Oklahoma Film Enhancement Rebate Program

Guidelines and
Instructions for Application

Rev. January 16, 2015

NOTE: The following guidelines and instructions are for the Oklahoma Film Enhancement Rebate Program only. If you are applying for the Point-of-Purchase (POP) Sales Tax Exemption, **stop here**. The POP Sales Tax Exemption incentive is covered under a separate application processes. *Please note that the POP sales tax exemption cannot be used in conjunction with the Oklahoma Film Enhancement Rebate Program*.

DISCLAIMER: These are intended to be **guidelines only**. They are subject to further revisions. Please check back with the Oklahoma Film + Music Office prior to submitting any applications to verify you are using the latest guidelines. All changes will be date stamped and posted at www.OKFilmMusic.org under "Incentives" as they are implemented.

Glossary A: Terms

- **Start of principal photography:** the declared date at which the production begins shooting principal photography for the film on location in Oklahoma
- **Push of production:** A change of the start of principal photography to a later date
- **Oklahoma Expenditures (Local Expenditures):** Taxable transactions in the state of Oklahoma that are deemed qualifying spend pursuant to the Guidelines and Instructions for Application dated July 23, 2014
- **Benchmark:** A deadline that must be met by the conditionally prequalified production in order to retain eligibility in the rebate queue
- **ATL (Above-the-Line):** Cast and crew members as defined by OF+MO, including director, producer, Schedule F SAG (or contract, run-of-show player) and writer
- **BTL (Below-the-Line):** All qualifying cast and crew that do not fall under the ATL category
- **Conditional Prequalification:** A conditional approval of a production's application, in which the correlating fiscal year funds are approved for the production's rebate, contingent on A) availability of funds, and B) the production meeting the eligibility requirements (as described in Section 1) and benchmarks (as described in Section 3B).
- **Oklahoma Resident:** a permanent resident of Oklahoma; must be domiciled in Oklahoma for at least 120 days prior to the Start of Principal Photography and be able to provide proof thereof
- **Oklahoma Expatriate:** a former resident of Oklahoma
- **Rebate Queue:** the sequence of projects that are conditionally prequalified to utilize the Oklahoma Film Enhancement Rebate Program

Glossary B: What does NOT qualify as an Oklahoma expenditure

- **Postage -** not a taxable transaction
- **Wages paid as contract labor (1099 Forms)**
- **Online Purchases** - unless purchased from an Oklahoma business that is registered with the Oklahoma Secretary of State and/or headquartered in Oklahoma, online purchases do not qualify
- **Out-of-state BTL** - only wages paid to Oklahoma resident or Oklahoma expatriate BTL crew qualify as Oklahoma expenditures
- **Goods purchased through an Oklahoma Production Services Entity that are readily available in Oklahoma** - the production must document proof of at least three (3) unsuccessful attempts to rent or purchase from Oklahoma vendors (including explanations of why the good is unavailable) to be able to qualify the good as qualified spend**.** These attempts and explanations are documented on the Due Diligence (Form D).
- **Reimbursements paid directly to a person for Oklahoma goods -** Payments for goods must be paid to an Oklahoma company. If a crew member procures Oklahoma goods on behalf of the production company, the goods must be purchased via a purchase order, a debit card (tied to production account) or petty cash (with date, name and address of vendor and items detailed in a petty cash log; the date, name of vendor and item must be included in the final Oklahoma expenditures ledger).

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SECTION 1. Eligibility Requirements

1A. Minimum Requirements

Film and television productions, as well as television commercials with national advertising messages that are broadcast on a national affiliate or cable network (as defined in Oklahoma Statute, Title 68 § 3621-24 Item 6A), filming in the state of Oklahoma with a minimum budget of Fifty Thousand Dollars ($50,000) and spending at least Twenty-five Thousand Dollars ($25,000) in Oklahoma, are eligible to apply for the rebate program.

1B. Child Pornography/Obscenity Restrictions

Productions deemed as child pornography in subsection A 1024.1 of Title 21 of Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of section 1024.1 of Title 21 of Oklahoma Statutes, do not qualify for the Oklahoma Film Enhancement Rebate Program.

