



Film Incentive & Loan Guarantee Program Definitions

“Certified Public Accountant” means a Certified Public Accountant (CPA) licensed to practice in this State or a Certified Public Accounting firm that is in good standing with the Secretary of State. The CPA must complete training with COFTM staff and be listed on OEDIT’s list of approved CPAs. Any services of a Certified Public Accountant provided to meet the requirements shall be performed in Colorado.

“Colorado production company” means a production company that has been a resident of the State or registered with the Secretary of State for at least twelve consecutive months; except that, if the production company creates a business entity for the sole purpose of conducting production activities in the State, then such a business entity need not be registered with the Secretary of State for twelve consecutive months, but the manager of the business entity must be a resident of the State for at least twelve consecutive months.

“Colorado production activities” means the shooting of a film, support activities related to such shooting, and any pre-shooting or post-shooting activities that commence on or after July 1, 2009, and that are necessary to produce a finished film, including but not limited to editing and the creation of sets, props, costumes, and special effects, which occur in Colorado.

“Colorado resident” means an individual who owns or operates a business in Colorado, is gainfully employed in Colorado, or has resided in Colorado for 90 consecutive days.

“Colorado vendor” means a business licensed and in good standing with the Colorado Secretary of State.

“Conditional approval” means the written notification by the Office that a production company has been accepted for the Program and a contract will be issued.

“Declaration of Residency” means the form provided by the Office to be submitted by the production company with all supporting documentation and with the production company’s Application for Performance-based Incentive.

“Economic Development Commission” means the Commission created by the legislature to promote economic development in Colorado. It consists of nine members, five of whom are

appointed by the Governor, two by the President of the Senate and two by the Speaker of the House. The EDC approves loans and grants from the economic development fund to public and private entities throughout the state to help existing businesses expand and new companies locate to Colorado. All policy and funding decisions are made by commission members.

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

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

"Film" does not include an obscene film. "Obscene" has the same meaning as set forth in section 18-7-101 (2), of the Colorado Revised Statutes (C.R.S).

"Film Incentive Proof of Performance" means the form provided by the Office, to be completed by the production company (that received conditional approval) with all supporting documents upon completion of Colorado production activities.

"Loan Guarantee Program" means the Office, with prior approval from the Colorado Economic Development Commission, may enter into a contract or other agreement, or both contract and other agreement, with a production company to guarantee loans obtained for purposes of financing the production activities, not to exceed twenty percent of the entire budget for the production activities.

"Office" means the Colorado Office of Film, Television and Media, a division of the Colorado Office of Economic Development and International Trade.

"Originate" means the production is originated by a production company that has been a resident of the State or registered with the Secretary of State for at least twelve consecutive months; except that, if the production company creates a business entity for the sole purpose of conducting production activities in the state, then such a business entity need not be registered with the Secretary of State for twelve consecutive months, but the owners of the business entity must be a resident of the State for at least twelve consecutive months.

"Out of State production company" means a production company that has not been a resident of the State or registered with the Secretary of State for at least twelve consecutive months, or if the production company has created a business entity for the sole purpose of conducting production activities in the State, the owners of the business entity have not been a resident of the State for at least twelve consecutive months.

"Production activities" means the shooting of a film, support activities related to such shooting, and any preshooting or postshooting activities that commence on or after July 1, 2009, and are necessary to produce a finished film, including but not limited to editing and the creation of sets, props, costumes, and special effects.

"Production company" means a person, including a corporation or other business entity, that engages in production activities for the purpose of producing all or any portion of a film in Colorado.

"Qualified local expenditure" means a payment made by a production company operating in Colorado to a person or business in Colorado in connection with production activities in Colorado. Qualified local expenditure shall include, but need not be limited to:

- (a) Payments made in connection with developing or purchasing the story and scenario to be used for a film;
- (b) Payments made for the costs of set construction and operations, wardrobe, accessories, and related services;
- (c) Payments made for the costs of photography, sound recording and synchronization, lighting, and related services;
- (d) Payments made for the costs of editing, post-production, music, and related services;
- (e) Payments made for the costs of renting facilities and equipment, including location fees, leasing vehicles, and providing food and lodging to people working on the film production;
- (f) Payments for airfare purchased through a Colorado-based travel agency or company;
- (g) Payments for insurance and bonding purchased through a Colorado-based insurance agent;
- (h) Payments for other direct costs incurred by the film production company that are deemed appropriate by the Office; and
- (i) Payments of up to one million dollars per employee or contractor, made by a production company to pay the wages or salaries of actors, management, and crew, employees or contractors who participate in the film production activities. In order for any wage or salary to be considered a qualified local expenditure, all Colorado income taxes shall be withheld and

paid either by the production company or the individual.ⁱ Any payments in excess of one million dollars per employee or contractor shall be excluded.

“Statement of Intent and Application for Conditional Approval” means the form provided by the Office, to be submitted prior to major production activities in the State, and with all supporting documentation.

ⁱ In order for employee or contractor payments to be eligible for the performance-based incentive, proof that all Colorado income taxes were withheld must be provided and audited by a Colorado CPA.

Expenditure Exclusions

Marketing or P&A (publicity & advertising)

Distribution costs

Development fees not taking place in the state (i.e. options, rights, or purchasing a story out of state)

Travel costs not made through a Colorado travel agency or Colorado based airline