



www.tnentertainment.com
312 Rosa L. Parks Avenue, 27th Floor
Nashville, TN 37243
Phone: 615-741-3456 Email: tn.entertainment@tn.gov

Tennessee Entertainment Commission
("TEC") Production Incentive

Guidelines and Instructions for Application

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

Contents

Section 1 – Program Overview.....	
1.1 Amount of Incentive	
1.1.1 General Percentage	
1.1.2 Program Funding.....	
1.2 Purpose of Program	
1.3 Credits & Marketing Requirements	
Section 2 – Eligibility Requirements.....	
2.1 Types of Eligible Projects	
2.2 Minimum Spend.....	
2.3 Principal Photography Start Dates	
2.4 Date Requirements for Eligible Expenditures	
Section 3 – Application Process and Requirements	
3.1 Required Forms.....	
3.2 Timing of Forms	
3.3 Other Required Information	
Section 4 – Application Review and Award Process	
4.1 Certificate of Conditional Eligibility.....	
4.2 Grant Contract	
4.3 Pre-Production Meeting	
Section 5 – Qualified Expenditures	
5.1 Common Eligible Expenditures and Criteria for Qualification	
5.2 Common Ineligible Expenditures	
5.3 Pass-Through Companies.....	
5.4 Assets	
5.5 Related Party Transactions	
5.6 Residence and Related Reporting Requirements	
5.7 Completion Notification.....	
Section 6 – Financial Compliance (CPA Agreed Upon Procedures)	
6.1 Process and Timing	
6.2 Specific CPA Agreed Upon Procedures	

6.3 General Requirements	
Section 7 – Reporting Process.....	
7.1 Forms	
7.2 Timing.....	
7.3 Data Reporting Requirements	
7.4 Demonstration of Work	
7.5 Final Credit Award and Payment	
7.6 Hold Harmless	
Section 8 – Confidentiality	
8.1 Tennessee Public Records Act.....	
8.2 ECD Public Records Provision.....	
Section 9 - Definitions	
Index of Appendices.....	

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

Section 1 – Program Overview

1.1 Amount of Incentive

1.1.1 General Percentage

The Tennessee Entertainment Commission (TEC) Production Incentive offers up to a twenty-five percent grant on Qualified Tennessee Expenditures (QTE) to Production Companies filming within Tennessee. Production Companies will enter into a Grant Contract with the Tennessee Department of Economic & Community Development (ECD) upon review and approval from the ECD Grants Committee. Funds are distributed to Qualified Production Companies through a Grant Contract and no expenditures will qualify until an effective date is assigned to the Grant Contract. As further detailed herein, TEC will consider reimbursing companies prior to full execution and approval of the grant contract for certain pre-production costs if the costs qualify for utilization of TEC's *Permission to Incur Costs* contracting mechanism.

1.1.2 Program Funding

The TEC Production Incentive is funded through the Film/TV Fund. Funding is determined by the Department of Economic and Community Development and Tennessee General Assembly. The Production Incentive receives new funding on a Fiscal Year basis and is available July 1st to eligible productions.

1.2 Purpose of Program

The program was enacted with the best interests of the State of Tennessee, which include, but are not limited to, marketing the state, as well as job creation and economic development. This is not a “first come, first serve” program nor one of unlimited resources. The Tennessee Entertainment Commission and Department of Economic and Community Development shall have the sole discretion of awarding these incentives in furtherance of the best interests of the State of Tennessee. The criteria for the Production Incentives are described herein. Any questions and/or requests for clarification should be directed to the Tennessee Entertainment Commission.

1.3 Credits & Marketing Requirements

To access the rebate all qualified Productions are required to provide credits to the Governor, the State of Tennessee, Tennessee Entertainment Commission (TEC), Department of Economic and Community Development (ECD) and regional film commission(s) (if applicable) that provided services to the Production Company. All Qualified Productions are also required to include a static or animated “Filmed in Tennessee” logo (provided by the TEC) in the production’s end credits. If applicable, production shall provide the TEC a selection of behind-the-scenes footage and stills for use on the Tennessee Entertainment Commission’s marketing channels, including the website (www.tnentertainment.com), social media platforms (Facebook, Instagram, X, and YouTube), and print materials.

