



Moving Image Industry Incentive Program - Film & Television Projects



The following is a topical summary of the rules and requirements for the Texas Moving Image Industry Incentive Program. Please [click here](#) to read the complete rules and requirements as promulgated in the Texas Administrative Code, which govern in the event of a conflict or ambiguity with the summary below. The Office of the Governor, Texas Film Commission, as a state agency, must comply with the Texas Public Information Act (the "Act"). In the event that a public information request related to the applicant is submitted to the agency, the agency will (i) promptly notify the applicant of the request, (ii) take all appropriate actions with the Attorney General of Texas to prevent

release of confidential information, including asserting exemptions under the Act, and (iii) provide the applicant with full information and opportunity to participate in such process.

INCENTIVE

- Qualifying projects (except reality television, contest shows, talk shows, & game shows) are eligible to receive an incentive payment of up to 15% of eligible Texas spending or 25% of eligible wages paid to Texas residents.
- Qualifying reality television and talk show projects are eligible to receive an incentive payment equal to 5% of eligible Texas spending.

PROGRAM QUALIFICATIONS

- Minimum eligible Texas spending of \$250,000 (for episodic television series, \$250,000 per season).
- At least 60% of shooting days must be completed in Texas.
- At least 70% of the total number of paid crew must be Texas residents.
- At least 70% of the total number of paid cast, including extras, must be Texas residents. (Cast requirement does not apply to reality television and talk show projects.)

If your project does not meet these qualifications, it is not eligible to receive funds from the Moving Image Industry Incentive Program, but it may be eligible for Texas' [Sales Tax Exemptions](#).

INELIGIBLE PROJECTS

The following types of projects, among the various other types of prohibited projects described in the Program Rules, are not eligible to receive funds from this program:

- obscene material, as defined by Section 43.21, Texas Penal Code;
- news, current event or public access programming; or programs that include weather or market reports;
- sporting events or activities;
- awards shows (unless broadcast on national network television to a national audience), galas or telethons; or
- projects intended for undergraduate or graduate course credit.

The State of Texas is also not required to make payments to projects that include inappropriate content or content that portrays Texas or Texans in a negative fashion.

INCENTIVE CALCULATION OPTION (*not available to reality television or talk show projects)

Film and Television Projects (except reality television, contest shows, talk shows, & game shows) may choose to receive an

incentive payment based on either total Texas spending (including wages) or wages paid directly to Texas residents. Projects are required to choose an option when submitting an application to the program. The selected option may be changed after the application is submitted, but not after the formal incentive agreement has been signed.

- **OPTION A - TOTAL TEXAS SPENDING** - Projects with total Texas spending of:
 - At least \$250,000 but less than \$1 million will be eligible to receive a payment equal to 5% of eligible Texas spending.
 - At least \$1 million but less than \$5 million will be eligible to receive a payment equal to 10% of eligible Texas spending.
 - At least \$5 million will be eligible to receive a payment equal to 15% of eligible Texas spending.

Option A - may maximize your incentive payment, but requires extensive documentation of all eligible Texas payroll, accounts payable and petty cash expenditures that will be applied toward the incentive. Due to the volume of documentation required, payments under this option will take longer to process.

- **OPTION B - WAGES PAID DIRECTLY TO TEXAS RESIDENTS** - Projects with total Texas spending of:
 - At least \$250,000 but less than \$1 million will be eligible to receive a payment equal to 8% of wages paid directly to Texas residents.
 - At least \$1 million but less than \$5 million will be eligible to receive a payment equal to 17% of wages paid directly to Texas residents.
 - At least \$5 million will be eligible to receive a payment equal to 25% of wages paid directly to Texas residents.

Option B - requires expenditure documentation of eligible Texas payroll expenses only. This option can be processed more efficiently, leading to quicker payments.

UNDERUTILIZED OR ECONOMICALLY DISTRESSED AREAS

Projects that complete at least 25% of their total shooting days in an **underutilized or economically distressed area** of Texas are eligible to have an additional amount added to their incentive payment percentage.

