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DIVISION 1

PROCEDURAL RULES

951-001-0000

Procedure for Notice of Intended Rulemaking

(1) **Definitions:** For purposes of this chapter of administrative rules, unless the context demands otherwise:

(a) **OFVO** or **Office** means the Oregon Film and Video Office as organized under ORS 284.300 to 284.375;

(b) **OFVO Board** or **Board** means the Oregon Film and Video Office board as organized under ORS 284.315;

(c) **Director** means the Oregon Film and Video Office executive director appointed under ORS 284.325.

(2) Before permanently adopting, amending or repealing any rule, the Oregon Film and Video Office will give notice of the intended action:

(a) In the Secretary of State's Bulletin, referred to in ORS 183.360 at least 21 days before the effective date of the rule;

(b) By mailing a copy of the notice to persons on the OFVO mailing list established pursuant to ORS 183.335(8), at least 28 days before the effective date of the rule;

(c) By mailing a copy of the notice to the legislators specified in ORS 183.335(15) at least 49 days before the effective date of the rule; and

(d) By mailing or furnishing a copy of the notice to:

(A) The Associated Press;

(B) Capitol Press Room;

(C) The following associations:

(i) Oregon Media Production Association;

(ii) Mid-Oregon Productions Arts Network;

(iii) Media Communications Association International;

(iv) Central Oregon Film and Video Association.

(D) The following state agencies:

(i) Oregon Economic and Community Development Department;

(ii) Oregon Tourism Commission;

(iii) Oregon Arts Commission.

Stat. Auth.: ORS 284.300 - 284.315

Stats. Implemented: ORS 284.300 - 284.315

Hist.: FVO 1-2004(Temp), f. 3-12-04 cert. ef. 3-15-04 thru 9-11-04; FVO 3-2004, f. & cert. ef. 7-15-04

951-001-0005

Model Rules of Procedure

The Uniform and Model Rules of Procedure, OAR 137-001-0007 through 137-001-0080; and 137-004-0010 through 137-004-0800 as adopted by the Attorney General of the State of Oregon under the Administrative Procedures Act, effective October 1, 2001, are adopted as the rules of procedure for rulemaking and declaratory rulings for the Oregon Film & Video Office.

Stat. Auth.: ORS 284.300 - 284.315

Stats. Implemented: ORS 284.300 - 284.315

Hist.: FVO 2-2004, f. 3-12-04, cert. ef. 4-15-04

DIVISION 2

OREGON PRODUCTION INVESTMENT FUND PRODUCTION SPENDING REBATES

951-002-0000

Purpose

The purpose of these rules is to provide guidance for the administration of the Oregon Production Investment Fund film and television production rebates as authorized by ORS 284.367 to 284.368. The Oregon Production Investment Fund was authorized by the 2003 legislature to encourage film and video production in Oregon, thereby increasing job opportunities for Oregonians in the film and video industry and bringing additional production spending into the state.

Stat. Auth: ORS 284.335 & 284.368

Stats. Implemented: ORS 284.367 & 284.368

Hist: FVO 4-2004, f. & cert. ef. 11-26-04

951-002-0001

Definitions

(1) "Qualifying film or television production" means a movie produced for release to theaters, video or the internet or a television movie or one or more episodes of a single television series, the production of which will result in the spending of at least \$1 million directly to Oregon resident vendors or for work done in Oregon. "Qualifying film or television production" does not include the production of a commercial or one or more segments of a newscast or sporting event.

(2) "OPIF" means Oregon Production Investment Fund created by ORS 284.367.

(3) "OFVO" means the Oregon Film & Video Office created by ORS 284.305.

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Stat. Auth: ORS 284.335 & 284.368
Stats. Implemented: ORS 284.367 & 284.368
Hist: FVO 4-2004, f. & cert. ef. 11-26-04

951-002-0005

Program Application

A person proposing to produce a qualifying film or television production and wishing to receive a production spending rebate from the OPIF with respect to the production shall submit an application to the Oregon Film and Video Office for an eligibility determination. Unless otherwise permitted by the OFVO, the application must be submitted prior to the commencement of production. Incomplete applications will not be accepted.