A fact sheet must be provided about the production/project, including its logline, writer and director, cast, filming locations, number of production days in the state, and release schedule and platform, if available.

Materials should be delivered digitally or on a physical hard drive. As an alternative, the Commission can provide a videographer/photographer for behind-the-scenes capture for at least one production day, to be decided by the production. Materials captured by the Commission's team can be submitted for approval by the production team and/or studio before release. Access to broader EPK and marketing assets will be considered in lieu of original content on a case-by-case basis. Logo guidelines and assets will be provided to all approved grantees by the Tennessee Entertainment Commission. Productions shall communicate and coordinate and therefore grant access for set visits for TEC Staff and Government Officials.

Section 2 – Eligibility Requirements

2.1 Types of Eligible Projects

Feature films, Scripted Television Series, and Scripted Television Pilots are eligible to apply for the incentive program provided that such productions are filmed in the State of Tennessee.

Unless deemed in the best interest of the State, the following will not qualify to receive an incentive:

- live and recorded events, including news, sports, concerts and awards shows;
- talk shows, variety show formats;
- documentaries or docu-dramas;
- music videos;
- webisodes; shorts
- unscripted television, reality, scripted reality, or all reality sub-genres; Gameshows
- corporate marketing or training videos;
- projects consisting primarily of stock footage, and/or interviews;
- trailers promoting theatrical films not filmed in Tennessee;
- horror/slasher/gore/splatter genres;
- photo shoots, or still photography;
- content deemed obscene in nature;
- content having the potential, in the State's sole discretion, to intentionally generate controversy;
- content having the potential, in the State's sole discretion, to portray the State of Tennessee in a negative manner;
- website development; and
- anything that is not original content recorded in Tennessee,.

The Production Company must comply with all applicable state and federal laws. Projects applying for the TEC Production Incentive will be evaluated on a case-by-case basis. All scripts will be reviewed to ensure the production is in the best interest of the State. Additionally, the content of the production must not require that records be maintained pursuant to 18 U.S.C. Sec. 2257 with respect to any performer portrayed therein.

It is the intent of TEC to ensure state resources are not used to subsidize content that is obscene in nature. Obscene content does not have protection by the First Amendment of the U.S. Constitution or applicable state law (see T.C.A. § 39-17-901). For content to be ruled obscene, it must meet a three-pronged test established by the U.S. Supreme Court, which establishes obscene content as content that:

1. Appeals to an average person's prurient interest;
2. Depicts or describes sexual conduct in a "patently offensive" way; and
3. Taken as a whole, lacks serious literary, artistic, political or scientific value.

Indecent content portrays sexual or excretory organs or activities in a way that is patently offensive but does not meet the three-prong test for obscenity.

Profane content includes "grossly offensive" language that is considered a public nuisance.

As a publicly funded program, TEC must ensure state resources are not used to subsidize content that would be construed as explicit or overt political advocacy or partisan messaging. Please reach out to TEC staff prior to applying if you have any questions.

2.2 Minimum Spend

Scripted Television Series, Feature Films, and Television Pilots are required to have a minimum of \$500,000 in Qualified Tennessee Expenditures (QTE).

2.3 Principal Photography Start Dates

Principal Photography must begin in Tennessee within 120 days from the Effective Date as defined in the guidelines. Productions may be granted an extension by the TEC, production must submit a letter to the TEC giving written justification for delay and provide a revised start date.

2.4 Date Requirements

It is recommended by the Tennessee Entertainment Commission that ***Form A: Registration for Certificate of Conditional Eligibility*** be submitted 30 business days before the first day of pre-production for application review and processing. Expenses must be incurred within twelve (12) months following the Effective Date of the grant contract. However, a Qualification Period may be extended upon approval of the Commission. All financial obligations incurred in-state shall be satisfied within reason (see Section 5 for completion notification) prior to submission of application for grant.

