



NUNAVUT SPEND INCENTIVE PROGRAM

1. MANDATE

The Nunavut Film Development Corporation is a not-for-profit company, governed by an independent Board of Directors, whose mandate is to sustain and grow Nunavut's indigenous film, television and digital media industry. It is also responsible for fostering business partnerships within the industry and providing production and location services to non-resident producers.

The Nunavut Film Development Corporation will be referred to as "Nunavut Film".

2. WHAT IS THE 'SPEND INCENTIVE PROGRAM'?

The Nunavut Spend Incentive Program is an initiative that awards production companies a rebate on the total eligible costs for production goods and services purchased and consumed in Nunavut.

An eligible applicant company may apply through one of the two incentives:

Spending Stream I (Majority Nunavut ownership); or
Spending Stream II (Equal or Minority Nunavut ownership)

Increased financial benefits may apply in cases where eligibility is enhanced by the employment and training of additional key creative personnel who are resident in Nunavut and/or the completion of an Inuktitut/Inuinnaqtun version of the production.

Nunavut Film will rely on the ownership and control indicators outlined in Section 8.4 when assessing applicable percentage of ownership and determining the relevant spending stream.

The CEO (or Minister of Economic Development and Transportation) has the absolute discretion to determine the acceptability of any application for the purpose of the Nunavut Spend Incentive Program notwithstanding the Program Guidelines.

Please note: These Guidelines may be changed or modified as required, without notice. Please consult the Nunavut Film website at www.nunavutfilm.ca to receive the latest Guideline news and documentation.

An applicant who has been awarded a Nunavut Spend Incentive rebate under this program will be referred to as the "recipient".

3. PURPOSE

This program has been founded to:

- support the development of a strong indigenous film, television and digital media industry;
- encourage investment and increase economic activity within Nunavut;
- cultivate local production expertise and nurture local talent; and
- assist with the development and marketing of the Inuit language, its culture and traditions.

4. DEFINITIONS

A few select terms have been defined for the purposes of these guidelines – “affiliate”, “co-production”, “digital media”, “film and television”, “key creative positions”, “broadcaster”, and “resident of Nunavut”. Applicants should refer to the definitions in Appendix A.

5. ELIGIBILITY CRITERIA

5.1 The Applicant

To be eligible to apply for a Nunavut Spend Incentive rebate, the applicant must:

- be a production company incorporated pursuant to the laws of the Territory of Nunavut or Canada whose primary activity is developing and producing film, television and/or digital media content;
- be able to demonstrate that the applicant, or its affiliate, owns 100% of copyright in the eligible production, or first option to adapt the underlying property and acquire copyright ownership (exceptions apply with respect to co-production);
- be in good standing with the relevant Corporate Registry; and
- with respect to Stream II applications for eligible productions with budgets exceeding \$500,000 only: be able to provide written evidence that the applicant, or its affiliate, has entered into an agreement with a licensed Canadian broadcaster or bona fide distributor.

A ‘Nunavut Spend Incentive’ rebate will be referred to as the ‘spend rebate’.

5.2 The Individual Producer(s)

Each Producer(s) named in the application must meet the following minimum criteria:

- be an individual whose primary business activity to date has been developing, producing, marketing and exploiting film, television and/or digital media project(s); and
- be an individual who:
 - is a central decision-maker at all levels in respect of the eligible production,
 - is directly responsible for the creative direction, financial control, completion, delivery and exploitation of the eligible production;
 - is contractually entitled to reasonable, verifiable and commensurate monetary participation in budgeted Producer fees and net profits,
 - is contractually entitled to receive on-screen credit as a Producer, Executive Producer, or Co-Producer and, ultimately, identified in the production as being a Producer, Executive Producer, or

Co-Producer

- At least one of the Individual Producers named in the application **must** be a resident of Nunavut.
- An Individual Producer can be an Executive Producer, a Producer or a Co-Producer.
- is committed to business activities which respect the Inuit societal values outlined in the Film, Television and Digital Media Development Contribution Policy, posted on the website: www.nunavutfilm.ca
- is in good standing with Nunavut Film.