Stat. Auth: ORS 284.335 & 284.368
Stats. Implemented: ORS 284.367 & 284.368
Hist: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 1-2007 f. & cert. ef. 6-1-07

951-002-0010

Eligibility Determination

(1) Except as set forth in sections (2) and (3), the OFVO will approve the applications for eligibility for productions that satisfy the following requirements:

(a) The production satisfies the non-monetary portions of the “qualifying film or television production” definition.

(b) Projected spending in Oregon on the production is reasonably anticipated to equal or exceed US \$750,000.00.

(c) The producer includes, with its application, a letter to the OFVO stating the producer’s intent to film the production in Oregon and its willingness and ability to enter into a contract with the OFVO setting forth the terms and conditions of the rebate.

(2) The following productions are not eligible:

(a) Productions of a producer that has, or whose principals have, a verifiable history of previous production problems that create significant doubt, as determined by the OFVO, regarding the producer’s ability to complete a production in Oregon successfully. The production problems may include, but are but not limited to:

(A) Unpaid financial obligations;

(B) Crew mistreatment; or

(C) damage to locations that the producer did not repair upon completion of the production.

(b) Productions with respect to which the producer withdraws its application for eligibility determination.

(c) Productions whose applications for eligibility are filed at times when there are not sufficient funds available in the Oregon Production Investment Fund to pay the anticipated rebates.

(d) Productions that the OFVO determines are unlikely to further the purposes of the Oregon Production Investment Fund. Productions that pay any employee less than the minimum wage as set forth in Oregon Minimum Wage Rule. Rebates will not be issued until complaints filed with the Bureau of Labor and Industries have been satisfied.

(3) If the OFVO receives multiple relatively concurrent applications for eligibility determinations and there are not sufficient funds available in the Oregon Production Investment Fund to pay anticipated rebates with respect to all of the productions, the OFVO will determine which applications to approve and which to deny based on the following factors:

(a) Satisfaction of requirements of section (1);

(b) Chronological order of receipt of application;

(c) Amount of production spending anticipated in Oregon;

(d) Number of film workers expected to be hired;

(e) Whether the production company intends to pay prevailing industry rates and provide health, retirement and other benefits;

(f) Whether receipt of a production rebate from the OPIF is a determining factor in bringing or keeping the production in Oregon;

(g) Experience level of producer;

(h) Reputation of the producer and its principals;

(i) Estimated production start date;

(j) Other benefits to Oregon, including but not limited to promotional value, long-term financial benefits, contribution to development of Oregon’s crew and talent base or production industry infrastructure.

(k) Whether the production company has contributed to the Oregon Production Investment Fund.

(4) Upon approval of an application for eligibility with respect to a production, the producer must enter into a contract with OFVO stipulating the producer’s intent to film the production in Oregon and setting forth the terms and conditions of the rebate. If the producer and the OFVO have not entered into the contract within 30 days of the production’s eligibility approval, the production’s eligibility will be automatically revoked unless the OFVO, in its discretion, extends the deadline for contract execution.

Stat. Auth: ORS 284.335 & 284.368
Stats. Implemented: ORS 284.367 & 284.368
Hist: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 1-2007, f. & cert. ef. 6-1-07; FVO 1-2008, f. & cert. ef. 6-27-08

951-002-0020

Payment of rebates

(1) Regardless of whether the production is otherwise a qualifying film or television production or whether the OFVO determined the production eligible, rebates from the Oregon Production Investment Fund will only be paid pursuant to and upon the terms and conditions of a contract entered into between the OFVO and producer pursuant to OAR 951-002-0010(4). If no contract is entered into, no rebates will be paid. Amounts paid by the production to an individual who receives compensation in excess of \$1 million are excluded and ineligible for a rebate.

(2) In addition to any other terms and conditions that the OFVO considers necessary or desirable, contracts for Oregon Production Investment Fund rebates will usually include the following:

(a) A requirement that the producer submit to the OFVO, after completion of the production work in Oregon, financial and other records sufficient to verify that the production satisfied the minimum expenditure requirement for a rebate;

(b) Authorization for the OFVO to deduct from the rebate the costs reasonably incurred by the OFVO in verifying the production expenditures in Oregon, including but not limited to, the costs incurred by OFVO in obtaining an outside accounting review, audit, or both, of the financial and other records evidencing the expenditures. The OFVO will usually submit the expenditure documentation to an outside accounting firm for a review after the OFVO has completed its review. Based on the advice of the outside accounting firm, the OFVO may require an audit of the production’s financial record;.