Section 3 – Application Process and Requirements

3.1 Required Forms

- Form A- Registration for Certificate of Conditional Eligibility (see Index of Appendices)
- Form A: Annex I- Due Diligence Questionnaire (see Index of Appendices)

3.2 Timing of Forms

TEC recommends submitting Form A and Form A: Annex I - Due Diligence Questionnaire at least 30 business days prior to starting pre-production to allow adequate time for the TEC to complete the application review.

3.3 Other Required Information for FORM A

- Detailed preliminary budget
- Written description of project, including script and synopsis
- List of creative elements, if known (i.e., principal cast director, line producer, location manager, etc.)
- Plans for distribution, including the names of any distributor(s) to the extent known
- Description of the source(s) of financing (including any private placement memorandum)

Section 4 – Application Review and Award Process

4.1 Certificate of Conditional Eligibility

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

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

4.2 Grant Contract

Production Companies receiving a TEC incentive will enter into a Grant Contract with the Department of Economic and Community Development. Prior to executing a grant contract, any interested and qualified company may be afforded an opportunity to utilize TEC’s *Permission to Incur Costs* (PTIC) mechanism to facilitate reimbursement of certain pre-production expenses deemed qualified by the TEC. The State of Tennessee, Central Procurement Office and the Tennessee Comptroller of the Treasury authorized the TEC to utilize the PTIC mechanism and memorialize PTIC requirements in the TEC incentive grant contract language. The PTIC mechanism can be very beneficial to TEC incentive recipients because it establishes a reasonable timeframe prior to full State-approval of the grant contract where the company can incur costs that will, ultimately, be reimbursable under the terms of the approved grant contract. The applicant submits a proposed budget outlining said expenses to the TEC. After reviewing the proposed budget, TEC staff will present a proposal to the ECD Grants Committee, which will either approve, reject, or recommend revisions for the company’s further review. If approved, a PTIC Letter will be drafted establishing an exact date for the company to begin incurring such qualified expenses. This letter will ultimately be incorporated as an attachment to the company’s proposed TEC incentive grant contract

Any anticipated increase in the Production Company’s Qualified Tennessee Expenditures must also be submitted to the TEC in writing and approved by the ECD Grants Committee or the additional expenditures will not be eligible for qualification and reimbursement. Any requests for the additional reservation of funds need to be submitted to the TEC on Form D and approved by the ECD Grants Committee (see Index of Appendices). The allocation of additional funds is subject to the availability of funds and the discretion of the ECD Grants Committee. If the TEC determines the Production Company has attempted to circumvent ANY of these guidelines, ECD may exercise its right to immediately terminate the Grant Contract for cause.

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

4.3 Pre-Production Meeting

The Production Company will meet with TEC to discuss the Production before Principal Photography begins. It is strongly recommended by the Tennessee Entertainment Commission that the production accountant be present at this meeting.

Section 5 – Qualified Expenditures

- Expenditures are considered Qualified Tennessee Expenditures only to the extent that the costs are clearly and demonstrably incurred in Tennessee in the pre-production, production, and post-production phases of a Qualified Production.
- Incurred in Tennessee means payments made for goods or services used in the state in connection with a Qualified Production AND purchased from a Tennessee Vendor or paid to a Tennessee Resident for a Qualified Production.
- Refer to Appendix B for an account-by-account description of eligibility.

