado Creative Industries Council, the Colorado Office of Economic Development, or their designee, may audit the accounts of a production up to 12 months following payment of an incentive to ensure compliance with the terms and conditions of this program.
- c.** A Conditional Approval may be cancelled if the production company violates the terms of the agreement.

These definitions and procedures have been adopted by the Colorado office of Film, Television & Media are pending before the Colorado Creative Industries Council.