- Projects choosing to have their incentive amount calculated based on Option A - Total Texas Spending are eligible to receive an additional 2.5%.
- Projects choosing to have their incentive amount calculated based on Option B - Wages Paid Directly to Texas Residents are eligible to receive an additional 4.25%.
- Reality television or talk show projects are eligible to receive an additional 2.5%.

An **underutilized or economically distressed area** of Texas is defined as:

- an area that receives less than 15% of total film and television production in the state during a fiscal year; or
- an area that has a median household income that does not exceed 75% of the median state household income.

ELIGIBLE EXPENDITURES

- Wages and per diems paid to Texas residents for work performed in Texas, including employer paid FICA, FUI, SUI, PH&W and Vac & Hol payments. Total compensation (including wages, per diems and eligible fringes) is capped at \$1 million per worker, per project.
- Workers compensation insurance payments may be included only if the premiums are paid to a Texas-based company.
- Payroll company service fees may be included only if paid to a Texas-based payroll company that process payroll within Texas.
- Payments made to Texas companies for goods and services domiciled and used in Texas that are directly attributable to the physical production of the feature film or television program.
- Payments for shipping on shipments originating in Texas.
- Air travel to and from Texas on a Texas-based airline, including American Airlines and Southwest Airlines, or on a Texas-based air charter service.
- Rentals and leases of vehicles registered and licensed in the State of Texas.
- Music that is specifically created for the project and fees paid to Texas residents hired to create, orchestrate and perform the music.
- Legal fees that are directly attributable to the production and are paid to a Texas-based lawyer or law firm.

INELIGIBLE EXPENDITURES

- Wages and fringes paid to non-Texas residents.
- Per diems paid to non-Texas residents.
- Payments to non-Texas vendors, or for goods and services not directly attributable to the physical production of the feature film or television program including, but not limited to, entertainment expenses, gifts and party expenses.
- Fees for story rights, music rights or clearance rights.
- Expenses related to distribution, publicity, marketing or promotion of the project.
- Rental, lease or mortgage payments, to include utilities and insurance, on facilities that are part of a permanent/continuous business operation.
- Payments made to pass-through companies.
- Payments for shipping on shipments that originate outside of Texas.
- Alcohol and tobacco purchases.
- Tips and gratuities.

RESIDENCY VERIFICATION

All crew members, cast members or permanent employees who receive any payment for working in Texas must be included in the total crew and cast counts and listed on the crew and cast lists of a project. Proof of residency for all Texas residents working on a project must be properly documented in order to meet the 70% residency requirement for crew and cast, and to apply payments made to Texas residents toward the incentive.

As proof of residency, each Texas resident crew member, cast member (including extras and stand-ins) or permanent employee must complete a **Declaration of Texas Residency Form**.

To be considered a Texas resident for the purposes of the incentive, a person must be permanently domiciled in Texas for at least 120 days prior to the first day of principal photography and be able to complete sections I, II and III of the Declaration of Texas Residency Form. Section III must be completed with one of the following documents:

- A current Texas driver license or ID card.
- A current Texas voter registration.
- A current student ID card from a Texas Institution of Higher Education (full-time college students only).

Please note that in addition to the document information, Section III also requires the employee to initial where indicated in Section III, paragraph 2 and provide a signature in the signature box.

A minor who does not have the necessary document to complete Section III of the form should have a Texas resident parent or legal guardian complete section III and note their relationship to the minor in the signature box.

Section IV of the Declaration of Texas Residency Form must be completed by an authorized representative of the production company or incentive applicant who has reviewed and authenticated (to the best of their ability) the document presented by the employee to complete section III of the form. It is not necessary to obtain a physical copy of the employee's document.

To be considered valid, Declaration of Texas Residency Forms must be filled out completely, correctly and legibly. Any residency form with missing or illegible information or that is completed with an expired or invalid document will be considered invalid. To avoid potential problems with residency documentation, the residency form should be completed at the start of an individual's employment on a project.

Individuals with properly completed Declaration of Texas Residency Forms are the only people considered Texas residents for the purposes of calculating the 70% residency requirement. Eligible payments made to these individuals can be applied toward the incentive. These individuals should be included in the crew and cast count and listed on the crew and cast lists as Texas residents.