In circumstances where individuals are contracted by the applicant company to work as Co-Producers, Executive Producers, and/or Associate Producers, these additional producing executives must be identified to Nunavut Film at the time of application. The applicant will be required to provide Nunavut Film with copies of all agreements entered into with these individuals. A review will be conducted to assess responsibilities, tasks, levels of control and, if applicable, levels of ownership. Nunavut Film must be able to verify that the qualifying individual producer(s) named in the Stream I or Stream II applications retain tangible, substantive and beneficial levels of control and ownership relative to the Nunavut Spend Incentive requested.

6. ELIGIBLE PRODUCTIONS

The following types of productions are eligible for rebate:

- feature length films, including animation, documentary or docudrama, intended for release in commercial cinemas, DVD sales and rentals and download;
 - television programming intended for commercial broadcast, DVD sales and rentals and download including dramas, sitcoms, factual, variety, reality, lifestyle and animation for youth; and
 - digital media projects, including those convergent to a television program intended for cross platform digital media exploitation and/or download.
- The Nunavut Spend Incentive will support series production on the following basis:

Season One: 100% of the applicable rebate

Season Two: 80% of the applicable rebate

Season Three: 60% of the applicable rebate

Season Four: 40% of the applicable rebate

Season Five: 20% of the applicable rebate

Season Six: No Funding

Only those eligible productions which spend more than \$25,000 on goods and services consumed in Nunavut are eligible to apply for a rebate.

The eligible production must comply with the laws and regulations established with respect to intellectual property and, where applicable, broadcasting.

7. INELIGIBLE PRODUCTIONS

The following genres of production are NOT eligible for rebate:

- news, current events or public affairs programming;
- programs that include weather or market reports;
- talk shows;
- sports events or activities;
- gala presentations or award shows;
- projects that solicit funds;
- pornography;
- advertising and commercials;
- projects produced primarily for industrial, corporate or institutional purposes;
- projects, other than documentaries, which substantially consist of stock footage;
- projects that contravene any civil or criminal law;
- productions which spend less than \$25,000 on goods and services consumed in Nunavut; and
- productions which in the opinion of Nunavut Film will not be completed and delivered within the time frame proposed by the applicant

8. NUNAVUT SPEND INCENTIVE STREAMS

An eligible applicant may apply through any one of the two Nunavut Spend Incentive Streams described below.

Production Funds in the applicant's Financing Plan which are from the Government of Nunavut (other than from the Nunavut Film Development Corporation) must be deducted from the calculation of Eligible Nunavut Expenditures available for rebate.

8.1 Spending Stream I – 27%

In circumstances where:

- a) the applicant company qualifies pursuant to Section 5.1 and is majority and beneficially owned and controlled by residents of Nunavut who qualify as 'Individual Producer(s)' pursuant to Section 5.2;
- b) the applicant company maintains a registered head office in Nunavut;
- c) the production qualifies pursuant to Section 6; and
- d) at least two of the eight key creative positions are to be filled out of the eight key creative positions by residents of Nunavut. (Alternatively, one of eight key creative positions and two trainee key creative positions.)

The eligible applicant may request a spend rebate equal to 27% of the total eligible costs of production good and services purchased and consumed in Nunavut.

Enhancement provisions may apply.

The ownership and control indicators outlined in Section 8.4 below apply.

Non-profit production companies with a head office in Nunavut and which meet the eligibility criteria as an applicant are eligible to apply under Stream I. However, the applicable spend rebate for non-profit corporations will be 17% (plus bonuses) of the total eligible costs of production goods and services purchased

and consumed in Nunavut. Funding for non-profits under the Nunavut Spend Incentive Program will be capped at \$75,000 for the first six months of the fiscal year after which time the cap will be removed for the remainder of the fiscal, assuming available funds are in the program.

8.2 Spending Stream II – 17%

In circumstances where:

- a) the applicant company qualifies pursuant to Section 5.1 and is equal or minority owned, controlled and creatively directed by residents of Nunavut (10% to 50%) who qualify as ‘Individual Producer(s)’ pursuant to Section 5.2;
- b) the applicant company maintains a registered office in Nunavut;
- c) Officers and Directors of the applicant company, who are resident in Nunavut, participate in the management of business activities;
- d) the production qualifies pursuant to Section 6; and
- e) at least two of the eight key creative positions are filled by residents of Nunavut, (Alternatively, one of eight key creative positions and two trainee key creative positions.)

the applicant may request a spend rebate equal to 17% of the total eligible costs of production good and services purchased and consumed in Nunavut.