(c) Provisions conditioning OFVO’s obligation to pay the rebate on the producer’s compliance with the terms of the contract and satisfactory verification of production spending in Oregon of at least US \$1 million;

(d) Provisions conditioning OFVO’s obligation to pay the rebate on the production spending in Oregon after the date that OFVO approves the production’s eligibility, of at least US \$1 million;

(e) Production to provide final crew and vendor lists with final accounting;

(f) Production to provide promotional materials (such as photos, trailers, electronic press kits) to OFVO. OFVO may use such materials strictly for non profit purposes such as for archival, governmental relations and marketing purposes. OFVO shall not grant usage to any other entity and shall request additional permission prior to any use other than those listed. OFVO understands that talent contracts may prohibit use of actors’ images without express permission and agrees to abide by such agreements when advised of the production company of said limitations.

Stat. Auth: ORS 284.335 & 284.368
Stats. Implemented: ORS 284.367 & 284.368
Hist: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 1-2007, f. & cert. ef. 6-1-07

DIVISION 3

FILM PRODUCTION DEVELOPMENT CONTRIBUTION CREDIT

951-003-0000

Purpose

(1) These rules specify the procedures for Oregon Film and Video Office certification of tax credits arising from contributions to

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the Oregon Production Investment Fund, as authorized by ORS 315.514.

(2) The Oregon Production Investment Fund tax credits were authorized by the 2003 legislature to:

(a) Encourage taxpayers to make contributions to the Oregon Production Investment Fund by providing a financial return for qualified contributions.

(b) Encourage film and television production in Oregon by providing incentives in the form of production spending rebates, from the Oregon Production Investment Fund, to qualifying productions.

(c) Strengthen Oregon's film and video industry infrastructure by bringing in more production spending to this sector of the economy.

Stat. Auth: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist: FVO 4-2004, f. & cert. ef. 11-26-04

951-003-0001

Definitions

(1) "Tax credit" means certification of an amount for credit by the Oregon Film and Video Office under ORS 315.514 and these administrative rules and arising from a qualifying contribution.

(2) "Oregon Production Investment Fund" means the fund created by ORS 284.367.

(3) "Qualifying contribution" means a contribution made by a taxpayer to the Oregon Production Investment Fund and for which an application, in the form designated by the Oregon Film and Video Office, is submitted for a tax credit.

(4) "Tax credit certificate" means a certificate issued by the Oregon Film and Video Office to a taxpayer evidencing a tax credit.

Stat. Auth: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist: FVO 4-2004, f. & cert. ef. 11-26-04

951-003-0005

Allocation of Certificates

(1)(a) Taxpayers making a contribution to the Oregon Production Investment Fund and wishing to receive a tax credit must submit the contribution, together with an application for tax credit, to the Oregon Film and Video Office, in care of the Oregon Business Development Department. The contribution need not accompany the application to the extent the taxpayer is only requesting a reservation of tax credits for future issuance with respect to future committed contributions, as provided in these administrative rules.

(b) Contributions may be made by check or wire transfer only.

(2) Availability of tax credits is determined at the time the contributed funds have cleared the contributor's account, not on the date a check or visa payment is written or received by the Oregon Film Office or Oregon Business Development Department.

(3) The Oregon Film and Video Office shall make tax credit application forms available to taxpayers in hard copy and electronic formats and taxpayers may submit applications and contributions either in hard copy format or electronically through the Oregon Film and Video Office website.

(4) After approval of a taxpayer's application for a tax credit, the Film and Video Office shall issue to the tax payer a tax credit certificate for the tax year during which the qualifying contribution was received. The Oregon Film and Video Office shall not issue a tax credit certificate to the contributing taxpayer until the Oregon Business Development Department has verified the amount of contribution.

(5) The amount of a qualifying contribution shall be 100% — (2x the 2 year Treasury Note) and shall be set the first of each calendar quarter. The tax credit discount rate shall never be more than 95% or less than 90%.

(6) The tax credit certificates issued during a single State of Oregon fiscal year may not evidence more than \$7.5 million of tax credits, in aggregate.