Individuals without properly completed Declaration of Texas Residency Forms cannot be considered Texas residents for the purposes of calculating the 70% residency requirement, and any payments made to these individuals cannot be applied toward the incentive. These individuals should be included in the crew and cast count and listed on the crew and cast lists as non-Texas residents.

Individuals who are not Texas residents do not need to complete the Declaration of Texas Residency Form. They are not considered Texas residents for the purposes of calculating the 70% residency requirement, and any payments made to

these individuals cannot be applied toward the incentive. These individuals should be included in the crew and cast count and listed on the crew and cast lists as non-Texas residents.

Individuals who do not perform any work in Texas do not need to complete the Declaration of Texas Residency Form. Payments made to these individuals cannot be applied toward the incentive, and these individuals should not be included in the crew and cast count or listed on the crew and cast lists.

APPLICATION PROCESS

The following application package must be received by the Texas Film Commission no earlier than 30 days and no later than 5 PM Central Time on the business day prior to the first day of principal photography:

- A Qualifying Application, to be completed and submitted online;
- An itemized budget detailing only estimated Texas expenditures, submitted via email;
- A content document, submitted via email.
 - Feature films and television programs should submit a complete script.
 - Episodic television series should submit a complete script for the first episode.
 - Reality television, contest show, talk show, game show projects should submit a detailed story outline or treatment.

All application materials should be submitted electronically. Budget and content documents should be submitted as Adobe PDF, Microsoft Word or Microsoft Excel documents.

Upon proper submission of the online application, the applicant will be forwarded to a confirmation page that acknowledges submission of the online application and provides the email address to which the budget and content document should be submitted.

NOTE: The application package is not complete until all required documents have been received.

Please do not submit an application if:

- Your project does not meet the **Program Qualifications**.
- Your type of project appears on the **Ineligible Projects** list.
- You do not have the necessary budget or content documents to complete the application package.
- It is more than 30 days from your project's first day of principal photography.
- The first day of principal photography on your project has already occurred (see below).

Late applications will not be accepted. If you have already started principal photography, you cannot apply to the Texas Moving Image Industry Incentive Program.

START DATE CONFIRMATION

Within 5 business days after the first day of principal photography indicated on the application, the production should submit an email to the Texas Film Commission confirming the production began on time. If principal photography is delayed, a new start date should be provided along with the reason for the change. If the start of principal photography is delayed for more than 30 days, the application may be discarded and the project may be asked to reapply.

DURING PRODUCTION

The Texas Film Commission may periodically review production activity including, but not limited to, in-state spending, shooting locations and the number of Texas residents hired; and may request documentation for all of the above.

VERIFICATION PROCESS

Within 60 days of completing Texas expenditures, final verifying documentation should be submitted to the Texas Film Commission in either hard copy or digital format. Specific guidelines have been established for submitting the final verifying documentation, and this information will be provided upon approval of your incentive application.

The following is a general summary of documentation requirements. Documentation includes, but may not be limited to, the following:

- An expended budget or master ledger report that reflects all eligible Texas spending;
- An accounts payable or purchase order spreadsheet, sorted by vendor, that reflects only eligible in-state transactions and includes copies of all checks, invoices and receipts for each vendor;
- A petty cash spreadsheet, sorted alphabetically by name, that reflects only eligible in-state transactions and includes copies of the petty cash envelope fronts and all receipts;
- A payroll spreadsheet, sorted alphabetically by name, that reflects only payments made to Texas residents and includes copies of the payroll company invoices and the payroll company registers that detail wages and fringes paid to Texas residents;
- A copy of each Texas resident's Declaration of Texas Residency form;
- Copies of all call sheets;
- Location maps and copies of call sheets and production reports;
- A copy of the complete cast list that includes both Texas resident and non-resident cast members;
- A copy of the vendor list;
- A copy of the final content of the project; and
 - Feature films and television programs should submit a copy of the final shooting script or a DVD of the completed production.
 - Episodic television series should submit the final shooting script for each episode or a DVD of all episodes produced.
 - Reality television, contest show, talk show, game show projects should submit a DVD of all episodes produced.
- The CPA Audit Opinion, if required by Program Rules.