Enhancement provisions may apply.

The ownership and control indicators outlined in Section 8.4 below apply.

8.3 Enhancement Provisions

8.3.1 Training of Key Creative Personnel

Eligibility may be enhanced by employing and training additional key creative personnel who are resident in Nunavut. In this case, a bonus equal to 1% of the applicant’s total eligible Nunavut costs will be paid for every individual hired to fill one of the eight key creative personnel positions in the eligible production. Alternatively, the applicant has the option of filling one of the eight key creative personnel with trainees.

Under this enhancement provision, a maximum total bonus of 3% applies to each spending stream, potentially resulting in the hiring of up to three additional key creative personnel and/or the training of up to three additional key creative personnel who are resident in Nunavut.

Key creative personnel triggering this bonus on behalf of the eligible applicant must be qualified and provided with appropriate credit on the completed production. Proposals with respect to the training of key creative personnel must be made in writing and are subject to pre-approval by Nunavut Film.

8.3.2 Inuktitut / Inuinnaqtun Version

Funding may be further enhanced if the completed production is produced or versioned into the Inuktitut / Inuinnaqtun language. Under this enhancement provision, a bonus of 10% of the Nunavut spend up to a maximum of \$40,000 is available for original **Production** in an Inuit Language or a bonus of 5% for **Versioning** in an Inuit Language up to a maximum of \$20,000 is available.

Applicants applying for this incentive must provide a plan for the guaranteed distribution (internet, mobile or direct sales) and/or broadcast of the program within Nunavut.

8.4 Ownership and Control Indicators

When assessing Spending Stream I and Spending Stream II submissions and determining ownership and control levels, Nunavut Film will consider the following:

- who was directly responsible for the acquisition and development of the production?
- who has been issued voting shares in the company and how many?
- who is being identified in the production and on all marketing materials as a 'Producer'?
- who is a central decision maker in respect of the eligible production?
- who has been granted control and approval(s) with respect to the eligible production and the affairs of the applicant company, creatively/financially and otherwise?
- who owns copyright to the completed production and at what percentages?
- who controls distribution and exploitation rights, in Canada, in the USA and elsewhere in the world?
- who has a right to a share of budgeted producer fees and overhead and at what percentages of the whole?
- who is entitled to share in net profits and at what percentages?
- who has the first right of negotiation to acquire or option sequels, prequels, subsequent cycles of series, digital media rights and other spin-offs from the eligible production?

Nunavut Film reserves the right to request a statutory declaration and/or letter of opinion (from the applicant's legal counsel) in circumstances where documentation, in the sole opinion of Nunavut Film, warrants additional comfort and verification. The cost of preparation of a statutory declaration or legal letter of opinion must be borne by the applicant.

9. ELIGIBLE NUNAVUT COSTS

The applicant must provide a detailed production budget and separate detailed breakdown of estimated costs for goods and services purchased and consumed in Nunavut. Applicants are requested to use industry standard budget formats. For reference, Nunavut Film has prepared an 'Eligible Nunavut Costs' worksheet for use by applicants. This worksheet may be downloaded from the Nunavut Film website (www.nunavutfilm.ca) and is only applicable to traditional film and television productions. Applicants applying for digital media projects may use the Bell Fund Budget Template for this purpose (downloadable at: www.bellfund.ca/guidelines)

Eligible Nunavut costs must be consistent and competitive with industry standards.

As the following line items are not currently available in Nunavut, upon request and at the sole discretion of Nunavut Film, an amount proportionate to the number of Nunavut shoot days may be deemed an eligible Nunavut cost and included by the applicant's when estimating its spend rebate:

- film and tape or digital recording stock
- production insurance
- versioning
- Closed Captioning
- legal
- accounting
- audit
- Completion Guarantor

With respect to Stream II: fees for key creative provided by producers working on projects over \$1 million will not be eligible for funding. On projects with budgets of less than \$1 million, producers may claim reasonable fees for a maximum of 3 key creative positions. In these instances, total fees payable to producers also employed in key creative positions will be capped at 20% of the budget.