(7) If at the time an application for tax credit is considered, the Oregon Film and Video Office has already issued or reserved tax credits totaling \$7.5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office will deny the application.

(8) If at the time an application for tax credit is considered, the Oregon Film and Video office has already issued or reserved tax credits that, when added to the tax credits that would be issued if the application were approved, would total more than \$7.5 million for the fiscal year in which the contribution submitted with the application is received, the Oregon Film and Video Office may either deny the application in full or approve the application in an amount necessary to bring the total tax credits issued or reserved to \$7.5 million for the fiscal year in which the contribution is received and deny the remainder of the application.

(9) If the Film and Video Office denies an application for a tax credit in full or in part, it shall notify the taxpayer applicant of the denial in writing within 45 days of the denial.

(10) A taxpayer who receives notice of denial of an application for tax credit may request, in writing and within 90 days after its receipt of the notice of denial, a refund of that portion of its contribution, actually received by the Film and Video Office, with respect to which the Film and Video Office did not issue a tax credit certificate. The Film and Video Office shall issue the refund within 60 days after its receipt of the refund request.

(11) In its application, a taxpayer may, in addition to or in lieu of applying for immediate issuance of a tax credit, request that the Oregon Film and Video Office reserve tax credits for future issuance based on future contributions committed by the taxpayer. The Oregon Film and Video office may approve, approve in part and deny in part, or deny tax credit reservation requests in its discretion. In determining whether to approve, approve in part and deny in part, or deny a tax credit reservation request, the Film and Video Office will consider the following factors:

(a) The current uncommitted balance in the Oregon Production Investment Fund;

(b) The amount of tax credits then available for issuance for the fiscal year with respect to which the reservation is requested;

(c) The number of pending applications for tax credits;

(d) The anticipated future demand for tax credits for the fiscal year with respect to which the reservation is requested.

(e) The number of tax credits the taxpayer is requesting the Film and Video Office to reserve.

(f) The length of time between the approval of the reservation and the anticipated receipt of the contributions with respect to the reserved tax credits;

(g) Such other factors as the Film and Video office considers appropriate in the particular circumstance in order to further the purposes of the Oregon Production Investment Fund tax credits.

(12) The Film and Video Office shall notify a taxpayer requesting a tax credit reservation of the approval, approval in part and denial in part, or denial of the request within 45 days after the Film and Video Office's receipt of the request. If the reservation request is approved in whole or in part, the Film and Video Office shall reserve tax credits for future issuance consistent with that approval.

(13) A taxpayer with reserved tax credits must submit to the Film and Video Office sufficient contributions to support tax credits reserved for issuance during a particular fiscal year, no later than the date set forth in the Film and Video Office's notice of reservation approval. Contributions must be submitted to the Film and Video Office in care of the Oregon Business Development Department. If the contributions necessary to support issuance of reserved tax credits are not received by the applicable deadline, the reservation of those tax credits and the reservations of all other tax credits for that taxpayer shall automatically expire and those tax credits shall no longer be considered reserved tax credits and shall become immediately available for issuance to or reservation by other taxpayers in accordance with these administrative rules.

(14) No tax credits or tax credit certificates shall be issued with respect to reserved tax credits until the Film and Video Office receives sufficient contributions to support issuance of tax credits and tax credit certificates with respect to the reserved tax credits. The Film and Video Office shall issue tax credit certificates to the taxpayer with respect to reserved tax credits within 45 days after the Film and Video Office's receipt of verification from the Oregon Business Develop-

ment Department of receipt of sufficient contributions to support issuance of the reserved tax credits.

Stat. Auth.: ORS 284.335 & 315.514

Stats. Implemented: ORS 315.514

Hist.: FVO 4-2004, f. & cert. ef. 11-26-04; FVO 3-2006, f. & cert. ef. 11-17-06;

FVO 2-2008, f. & cert. ef. 6-27-08; FVO 1-2009(Temp), f. & cert. ef. 7-20-09 thru

12-1-09; Administrative correction 12-23-09; FVO 1-2010, f. & cert. ef. 4-26-10

DIVISION 4

GREENLIGHT OREGON LABOR REBATE APPLICATION, CERTIFICATION AND WITHHOLDING

951-004-0000

Purpose

The purpose of these rules is to provide guidance for the administration of the Greenlight Oregon Labor film and television production rebates as authorized by Oregon Laws 2005, chapter 559. The Greenlight Oregon Labor Rebate Program was authorized by the 2005 legislature to encourage film and video production in Oregon, thereby increasing job opportunities for Oregonians in the film and video industry and bringing additional production spending into the state.