PAYMENT PROCESS

Following a review by the Texas Film Commission, the final documentation will be submitted for a compliance review by the Governor's Office Division of Compliance and Oversight. Disbursement of funds will not occur until the production has paid all financial obligations incurred to the State of Texas, and the final compliance review has been completed and approved.

[Click to fill out the online QUALIFYING APPLICATION.](#)

If you have any questions, please contact the Texas Film Commission at film incentive@governor.state.tx.us.

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Texas Film Commission•P.O. Box 13246•Austin, Texas 78711•(512) 463-9200•(512) 463-4114 fax

AN ACT

relating to incentives for the film, television, video, and digital interactive media production industries.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 485.021(2) and (5), Government Code, are amended to read as follows:

(2) "Moving image project" means a visual and sound production, including a film, television program, national or multistate commercial, educational or instructional video, or digital interactive media production. The term does not include a production that is obscene, as defined by Section 43.21, Penal Code.

(5) "Underutilized and economically distressed area" includes any area of this state that:

(A) the office determines receives less than 15 percent of the total film and television production in this state during a fiscal year; or

(B) has a median household income that does not exceed 75 percent of the median state household income [].

SECTION 2. Section 485.023, Government Code, is amended to read as follows:

Sec. 485.023. QUALIFICATION. To qualify for a grant under this subchapter:

(1) a production company must have spent a minimum of:

(A) \$250,000 in in-state spending for a film or television program; or

(B) \$100,000 in in-state spending for a commercial or series of commercials, an educational or instructional video or series of educational or instructional videos, or a digital interactive media production;

(2) at least 70 percent of the production crew, actors, and extras for a moving image project must be Texas residents unless the office determines and certifies in writing that a sufficient number of qualified crew, actors, and extras are not available to the company at the time principal photography begins;

(3) at least 60 percent of the moving image project must be filmed in Texas; and

(4) a production company must submit to the office an expended budget, in a format prescribed by the office, that reflects all in-state spending and includes all receipts, invoices, pay orders, and other documentation considered necessary by the office to accurately determine the amount of a production company's in-state spending that has occurred.

SECTION 3. Sections 485.024 and 485.025, Government Code, are amended to read as follows:

Sec. 485.024. GRANT. (a) Except as provided by Section 485.025, a grant under this subchapter may not exceed the amount established by office rule. The office shall adopt rules

prescribing the method the office will use to calculate the amount of a grant under this subsection. The office shall publish a written summary of the method for determining grants before awarding a grant under this section. The method must consider at a minimum:

(1) the current and likely future effect a moving image project will have on employment, tourism, and economic activity in this state; and

(2) the amount of a production company's in-state spending for a moving image project.

(b) In calculating a grant amount under Section 485.025 or the amount of in-state spending for purposes of rules adopted under Subsection (a), the office may not include wages of persons, including an actor or director, employed in the production of a moving image project that exceed \$1 million.

(c) The office may only make a grant from appropriated funds.

Sec. 485.025. ADDITIONAL GRANT FOR UNDERUTILIZED AND ECONOMICALLY DISTRESSED AREAS. In addition to the grant calculated under Section 485.024, a production company that spends at least 25 percent of a moving image project's filming days in an underutilized and economically distressed area is eligible for an additional grant in an amount equal to 2.5 percent of the total amount of the production company's in-state spending for the moving image project.

SECTION 4. (a) The Music, Film, Television, and Multimedia

Office in the office of the governor shall adopt the rules required by Section 485.024, Government Code, as amended by this Act, not later than November 1, 2009.

(b) The Music, Film, Television, and Multimedia Office in the office of the governor may not award a grant under Section 485.024, Government Code, as amended by this Act, before the rules described by Subsection (a) of this section are adopted.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 873 was passed by the House on March 26, 2009, by the following vote: Yeas 139, Nays 6, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 873 was passed by the Senate on April 17, 2009, by the following vote: Yeas 27, Nays 1.

Secretary of the Senate

APPROVED:

Date

Governor