5.1 Common Eligible Expenditures and Criteria for Qualification

- Qualified Tennessee Expenditures directly associated with the production including art direction, wardrobe, make-up, hair, location fees, rental of facilities and equipment, scoring/soundtrack, special effects, and all other customary post-production costs.
- Tennessee Resident wages, salaries, fees, per diem and fringe benefits (including pension, workers compensation and health and welfare payments) of Tennessee Resident cast and crew (whether paid to an individual, Loan-out Company or any other entity).
- Eligible payroll for feature films & TV Pilots are limited to the first \$500,000 in gross wages, salaries, fees, per diem and fringe benefits paid to a Tennessee Resident. (See Section 5.6).
- Nonresident ATL/BTL labor may qualified for the rebate. All nonresident labor is capped at \$250,000/per person and must be granted an exception and approved prior to filming by the TEC and by the ECD Grants Committee to be deemed qualified for the rebate.
- Housing (in-state), living allowances and per diems paid to Tennessee Residents and nonresidents related to services performed in Tennessee during production.
- Travel of cast and crew to/from and within Tennessee, when purchased from a Tennessee Vendor (does not include private/charter flights).
- Insurance when purchased through a Tennessee Vendor and purchased specifically for a Qualified Production.
- Music related expenditures purchased from a Tennessee Vendor or Tennessee Resident including licensing, studio rentals, studio musicians, and equipment rental for the Qualified Production.
- Online Location Rentals/Leases. On-Line Location Rentals/Leases may be considered eligible ONLY if purchases are made from a Tennessee vendor with a Tennessee Driver's License. For example, purchases made to Airbnb (or similar) may be considered eligible but ONLY expenditure portions allocated to a Tennessee homeowner. No service or processing fees will be allowable.
- No on-line vendor purchases may be considered unless the purchase is from a verifiable Tennessee vendor. The receipt must show Tennessee taxes were applied and/or a Tennessee address.

5.2 Common Ineligible Expenditures

The following are examples of common expenditures incurred by Production Companies that are not eligible for the Production Incentive. This is not intended to be a complete list and is only provided for reference for typical Productions.

- Wages, salaries, and/or fees, of nonresident cast and crew members unless deemed qualified by the TEC and approved by TNECD Grant Committee.
- Costs/fees associated with packaging, advertising, marketing, distribution, financing, completion bonds, and audience tests.
- Any writing costs/fees that occurred prior to the effective date on the contract.
- Alcohol and tobacco – including use as props.
- Cell phone reimbursements
- Contingency fees & Development fees
- Producer fees, unless accompanied by a detailed payroll report, and only for those services rendered during physical production or during the effective contract period in Tennessee by a Tennessee resident.
- Profit sharing payments
- Gifts/prizes
- Wrap party expenses or entertainment expenses of any kind
- In-kind services/goods
- Expenditures incurred in Tennessee for portions of productions occurring out-of-state. (i.e., travel, equipment rental, crew/talent hires, or post-production for any portions of projects filming outside Tennessee).
- Post-production of a project that did not shoot in Tennessee, or has already shot in Tennessee, without receiving the required TEC approval in advance.
- Any expenditure for an approved project that is related to portions of a Qualified Production that did not physically occur in Tennessee.
- Payments made directly to the government (federal, state, county, or city), including permits and employer payroll taxes (FICA, SUI, etc.).
- Unless an exception has been requested, expenditures in the form of donations made to Section 501(c), non-profit organizations (Goodwill, Salvation Army, churches, museums, schools, etc.). Invoices issued by a revenue-generating entity who claim non-profit status due to organizational affiliations may be considered upon review by the Tennessee Entertainment Commission (TEC).

5.3 Pass-Through Companies

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

allowed for the TEC incentive.

For example, ABC Productions pays Tennessee Supplier Company (TSC) to broker equipment and supplies for a film production. TSC finds equipment to lease from Jersey Film Supplies (JFS) in New Jersey for a \$100,000 leasing fee. TSC charges ABC Productions \$105,000 for equipment from JFS and \$10,000 for supplies purchased in Tennessee and a \$2,000 handling fee totaling \$117,000. Only the \$10,000 supplies expense, \$5,000 up charge (\$105,000 less \$100,000) and \$2,000 handling fee totaling \$17,000 are Qualified Tennessee Expenditures.

5.4 Assets

For the purchase of office, post-production, or effects equipment (including but not limited to computers, hardware and relevant components, printers, copiers, etc.), Qualified Tennessee Expenditures will include the lesser of the net costs of the asset after sales proceeds (if assets are sold) or 20% of the original cost.