SECTION 2. General Details of the Program

2A. Percentages and Cap

The Oklahoma Film Enhancement Rebate offers a Thirty-five percent to Thirty-seven percent (35% to 37%) cash rebate on Oklahoma expenditures to qualifying companies filming within Oklahoma. The base rebate of Thirty-five percent (35%) is increased to Thirty-seven percent (37%) if a production company spends a minimum of Twenty Thousand Dollars ($20,000) for the use of music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for the production.

The program is currently capped at Five Million Dollars ($5,000,000) per fiscal year (July 1 - June 30). If the amount of approved claim(s) exceeds Five Million Dollars ($5,000,000) within a fiscal year, payout will be made in the order in which the claims are approved by the Oklahoma Film + Music Office. If an approved claim is not paid in whole or in part within the designated time frame, the unpaid claim or unpaid portion may be paid in the following fiscal year, contingent upon the availability of funds.

2B. Qualifying Oklahoma Expenditures

The following is a list of qualifying expenditures for Oklahoma scouting, production and post-production:

- **Lodging/Accommodations**
  - Oklahoma Lodging costs
- **Building Rentals**
  - Rental of facilities paid to an Oklahoma company
- **Food/Restaurant Expense**
  - Catering Services with an Oklahoma company
  - Crafty expenditures paid to an Oklahoma company
- **Equipment Rental/Purchase**
  - Rental of equipment paid to an Oklahoma company
- **Materials Rental/Purchase**
  - The cost of construction and operations, wardrobe, accessories and related services procured in Oklahoma or paid to an Oklahoma company
- **Locations and Studio Rentals**
  - Permitting fees

    - Rental fees
- **Living Expenses**
    - Box rentals paid for Oklahoma crew
    - Per Diem paid to cast and crew for Oklahoma prep, shoot and post-production dates (both resident and non-resident)
- **Transportation**
    - Vehicle rentals used by production in Oklahoma providing it is a taxable transaction in Oklahoma
- **Overnight Courier Services**
    - Shipping for packages originating within and/or terminating in Oklahoma that are directly attributable to filming in Oklahoma
- **Travel Expenses**
    - The purchase of airline tickets for the purposes of location scouting and production of the film if utilizing an Oklahoma-based travel agency. Flight must originate or conclude within Oklahoma. (**Note**: Airline direct-purchases do not qualify. Departing and arrival airport codes must be included on each flight-related travel entry in the ledger.)
    - Airline baggage fees: up to two per flight, per person for flights into or out of Oklahoma for cast and production personnel
- **Contracted Services**
    - The cost of photography, sound synchronization, lighting, casting, security and related services paid to an Oklahoma company
    - Third party final rebate reviews conducted by pre-certified Oklahoma accounting firm
    - Completion bonding if utilizing an Oklahoma-based bonding agent
- **Insurance**
    - Production insurance if utilizing an Oklahoma-based insurance agent
- **Oklahoma Music**
    - Music recorded in Oklahoma and associated cost; cost of licensing music previously recorded in Oklahoma (See Section 2A.)
- **Labor Compensation**
    - Below-the-line ("BTL") wages paid to Oklahoma residents through a payroll company (Signed Form C required for all qualifying labor)
    - Payments made to resident above-the-line ("ATL") personnel
    - Payments made to non-resident "ATL" personnel paid via loan-out corporations or limited liability companies registered to do business with the Oklahoma Secretary of State's Office. "ATL" defined as director, producer, Schedule F SAG (contract run-of-show player) and writer. **Note:** No more than Twenty-five percent (25%) of your total qualifying Oklahoma spend can be comprised of aggregate qualifying above-the-line payments.
    - Wages paid to *Oklahoma Expatriates (*as described in item 2C) **Note:** Only wages paid through a payroll company will qualify. OF+MO does not allow for crew to be compensated as contract labor. (Does not apply to contracted services such as catering, casting and security.)
    - Underlying rights for screenplay paid to an Oklahoma entity or individuals with an Oklahoma tax liability (also subject to the twenty-five percent (25%) aggregate cap detailed above)
    - Employer paid payroll taxes for qualifying employees, including SUI, FUI, FICA, Workers Comp
    - Union fringe paid to qualifying employees

Note: Oklahoma goods must be purchased by production via a purchase order, a debit card (tied to production account) or petty cash (with date, name and address of vendor

and items detailed in a petty cash log; the date, name of vendor and item must be included in the final Oklahoma expenditures ledger). All businesses/vendors from which goods are purchased for the production must be included on the final vendor list.