Stat. Auth.: ORS 284.335 & OL 2005, ch 559

Stats. Implemented: OL 2005, ch 559

Hist.: FVO 2-2006, f. & cert. ef. 11-17-06

951-004-0001

Definitions

(1) "Actual Expenses" means costs paid in Oregon for pre-production, principal photography, production or postproduction in Oregon of a Qualifying Film Production, including but not limited to the purchase or rental cost of equipment, food, lodging, real property and permits and payments made for salaries, wages and benefits for work done in Oregon.

(2) "OFVO" means the Oregon Film & Video Office created by ORS 284.305.

(3) "Qualifying Film Production" means a film or television production that occurs primarily in Oregon of: one or more commercials; one or more episodes of a television show; or a movie to be released in theatres, on video, on television, over the internet or over any other distribution channel.

(4) "Qualifying Compensation" means wages paid by an employer to an employee for services performed in Oregon in connection with a Qualifying Film Production.

Stat. Auth.: ORS 284.335 & OL 2005, ch 559

Stats. Implemented: OL 2005, ch 559

Hist.: FVO 2-2006, f. & cert. ef. 11-17-06

951-004-0002

Application for Certification

A person proposing to produce a Qualifying Film Production and wishing to receive a labor rebate with respect to the production shall submit an application to the Oregon Film and Video Office for certification. The application must be in a form designated by OFVO and submitted within 10 business days of commencement of pre-production in Oregon.

Stat. Auth.: ORS 284.335 & OL 2005, ch 559

Stats. Implemented: OL 2005, ch 559

Hist.: FVO 2-2006, f. & cert. ef. 11-17-06

951-004-0003

Certification

After receipt of an application for certification, the OFVO will review the application to determine if the proposed Qualifying Film Production satisfies the following certification requirements:

(1) OFVO determines that it is reasonably likely that the applicant will incur Actual Expenses of at least \$1 million that are related to the Qualifying Film Production proposed by the applicant;

(2) If the Qualifying Film Production proposed by the applicant consists of one or more episodes of a television series, the Actual Expenses are associated with production that comprises no more than a single season of episodes;

(3) If the Qualifying Film Production proposed by the applicant consists of one or more commercials, the Actual Expenses are to be incurred within a single year; and

(4) If the Qualifying Film Production proposed by the applicant consists of a movie or other film production not described in sections (1) or (2) above, the Actual Expenses are associated with that movie or other film production;

(6) If the OFVO determines that the Qualifying Film Production proposed by the applicant satisfies the certification requirements set forth in section (1) of this rule, the OFVO will send a written certificate evidencing the certification to the applicant and a copy of the certificate to the Oregon Department of Revenue.

Stat. Auth.: ORS 284.335 & OL 2005, ch 559

Stats. Implemented: OL 2005, ch 559

Hist.: FVO 2-2006, f. & cert. ef. 11-17-06

951-004-0004

Withholding and Reporting

A person issued a written certificate under OAR 951-004-003 who is engaged in a Qualifying Film Production and who pays Qualifying Compensation shall:

(1) Withhold from that compensation and pay to the Oregon Department of Revenue a minimum aggregate withholding of 6.2% of the total qualifying compensation.

(2) Send a written report to the OFVO by the 31st of each month following the regular quarterly payroll tax reporting period, or as soon as is practicable following completion of the Qualifying Film Production or, in the case of qualifying production that consists of commercials, annually on or before January 31 of the year following the year in which the commercials were produced, specifying:

(a) The total amount of Qualifying Compensation paid by the person;

(b) The names, taxpayer identification numbers and amounts of qualifying compensation paid to each employee receiving Qualifying Compensation during which the Qualifying Production was produced; and

(c) Any other information required by the OFVO.