For all assets, other than office, post-production, or effects equipment, with an original purchase price over \$5,000 the potential Qualified Tennessee Expenditures will be limited as follows:

1. if the asset is sold, the Qualified Tennessee Expenditures shall be the lesser of the net costs of the asset after sales proceeds or 50% of the original cost of such asset;
2. if the asset is retained, donated, gifted, or lost, the Qualified Tennessee Expenditures shall be no more than 50% of the original cost of such asset; and
3. if the asset is destroyed during the process of production, the Production Company shall maintain documentation to support the destruction of the asset (e.g. call sheets, production reports, still photographs, video footage, etc.) and 100% of that asset shall qualify as a Qualified Tennessee Expenditure.

5.5 Related Party Transactions

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

5.6 Residence and Related Reporting Requirements

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

5.7 Completion Notification

Upon the completion of Principal Photography, the Production Company must post a notice, once a week for three consecutive weeks, in local newspapers distributed in each Tennessee location where production took place, and submit a notice to the TEC to post on the website. Production will notify the public of the need to file creditor claims with the Production Company by a specified date. The Production Company agrees that outstanding obligations are not waived by a creditor failing to file such claim by the specified date. The Production Company must include the production title, address, phone, and contact name(s) of its primary or corporate office - not a temporary Tennessee production office -- as vendors need to be able to contact the company after it has closed its local production office. Tennessee based companies should include their Tennessee primary or corporate office information. The Production Company must submit this information to the TEC and submit a copy of the newspaper bill for all three weeks to the TEC.

Section 6 – Financial Compliance (CPA Agreed Upon Procedures)

6.1 Process and Timing

A Certified Public Accountant ("CPA") hired by the Production Company will issue an Independent Accountants' Report on Applying Agreed Upon Procedures ("AUP") including the procedures required in Section 6.2 in accordance with attestation standards established by the American Institute of Certified Public Accountants. Unless an extension to the submission deadline is approved by the Commission, The AUP is to be submitted to TEC within 18 (eighteen) months of the Effective Date as defined by the Grant Contract. In the event that the Production Company needs additional time to submit the required documentation, a written request may be submitted to TEC.

6.2 Specific CPA Agreed Upon Procedures

The agreed-upon procedures will be as follows:

1. The CPA will read the regulations and guidelines of the Production Incentive.
2. The CPA will obtain from the Production Company a general ledger listing of all expenditures the Production Company determines to be Qualified Tennessee Expenditures ("QTE"). **QTE includes only verifiable expenditures; adjusting or correcting entries to the General Ledger are not usually independently verifiable expenditures.*
3. Inspect the QTE in accordance with Appendix B - Production Incentive Guidelines. Remove any non-qualified expenses from the population to be sampled. Non-Qualified expenditures are including but not limited to:
 - Wages, salaries, and/or fees, of nonresident cast and crew members unless deemed qualified by the department.
 - Costs/fees associated with packaging, advertising, marketing, distribution, financing, completion bonds, and audience tests.
 - Any writing costs/fees that occurred prior to the effective date on the contract.
 - Alcohol and tobacco – including use as props
 - Cell phone reimbursements
 - Contingency fees & Development fees
 - Producer fees unless accompanied by a detailed payroll report and only for those services rendered during physical production or during the effective contract period in Tennessee by a Tennessee resident.
 - Profit sharing payments
 - Gifts/prizes
 - Wrap party expenses and entertainment expenses of any kind
 - In-kind services/goods
 - Expenditures incurred in Tennessee for portions of Productions occurring out-of-state. (i.e., travel, equipment rental, crew/talent hires, or post-production for any portions of projects filming outside Tennessee).
 - Post-production of a project that did not shoot in Tennessee or has already shot in Tennessee without receiving the required TEC approval in advance.
 - Any expenditure for an approved project that is related to portions of a Qualified Production that did not physically occur in Tennessee.
 - Payments made directly to the government (federal, state, county, or city), including permits and employer payroll taxes (FICA, SUI, etc.).
 - Expenditures made to Section 501(c), non-profit organizations (including Goodwill, Salvation Army, churches, museums, schools, etc.)
 - Costs paid or incurred before the effective date of the Grant Contract
 - Payroll handling fees processed outside Tennessee