See **Glossary B** of What does not qualify as an Oklahoma Expenditure

2C. Oklahoma Expatriate Program

Included in the definition of qualifying "crew" are wages and salaries paid to an individual registered as an Oklahoma Expatriate by the Oklahoma Film + Music Office. The Expatriate roster consists of Oklahoma "BTL" crew not currently residing in Oklahoma, who have pre-registered with the Oklahoma Film + Music Office. That roster will be made available to producers in an effort to supplement Oklahoma's existing crew base. If a producer chooses to hire one of the qualifying crew members whose name appears on that roster, wages and salaries paid to that person will qualify as an Expenditure or Production Cost and count towards the minimum requirement of Twenty-five Thousand ($25,000) in Oklahoma expenditures.

If the production would like to hire Oklahoma Expatriates not currently registered with the Oklahoma Film + Music Office, the potential hire must take the necessary steps to register at www.OKFilmMusic.org and provide required documentation prior to the start of production. Additionally, for each expatriate, the production is required to submit a fully-executed Declaration of Residency (Form C).

2D. Third Party Final Rebate Review Requirement

In order to be eligible to receive rebate monies, the production must retain the services of an independent certified public accountant to serve as a Third Party Reviewer. In order for this to be a rebatable expenditure, the production must retain a Third Party Reviewer who is licensed to do business in the state of Oklahoma and who shall not be related to the producer or anyone on the production.

The Director of the Oklahoma Film + Music Office must be provided with the name, address and telephone number of the independent reviewer proposed by the producer in order to make contact prior to beginning the review process.

The review shall be performed in accordance with review standards generally accepted in the United States of America and the reviewer shall have sufficient knowledge of accounting principles and practices generally recognized in the film and television industries.

The reviewer shall present a final report based on Agreed Upon Procedures for Third Party Reviews provided in **SECTION 8**.

2E. End Credit Requirement

The following screen credit and logo must be included in the end credit crawl of all release prints of a completed short or long-form film or episodic television program. Written confirmation is required on Final Application (Form E).

"Filmed in Oklahoma utilizing the Oklahoma Film Enhancement Rebate Program"

OKLAHOMA FILM + MUSIC
OKFILMMUSIC.ORG

2F. Sunset Date for the Oklahoma Film Enhancement Rebate Program

July 1, 2024.

SECTION 3. Pre-Qualifying and Final Application Processes

3A. When, Where and How to Apply for the Rebate

When to Apply:

Applications must be submitted at least sixty (60) calendar days but no more than one hundred eighty (180) calendar days prior to the start of pre-production.
Applications submitted more than 180 calendar days or less than 60 days prior to the scheduled start of pre-production will not be accepted.

Where to Apply:

The Oklahoma Film + Music Office
900 North Stiles Avenue
Oklahoma City, OK 73104
(405) 230-8440 or 800-766-FILM
OKFilmMusic.org

How to Apply:

1. Complete, sign and submit hard copies or PDF's of the Rebate Eligibility Application (Form A) and the Statement of Budget (Form B), along with the latest version of the shooting script and production budget.

2. Production will receive a written notice of either conditional prequalification or disapproval of Rebate Eligibility Application.