Stat. Auth.: ORS 284.335 & OL 2005, ch 559

Stats. Implemented: OL 2005, ch 559

Hist.: FVO 2-2006, f. & cert. ef. 11-17-06

DIVISION 5

GREENLIGHT OREGON LABOR REBATE PAYMENT OF REBATES

951-005-0000

Purpose

The purpose of these rules is to provide guidance for the payment of rebates from the Greenlight Oregon Labor Rebate Fund as authorized by Oregon Laws 2005, chapter 559. The Greenlight Oregon Labor Rebate Fund was authorized by the 2005 legislature to encourage film and video production in Oregon, thereby increasing job opportunities for Oregonians in the film and video industry and bringing additional production spending into the state.

Stat. Auth.: ORS 284.335 & OL 2005, ch 559

Stats. Implemented: OL 2005, ch 559

Hist.: FVO 1-2006, f. & cert. ef. 11-17-06

951-005-0001

Definitions

(1) "Actual Expenses" means the costs paid in Oregon for principal photography, production or postproduction in Oregon of a Qualifying Film Production, including but not limited to the purchase or rental cost of equipment, food, lodging, real property and permits and payments made for salaries, wages and benefits for work in Oregon.

(2) "Commercial" means a moving image production created to advertise a product or service.

(3) "Qualifying Compensation" means wages paid by an employer to an employee for services performed in Oregon in connection with a Qualifying Film Production.

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(4) “Qualifying Film Production” means a production that occurs primarily in Oregon of: one or more commercials; one or more episodes of a television show; or a movie to be released in theatres, on video, on television, over the internet or over any other distribution channel. “Qualifying film or television production” does not include the production of one or more segments of a newscast or sporting event.

(5) “OFVO”, or “Oregon Film & Video Office” means the Oregon Film & Video Office created by ORS 284.305.

Stat. Auth.: ORS 284.335 & OL 2005, ch 559
Stats. Implemented: ORS 284.367 & OL 2005, ch 559
Hist.: FVO 1-2006, f. & cert. ef. 11-17-06

951-005-0002

Payment of rebates

(1) Upon completion of the qualifying film production for which a certificate was issued the OFVO shall verify the actual expenses supporting a claim. The qualifying production must:

(a) Submit to the OFVO an application for a rebate within the following time frames:

(A) A feature film or television episode or series — 30 days from completion work in Oregon on the qualifying film production;

(B) A commercial — on or before January 31 of the year following the year in which the commercials were produced.

(b) Submit to the OFVO, after completion of the work in Oregon on the qualifying film production, financial and other records sufficient to verify that the production satisfied the minimum expenditure requirement for a rebate;

(c) Authorization for the OFVO to deduct from the rebate the costs reasonably incurred by the OFVO in verifying the production expenditures in Oregon, including but not limited to, the costs incurred by OFVO in obtaining an outside accounting review, audit, or both, of the financial and other records evidencing the expenditures. The OFVO will usually submit the expenditure documentation to an outside accounting firm for a review after the OFVO has completed its review. Based on the advice of the outside accounting firm, the OFVO may require an audit of the production’s financial records.

(2) If the OFVO is unable to verify actual expenses of a minimum of \$1 million, the office may decline to pay a labor rebate to the certificate holder.

Stat. Auth.: ORS 284.335 & 284.368
Stats. Implemented: ORS 284.367 & 284.368
Hist.: FVO 1-2006, f. & cert. ef. 11-17-06

DIVISION 6

INDIGENOUS OREGON PRODUCTION INVESTMENT FUND PRODUCTION SPENDING REBATES

951-006-0000

Purpose

The purpose of these rules is to provide guidance for the administration of the i-Oregon Production Investment Fund film and television production rebates as authorized by SB863. The Indigenous Oregon Production Investment Fund was authorized by the 2009 legislature to encourage smaller budget film and television production in Oregon, thereby increasing job opportunities for Oregonians in the film and television industry.

Stat. Auth.: ORS 284.335 & 284.368
Stats. Implemented: SB 863
Hist.: FVO 2-2009, f. 11-12-09 cert. ef. 1-1-10

951-006-0001

Definitions

(1) “Qualifying film or television production” means a movie produced for release to theaters, video or the internet or a television movie or one or more episodes of a single television series, the production of which will result in the spending of at least \$75,000.00 and less than \$750,000 directly to Oregon resident vendors or for work done in Oregon. “Qualifying film or television production” does not include the production of a commercial or one or more segments of a newscast or sporting event.