- Tennessee vendors acting as a passthrough company for out of state purchases.
- Unless an exception has been requested, expenditures in the form of donations made to Section 501(c), non-profit organizations (Goodwill, Salvation Army, churches, museums, schools, etc.). Invoices issued by revenue generating entities who claim non-profit status due to organizational affiliations may be considered upon review by the TN Ent. Commission.
- Online Location Rentals/Leases. On-Line Location Rentals/Leases may be considered eligible ONLY if purchases are made from a Tennessee vendor with a TN Drivers License. For example, purchases made to Airbnb (or similar) may be considered eligible but ONLY expenditure portions allocated to a Tennessee homeowner. No service or processing fees will be allowable.
- No on-line vendor purchases MAY be considered unless the purchase is from a verifiable TN vendor. The receipt must show TN taxes were applied and/or a TN address.

4. The CPA will verify the amount of QTE to ensure it meets the minimum spend.

Expenditures (Payroll Non-Residents):

5. The CPA will obtain the list from the Production Company of all Tennessee Qualified Non-Resident Expenditures approved by the TEC.
- a. The CPA will test all Tennessee Qualified Non-Resident Expenditures, paid to individuals (payroll) selected from the general ledger, whether they were made to an individual or a loan-out company. For each item selected, the CPA will verify to supporting records (timecard or equivalent documentation):
- i. The agreement of the date the expense was incurred
 - ii. The individual/loan-out company name
 - iii. Amount of the expense
 - iv. Tennessee Non-Resident status of the employee
 - v. Qualification in accordance with the TEC Guidelines
 - vi. The name, position and/or amount agree with the approved TEC list.
 - vii. Only the first \$500,000 in gross wages, salaries, fees, per diem and fringe benefits are qualified for resident labor and only the first \$250,000 for non-residents deemed qualifiable by TNECD Grant Committee.
 - viii. The expenditure was paid or incurred for services rendered or goods used in Tennessee.

Expenditures (Payroll Residents):

6. The CPA will test certain QTE, paid to Tennessee **Resident** individuals (payroll) selected from the general ledger, whether they were made to an individual or a loan-out company. The items will be selected in accordance with Appendix F. For each item selected, the CPA will verify to supporting records (timecard or equivalent documentation):
- a. The agreement of the date the expense was incurred
 - b. The individual/loan-out company name
 - c. Amount of the expense
 - d. Tennessee Resident status of the employee
 - e. Qualification in accordance with the TEC Guidelines

- f. For payments made to loan-out companies or other entities, the CPA will verify that the loan-out company or other entity is a Tennessee Vendor.
- g. Only the first \$500,000 in gross wages, salaries, fees, per diem and fringe benefits are qualified for resident labor and only the first \$250,000 for non-residents deemed qualifiable by TNECD Grant Committee.
- h. The expenditure was paid or incurred for services rendered or goods used in Tennessee.

Expenditures (Excluding Payroll):