3. *Once production has received written notice of conditional prequalification, an interview must be scheduled to discuss your application with the Oklahoma Film + Music Office by calling (405) 230-8440 or 800-766-FILM. The meeting must be attended by a producer or a line producer, unit production manager or production accountant or their designee, subject to the approval of the Director of the Oklahoma Film + Music Office.*

3B. Required Forms

Forms required to apply for conditional pre-qualification:

Rebate Eligibility Application (Form A)

- Includes project and production company information
- Provides a breakdown of estimated Oklahoma expenditures—used to conditionally prequalify a specific amount
- Certifies information and acknowledges applicant's understanding of the Oklahoma Film Enhancement Rebate Program

Statement of Budget (Form B)

- Submitted with the full production budget
- Documents the budget totals and budgeted Oklahoma expenditures at time of submission

Forms required for final rebate review:

Statement of Budget (Form B)

- Documents the final budget totals and total Oklahoma expenditures

Declaration of Residency (Form C)

- Verifies cast or crew member's residency status
- To qualify wages paid to Oklahoma Resident or Oklahoma Expatriate cast or crew members, every individual must complete a Form C and provide the necessary back-up documentation.
- Utilized on an as-needed basis throughout production

Due Diligence (Form D)

- Logs proof of at least three (3) unsuccessful attempts to rent or purchase items from Oklahoma vendors
- Provides contact information for Oklahoma Production Services Entity
- Utilized on an as-needed basis throughout production

Final Rebate Application (Form E)

- Includes final contact and production information
- Documents final Oklahoma expenditures
- Certifies information and post-production requirements
- Notarized

3C. Notice of Conditional Prequalification/Disapproval of Eligibility Application

If the Eligibility Application is approved, you will receive a letter of conditional prequalification signed by the Director of the Oklahoma Film + Music Office listing the items provided on the application and any supporting documentation currently on file with the office along with the projected amount of rebate pending the production meeting all requirements under the Oklahoma Film Enhancement Rebate Program.

The projected rebate amount provided on Form A, *is the specific amount* that will be prequalified for your production, providing you meet all requirements and benchmarks in the application process as described in Section 3B and Section 3C.

Receipt of the conditional prequalification letter *does not* guarantee your rebate. Final eligibility and the amount of the rebate will be determined after submission and review of the final application, the final results of a Third Party CPA Review and all required supporting documentation.

If the Eligibility Application is not approved, the Oklahoma Film + Music Office shall provide the applicant with a notice of disapproval which shall state the reasons therefore.

60 Calendar Days (minimum) Prior to Start of Principal Photography is the last point at which a production may revise their Eligibility Application to increase their projected rebate amount and have monies prequalified in advance, subject to availability of funds. The increase cannot exceed 10% of prior prequalification.

Note: 60 calendar days prior to Start of Principal Photography is the last point at which a production may reduce its budget and resubmit a revised Form A and Form B with updated information, therefore lowering the 60 day and 30 day benchmark requirements accordingly.

The application is then subject to OF+MO's re-approval and acknowledgement of the production's conditional prequalification.

As specified in Oklahoma statute, *no more than one (1) application per fiscal year per specific production (based on production title, script and budget) will be accepted.*

Note: During the application process, OF+MO requires that the production designate a rebate contact for all communication with our office. Specific questions pertaining to the rebate must be submitted in writing.

3D. Required 10 Days Prior to Start of Pre-Production

- **10 Calendar Days Prior to your Declared Start Date of Pre-Production listed on Form A,** you must provide the Oklahoma Film + Music Office with proof of the following documents:
    - Copy of the Certificate of General Liability, carrying a minimum of One Million Dollars ($1,000,000) (USD) in coverage
    - Proof of Workers Compensation Policy pursuant to Oklahoma State

  ******If these documents are not received within 10 calendar days of your Declared Start Date of Pre-Production, your production will be removed from the Oklahoma Film Enhancement Rebate Queue.******

3E. Required Benchmarks Prior to Start of Principal Photography for Rebate Eligibility Process

- **60 Calendar Days (minimum) Prior to Start of Principal Photography**, a production must show proof that fifty percent (50%) of the production budget is in place by providing one or more of the following forms of documentation:
    - Signed letter of intent or term sheet from Production Financier(s) on their letterhead
    - Signed letter from Production Entity's bank to include account number and contact information stating the exact amount of funds available to production
    - Fully executed equity investor agreement(s)
    - Fully executed foreign pre-sales agreement(s) to include written confirmation therein of intent to advance funds to production
    - Proof of completion bond (if applicable)

  Note: If production budget exceeds $5 million, the production must show proof of 50% financing at time of application and proof of 100% financing at the 30-day benchmark.