(2) “i-OPIF” means indigenous-Oregon Production Investment Fund created by SB863.

(3) “Filmmaker” means a person who owns a television or film production company.

(4) “Local filmmaker” means a person who owns a television or film production company that has its principal place of business in this state.

(5) “Resident of this state” has the meaning given that term in ORS 316.027.

(6) “OFVO” means the Oregon Film & Video Office created by ORS 284.305.

Stat. Auth.: ORS 284.335 & 284.368
Stats. Implemented: SB 863
Hist.: FVO 2-2009, f. 11-12-09 cert. ef. 1-1-10

951-006-0005

Program Application

A person proposing to produce a qualifying film or television production and wishing to receive a production spending rebate from the i-OPIF with respect to the production shall submit an application to the Oregon Film and Video Office for an eligibility determination. Unless otherwise permitted by the OFVO, the application must be submitted prior to the commencement of production. Incomplete applications will not be accepted.

Stat. Auth.: ORS 284.335 & 284.368
Stats. Implemented: SB 863
Hist.: FVO 2-2009, f. 11-12-09 cert. ef. 1-1-10

951-006-0010

Eligibility Determination

(1) Except as set forth in sections (2) and (3), the OFVO will approve the applications for eligibility for productions that satisfy the following requirements:

(a) The production satisfies the non-monetary portions of the “qualifying film or television production” definition.

(b) Projected spending in Oregon on the production is reasonably anticipated to equal not less than \$75,000 and less than \$750,000.

(c) The local filmmaker includes, with its application, a letter to the OFVO stating the local filmmaker’s intent to film the production in Oregon and its willingness and ability to enter into a contract with the OFVO setting forth the terms and conditions of the rebate.

(d) Upon request of the Film Office, provide proof of production insurance.*

REQUIRED:

General Liability

General Liability aggregate — \$1,000,000
GL Limit Per Occurrence — \$1,000,000
Products Completed Operations — \$1,000,000
Personal & Advertising Injury — \$1,000,000
Fire Legal Liability — \$50,000
Medical Payments — \$5,000
Blanket Additional Insured’s — \$ included
Waiver of Subrogation — \$ included

Automobile

Hired & Non-Owned Liability — \$1,000,000
Hired/Non-Owned Physical Damage — \$500,000

Production Package

Third Party Property Damage — \$500,000

Worker’s Compensation (OR State Minimums)

Bodily Injury by Accident — \$500,000 Each Accident
Bodily Injury by Disease — \$500,000 Policy Limit
Bodily Injury by Disease — \$500,000 Each Employee

RECOMMENDED:

Production Package

Negative Film or Videotape — Included
Faulty Stock, Camera & Processing — Included
Extra Expense — \$25,000
Civil Authority — \$25,000

* Some filming locations may require additional insurance, or higher limits.

(e) Name and contact information for Payroll company.

(2) The following productions are not eligible:

(a) Productions of a local filmmaker that has, or whose principals have, a verifiable history of previous production problems that create significant doubt, as determined by the OFVO, regarding the

local filmmaker's ability to complete a production in Oregon successfully. The production problems may include, but are but not limited to:

- (i) Unpaid financial obligations;
 - (ii) Crew mistreatment; or
 - (iii) Damage to locations that the local filmmaker did not repair upon completion of the production.
- (b) Productions with respect to which the local filmmaker withdraws its application for eligibility determination.
- (c) Productions whose applications for eligibility are filed at times when there are not sufficient funds available in the Oregon Production Investment Fund to pay the anticipated rebates.
- (d) Productions that the OFVO determines are unlikely to further the purposes of the i-Oregon Production Investment Fund.
- (e) Productions must pay any employee minimum wage as set forth in (Oregon minimum wage rule, ORS 653.025) or meet the requirements of applicable Union Guild contracts the production has entered into.
- (f) Productions that employ any individual as "intern" without that individual receiving academic credit. See the Oregon bureau of Labor and Industries for additional information: www.boli.state.or.us/BOLI/TA/T_FAQ_Interns.shtml
- (g) Productions determined to be ineligible may appeal to the OFVO Board, upon written application.
- (3) If the OFVO receives multiple relatively concurrent applications for eligibility determinations and there are not sufficient funds available in the i-Oregon Production Investment Fund to pay anticipated rebates with respect to all of the productions, the OFVO will determine which applications to approve and which to deny based on the following factors:
- (a) Satisfaction of requirements of section (1)
 - (b) Chronological order of receipt of application
 - (c) Amount of production spending anticipated in Oregon
 - (d) Number of film workers expected to be hired
 - (e) Experience level of local filmmaker
 - (f) Reputation of the local filmmaker and its principals
 - (g) Estimated production start date
 - (h) Other benefits to Oregon, including but not limited to promotional value, long-term financial benefits, contribution to development of Oregon's crew and talent base or production industry infrastructure.
 - (i) Whether the production company has contributed to the Oregon Production Investment Fund.
 - (j) Whether the local filmmaker intends to pay prevailing industry rates and provide health, retirement and other benefits.
- (4) Upon approval of an application for eligibility with respect to a production, the local filmmaker must enter into a contract with OFVO stipulating the local filmmaker's intent to film the production in Oregon and setting forth the terms and conditions of the rebate. If the local filmmaker and the OFVO have not entered into the contract within 30 days of the local filmmaker's eligibility approval, the local filmmaker's eligibility will be automatically revoked unless the OFVO, in its discretion, extends the deadline for contract execution.
- Stat. Auth: ORS 284.335 & 284.368
Stats. Implemented: SB 863
Hist.: FVO 2-2009, f. 11-12-09 cert. ef. 1-1-10

951-006-0020

Payment of rebates

(1) Regardless of whether the production is otherwise a qualifying film or television production or whether the OFVO determined

the production eligible, rebates from the i-Oregon Production Investment Fund will only be paid pursuant to and upon the terms and conditions of a contract entered into between the OFVO and the local filmmaker pursuant to OAR 951-002-0010(4). If no contract is entered into, no rebates will be paid.

(2) In addition to any other terms and conditions that the OFVO considers necessary or desirable, contracts for i-Oregon Production Investment Fund rebates will usually include the following:

(a) A requirement that the local filmmaker submit to the OFVO, after completion of the production work in Oregon, financial and other records sufficient to verify that the production satisfied the expenditure requirement for a rebate.

(b) Authorization for the OFVO to deduct from the rebate the costs reasonably incurred by the OFVO in verifying the production expenditures in Oregon, including but not limited to, the costs incurred by OFVO in obtaining an outside accounting review, audit, or both, of the financial and other records evidencing the expenditures. The OFVO will usually submit the expenditure documentation to an outside accounting firm for a review after the OFVO has completed its review. Based on the advice of the outside accounting firm, the OFVO may require an audit of the production's financial records.

(c) Provisions conditioning OFVO's obligation to pay the rebate on the local filmmaker's compliance with the terms of the contract and satisfactory verification of production spending in Oregon of at least US \$75,000 but less than \$750,000.

(d) Provisions conditioning OFVO's obligation to pay the rebate on the production spending in Oregon after the date that OFVO approves the production's eligibility, of at least US \$75,000 but not more than \$750,000.

(e) Local filmmaker to provide vendor lists with final accounting.

(f) Local filmmaker to provide promotional materials (such as photos, trailers, electronic press kits) to OFVO. OFVO may use such materials strictly for non profit purposes such as for archival, governmental relations and marketing purposes. OFVO shall not grant usage to any other entity and shall request additional permission prior to any use other than those listed. OFVO understands that talent contracts may prohibit use of actors' images without express permission and agrees to abide by such agreements when advised of the production company of said limitations.

(g) The local filmmaker must have spent a minimum of 80 percent of the film's payroll on employees who are residents of this state.

(h) Local filmmaker to provide final crew list along with proof of residency for each crew member. Proof of residency may include ODL, or other legal documents approved by the Director of the Oregon Film & Video Office, or may be provided through a payroll report that shows residency state.

(i) The local filmmaker must have employed or contracted with a public accountant certified under ORS 673.040 for the provision of payroll services.

(j) Provide to OFVO, proof of completion of the film in the form of a rough cut of the film, or submission of a selection of dailies, either of which will demonstrate original script synopsis. Other proof of completion subject to approval of the Film Office.

(k) List of interns, and the academic institutions, including contact information, under which interns are receiving academic credit.

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