Nunavut Film and/or the Government of Nunavut may, upon request in writing, inspect and audit the records of the recipient of funding under the Spend Incentive Program (or that of its affiliate, if applicable).

10. NUNAVUT FILM CONTRIBUTION/PAYMENT/CREDIT

Applications which meet the eligibility criteria outlined above will be considered by Nunavut Film for a spend rebate under one of the two Spend Incentive Streams outlined in Section 8 above.

Spending Stream I and II recipients: the Nunavut Film contribution will be paid in three advances, as follows:

- 40% upon execution of a Contribution Agreement;
- 50% upon receipt by Nunavut Film of a copy of a fully executed agreement entered into with a broadcaster or bona fide distributor; and verifiable commitments for full financing; or in the case of digital media projects a marketing plan and verifiable commitments for full financing.
- 10% upon completion and delivery of the eligible production (and, if applicable, an Inuktitut version), receipt and approval of an audited statement of total production costs and receipt of a completed Economic Impact Statement (see reference below).

Other conditions may apply and will be outlined in the Contribution Agreement entered into with Nunavut Film.

With respect to productions with budgets of less than \$500,000, Nunavut Film will accept a review engagement report.

With respect to productions with budgets of less than \$200,000, Nunavut Film will accept a statutory declaration signed by the Nunavut producer and accompanied by a final cost report.

Any audit, review engagement report or statutory declaration must be accompanied by detailed breakdown of actual eligible Nunavut costs. All cost reports (whether prepared on the basis of an audit, review engagement report or declaration of final costs) must be prepared and presented according to generally accepted accounting principles and standards in Canada.

The Contribution Agreement will include provisions that the completed production include an on-screen credit “Produced with the assistance of the Government of Nunavut and the Nunavut Film Development Corporation” (in a appropriate/proportionate size, position and prominence), and a “Shot on location in Nunavut, Canada” in the tail credits. Appropriate credit will also be required on all advertising, publicity and promotional materials.

Once the eligible production has been completed and, prior to final payment of the spend rebate, recipients will be required to complete an Economic Impact Statement (the “EIS”). An EIS form may be downloaded from the Nunavut Film website (www.nunavutfilm.ca).

11. APPLICATION PROCESS

Applications will be accepted on a first come first served basis and until further notice while the resources available for this program last. Application forms may be downloaded from the website: www.nunavutfilm.ca or picked up at the Nunavut Film office in Iqaluit.

The applicant will be required to provide Nunavut Film with all of the 'Supporting Documentation' requested on the application form.

All information submitted to Nunavut Film will be strictly confidential.

12. ASSESSMENT

Applications which meet the Eligibility Criteria and are complete will be reviewed by a Selection Committee consisting of four individuals: the CEO of Nunavut Film together with qualified independent film, television, and digital media professionals and a resident of Nunavut, operating at arm's length.

The Selection Committee will conduct a detailed and comprehensive evaluation of the applications taking

the following into consideration:

- presentation and viability of submission;
- track record and capacity of the applicant company;
- track record of the individual producer(s) including credits and recent production volume;
- total estimated eligible Nunavut costs; and
- if applicable, levels of ownership and control (see Section 8.4).

The decision making process will be fair, explicit and without conflict of interest.

Upon completion of its assessment, approved applicants will be issued a Letter of Intent, issued in writing, confirming the final approved spend rebate applicable to the eligible production. Once the recipient has satisfied any conditions outlined in this Letter of Intent, Nunavut Film will enter into a long form Contribution Agreement with the recipient. Applicants, whose applications are not approved for a rebate under this program, will be notified of Nunavut Film's rejection of its submission in writing.

The resources available to Nunavut Film to deliver the Spend Incentive Program are limited. An applicant cannot be guaranteed success even if its application substantially meets the eligibility and assessment criteria. Nunavut Film reserves the right to commit less than the amount requested or to reject an application.

The unsuccessful applicant may appeal the decision of Nunavut Film, in writing, no later than 30 days following the date that the applicant receives notification of the decision (for more information see the Film, Television and Digital Media Development Contribution Policy and Contribution Agreement posted on the website: www.nunavutfilm.ca).

Questions? Please visit website at: www.nunavutfilm.ca, or contact:

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