- **30 Calendar Days (minimum) Prior to Start of Principal Photography**, a production must show proof of ability to cash flow the production in full (100%) (via same methods described for Fifty percent (50%) verification above).

  Also required 30 days prior to Start of Principal Photography:
    - Copy of one-line shooting schedule and inclusion on revisions distribution list (or as soon as available prior to principal photography).
    - Latest version of production budget and signed Statement of Budget (Form B)
    - Latest version of the script and inclusion in revisions distribution list

- Latest version of Crew List tagged for resident and non-resident hires with full contact information including name, phone, email address and address
- Latest version of Cast List tagged for resident and non-resident hires
- Copy of payroll agreement to include name, address and phone number of payroll company
- Complete location list with full contact information including name, phone, email address and address
- Legal Counsel name and contact information for producers and financiers
- Additional documents as may be requested by the Oklahoma Film + Music Office

Note: If production has begun spending from budget during pre-production and prior to the 60 day or 30 day benchmark, the production must provide proof (in the form of a bank statement or included in the letter from the Production Entity's bank stating the account balance) that the account has been drawn down due to the conditionally prequalified project's production expenditures.

- **10 Calendar Days (minimum) Prior to Start of Principal Photography**, producers and/or unit publicist will work with the Oklahoma Film + Music Office to develop a press release announcing the production in Oklahoma. This release is to be approved by all parties and released prior to the first day of principal photography.

Important Benchmark and Push Rules:

1. Production is allowed ten (10) calendar days after missing a photography benchmark as described in Section 3C to declare, in writing, to the Oklahoma Film + Music Office a new date for start of principal photography. Failure to do so will result in the production being removed from the queue.
2. Once a new date for start of principal photography is declared, it is deemed a "push of production date."
3. For the **first push** of the start of principal photography, the production's rebate eligibility will be pushed the same length of time between its initial start date and its newly revised start date. Any productions behind it in the eligibility queue with start dates within this window of time will move ahead, thereby having first claim to rebate funds.
4. Should a production incur a **second push** of the start of principal photography, it will move to the end of the eligibility queue.
5. Should a production incur a **third push** of start of principal photography, its Eligibility Application becomes null and void. A subsequent re-application cannot be accepted until the following fiscal year.
6. A production may push its Start Date of Principal Photography *no more than* 180 days total (to include all pushes) of its originally declared Start Date of Principal Photography.
7. Rebate eligibility is non-transferable**.** Each Eligibility Application shall be filed under the title of the screenplay submitted to the Oklahoma Film + Music Office. Projects deemed eligible for the rebate under each application shall only be eligible to the extent that project is substantially based on the screenplay previously submitted and on file with the Oklahoma Film + Music Office and supporting budget submitted for said project title.
8. A production may only push its Start Date of Principal Photography within the Fiscal Year for which funds have been conditionally prequalified. However, production will not need to finish making expenditures within that Fiscal Year.

If a production must push its Start Date of Principal Photography into the next Fiscal Year, the production must remove itself from the queue. In this case, the application window will be waived, and the production may immediately re-apply to shoot in the following fiscal year. However, to protect our rebate queue schedule, the production is still subject to the above rules regarding production pushes, e.g. the production may not incur more than two pushes and the production may not push more than 180 days from its original declared Start Date of Principal Photography.

3F. Oklahoma Production Services Entities

Oklahoma's production industry is currently in a growth phase. As such, certain equipment and services may not be readily available within the state. In an effort to grow local support service companies while still being able to service the needs of incoming productions, the Oklahoma Film + Music Office is currently making an allowance for the use of Oklahoma Production Services Entities. This allows for incoming productions to contract with local vendors, pre-approved by the Oklahoma Film + Music Office, to procure specific equipment, raw stock and expendables not readily available in the state, therefore qualifying those purchases and rentals as Oklahoma expenditures. This does ***not*** include labor of any kind.