7. The CPA will test certain QTE, other than payments to individuals (non-payroll) selected from the general ledger. The items will be selected in accordance with Appendix F. For each item selected, the CPA will verify to supporting records (invoice or equivalent documentation):
 - a. Inspect invoices, check copies, bank statements, receipts, credit card support, or other equivalent documentation and trace vendor, date, and amount to the Tennessee expenditure.
 - b. Qualification in accordance with the TEC Guidelines
 - c. For payments made to loan-out companies or other entities, the CPA will verify that the loan-out company or other entity is a Tennessee Vendor.
 - d. The expenditure was paid or incurred for services rendered or goods used in Tennessee.
 - e. For payments to individuals verify Tennessee Resident status
8. The CPA will obtain fixed asset listings from the Production Company of all assets used in the Production as follows: (1) all office, post-production, and effects equipment; and (2) all other assets not considered office, post-production, and effects equipment with an original purchase price over \$5,000. The listings should indicate the status of the assets (e.g., retained, donated, gifted, or lost, etc.). A copy of both listings should be attached to the report. For all assets on the listings perform the following procedures:
 - a. For all office, post-production, or effects equipment (including but not limited to computers, hardware and relevant components, printers, copiers, etc.), verify that the QTE is the lesser of the net costs of the asset after sales proceeds (if assets sold) or 20% of the original cost.
 - b. For all assets over \$5,000 not including office, post production and effects equipment, verify the following: (1) If the asset is sold, verify that the QTE is the lesser of the net costs of the asset after sales proceeds or 50% of the original cost of such asset; (2) If the asset is retained, donated, gifted or lost, verify that the QTE is 50% of the original cost of such asset; and (3) If the asset is destroyed during the process of production, verify that the production company maintains documentation to support the destruction of the asset (e.g. call sheets, production reports, still photographs, video footage, etc.) and allow 100% of the original cost of that asset.
9. The CPA will obtain from the Production Company a listing of all related party transactions included in the QTE. Related Party payments exchanged between immediate family of owners or management and/or multiple enterprises having the same or similar owners must be “arm’s-length” and must be disclosed in the request for incentive reimbursements. Related parties shall be interpreted to include companies approved to receive the incentive, payments that are made to that company’s owner, partner, or principal. The CPA will inspect documentation of three bids from non-related parties, to perform the same services or provide the same products as the related party enterprise. To be a

QTE, the amount paid to related party enterprise may be no more than the lowest of the three non-related party bids.

Wrap Up Procedures:

10. The CPA will apply the rate of misstatement of the exceptions identified in procedure 6 and 7 above, if any, to the respective populations tested. The rate of misstatement will be calculated by the total value of the exceptions identified, divided by the total dollar value tested, and multiplied by the respective populations tested. The total of all calculated misstatements for each population tested will be deducted from the original schedule of QTE to arrive at a revised amount of QTE. For exceptions noted in procedure 8, adjust the QTE for known misstatements noted and attach a listing of those misstatements.
11. Verify with a responsible official at the Production Company that any QTE included in insurance claims have been credited in the general ledger. If the production company filed an insurance claim and received funds, the CPA is to inspect the supporting documentation of the claim to ensure the expenditures were properly credited to the correct accounts in the general ledger.
12. The CPA will verify the amount of QTE after all adjustments meets the minimum spend. For Scripted TV Series, feature films and television pilots \$500,000.
13. The CPA will recalculate the amount of production incentive by multiplying the total QTE from the general ledger obtained in procedure 2 (above), as adjusted for the known and extrapolated misstatements identified in number 10 above by twenty-five percent (25%).

6.3 General Requirements

- The cost report must be in US dollars.
- The period during which the expenditures were incurred must be disclosed.
- For selected payments made to loan-out companies or other entities, the CPA must verify that the loan-out or other entities are Tennessee Vendors.
- The costs to be recorded are actual costs and shall not include any internal journal entries, mark-ups, or profit additions on the part of the production entity receiving the rebate.
- It is the Production Company's responsibility to ensure that all of the required information is provided.
- CPA shall be a licensed firm who has undergone a successful peer review in the most recent reporting cycle. Prior to the State's acceptance of the Independent Accountants' Report the Production Company must submit to the State a copy of the CPA's license & most recent peer review.
- All Qualified Tennessee Expenditures must be net of any refunds, rebates, or insurance claims.
- No internal journal entries.
- The production company should administer Petty Cash expenditures using standard accounting best practices. All documentation must be legible and must include the purchase date. The production company should maintain all Petty Cash Receipts and other pertinent documents in

an orderly manner and available for review until after the final incentive payments have been processed.

Section 7 – Reporting Process

7.1 Forms

Form C: Incentive Application must be completed in its entirety and submitted to the TEC along with all required attachments prior to finalization and payment of the incentive.

7.2 Timing

Unless an extension has been approved by the Commission, expenditures must be incurred within the Twelve (12) Month Qualification Period and all required information shall be submitted to TEC within eighteen (18) months of the Effective Date.

7.3 Data Reporting Requirements

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

7.4 Demonstration of Work

Prior to finalization and payment of the incentive, the production company will provide access to a screener of the Production, or the most recent edited version of the Production, to TEC & ECD. The production company will also provide at least five production still photos in an electronic format with rights cleared for promotional use. For feature films only, at least one poster for promotion of the project.

7.5 Final Credit Award and Payment

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

In order to receive the Production Incentive, the Production Company must submit an invoice of the amount of adjusted Qualified Tennessee Expenditures to the TN Entertainment Commission..

7.6 Hold Harmless

The payment contract requires the Production Company to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities,

losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Production Company, its employees, or any person acting for or on its or their behalf relating to the Production.

Section 8 – Confidentiality

8.1 Tennessee Public Records Act

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

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

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

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

8.2 ECD Public Records Provision

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

Section 9 - Definitions

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

Development Fee: Fees include, but are not limited to, the procurement of screenwriting talent, script development, financing, distribution, foreign sales, and talent attachments.

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

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

Eighteen (18) Month Submission Date: Eighteen (18) months after the Effective Date, the date by which the Agreed Upon Procedures must be submitted to TEC.

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

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

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

Journal Entries: For the purposes of the TEC incentive, journal entries in the General Ledger are entries that show how the transaction/event changed. It could be a cost allocation transaction, or it could be that the production company received a refund and the spend is no longer applicable as a Qualified Tennessee Expenditures.

Key Crew Positions: Heads of a department hired by a production company, necessary for the purpose of producing a film or episodic series.

Loan-Out Company: A U.S. entity that is generally created by entertainment industry professionals. The entertainment professional becomes an employee of the corporation and the corporation “loans out”

the services of the employee/shareholder.

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

One Hundred Twenty (120) Day Start Date: One hundred twenty (120) days after the Effective Date, the date by which Principal Photography must begin.

Pass-Through Company: For the purpose of the Tennessee Incentives program, a pass-through company is a business entity that engages in one type of business on a full-time basis, but they will transact for a good or service that is not a part of their usual line of business and pass-through the cost in order to have a good or service appear to be eligible for the TN Incentive.

Permission To Incur Costs (PTIC): A TEC administrative mechanism that facilitates State reimbursement of a production company's (grantee's) qualified expenses that are incurred prior to full grant contract execution.

Principle Cast: An ensemble cast is made up of cast members in which multiple principal actors and performers are assigned roughly equal amounts of importance and screen time in a dramatic production.

Production: A Feature Film, Scripted Television Episode, Scripted Television Pilot or Animation.

Pre-Production: The process of preparation for actual physical production which begins after a qualified Production Company 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.

Post-Production: 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.

Principal Photography: Means the phase of production during which the motion picture is actually filmed, as distinguished from preproduction and post-production. Principal Photography days refers to the number of days shot by the principal unit with the director and lead actors usually present.

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

Qualified Tennessee Expenditures (QTE): Goods or services used in Tennessee in connection with a Qualified Production AND purchased from a Tennessee Vendor or paid to a Tennessee Resident for production occurring in Tennessee incurred within the Qualification Period.

Qualification Period: From the Effective Date through the Twelve (12) Month Completion Date.

Qualified Production: A Production filmed in Tennessee that has met all criteria of the program and been approved by the ECD Grants Committee.

Scripted Television Series: A group of episodes for a television program broadcast in regular intervals with a break between each group, usually with one year between the beginning of each and made up primarily of principal actors and cast using scripted dialogue within a structure scene between actors.

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

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

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

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

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

Twelve (12) Month Qualification Period: Twelve (12) months after the Effective Date, the date by which all Qualified Tennessee Expenditures must be incurred.