The definition of an "Oklahoma Production Services Entity" is a company or sole proprietorship established within Oklahoma and with an Oklahoma income tax liability that is registered with the Oklahoma Film + Music Office to offer its services to incoming productions. Further requirements are as follows:

1. Must have filed the necessary paperwork with the Office of the Oklahoma Secretary of State to be recognized as a Corporation or Limited Liability Company. (Sole Proprietorship is also acceptable. See 2.)
2. All Production Services Entities are required to file the Oklahoma Business Registration Packet with the Oklahoma Tax Commission
3. Must have met with the Oklahoma Film + Music Office in person to provide copies of the Secretary of State paperwork and/or to Oklahoma Tax Commission Business Registration Packet, as well as a valid Federal Identification Number (FEIN) and to discuss the requirements of the program in advance
4. Must be registered in Reel-Crew, Oklahoma's official online production guide at www.OKFilmMusic.org. Note: a listing in Reel-Crew will not be approved until all documentation has been provided to the Oklahoma Film + Music Office and is deemed satisfactory per the requirements of the program
5. Production Services Entity is required to provide documentation to the Oklahoma Film + Music Office of property and liability insurance coverage in an amount to cover all transactions. It is also acceptable to provide proof of coverage via the signatory production company.
6. Purchase or rental of products or services made through an Oklahoma Production Services Entity must be those items that Entity is routinely engaged in the business of providing. (Ex: it is not allowable to contract with a sound equipment vendor for the purposes of renting a camera package, etc.)
7. Items cannot be currently available within the state from Oklahoma vendors. When utilizing an Oklahoma Production Services Entity for a particular category of product, a production must complete a Due Diligence (Form D), documenting proof of at least three unsuccessful attempts to rent or purchase from Oklahoma vendors*. Due Diligence (Form D) must be signed by an authorized representative of the production to be deemed valid.

8. The Production Services Entity must charge the production market value plus a mark-up (generally 2.5 to 5%) and Oklahoma state and local sales tax for its transactions with the production for items not readily available in the state
9. Entity must utilize detailed invoices to back up all transactions (no blanket invoices will be accepted as qualifying spend)
10. All Due Diligence Forms (Form D) must be attached to the applicable Production Services Entity invoice and be submitted with the final application documentation for the transaction to be approved by the Oklahoma Film + Music Office. Transactions between Production and Oklahoma Production Services Entity must be included in final ledgers submitted to the Oklahoma Film + Music Office with the Final Rebate Application.
11. Company agrees to provide the Oklahoma Film + Music Office, upon request, with any additional documentation that would support invoices provided to the Oklahoma Film + Music Office by Production Companies seeking rebate money.
12. Company will be responsible for keeping current and accurate records and inventory on Reel-Crew.
13. The Oklahoma Film + Music Office reserves the right to revoke the Production Services Entity status at any time if requirements of the program are not being met.

*A list of potential Oklahoma vendors for specialty items is available at request.

3G. Requirements after Principal Photography

No more than Ninety (90) calendar days after the payment of all Oklahoma expenditures*****, the production must submit the following to the approved Third Party CPA for independent review:

- Final Rebate Application (Form E)
- Final budget and signed statement of budget (Form B)
- Final cast list with local hires annotated, including contact info
- Final crew list with local hires annotated, including contact info
- Final extras list with local hires annotated, including contact info
- Final vendor list, alphabetical, including contact information. **Note:** All businesses/vendors from which goods are purchase for the production must be included on the final vendor list.
- Aggregate alphabetical list of qualifying cast, crew, extras and vendors
- Final location list, including contact information
- Declaration of Residency Forms (Form C), alphabetized, for all qualifying cast, crew, Expatriates and extras, including back-up documentation
- Signed SAG contracts or deal memos for all weekly and daily cast and crew, and signed vouchers for all extras, signed by authorized member of production and cast, crew or extra personnel
- Secretary of State registration paperwork for all qualifying ATL expenditures, ensuring the ATL cast or crew member tied to the LLC or loan out corporation is evident
- Signed contracts for all qualifying ATL
- Daily production reports for all Oklahoma filming days
- Final production one-line shooting schedule
- All Due Diligence Forms (Form D) for Production Service Entity purchases and/or rentals. **Important Note:** As stated in Section 3F, all Due Diligence Forms must be attached to the applicable Production Service Entity invoice.

- The production company has filed or will file any Oklahoma tax return or tax document which may be required by law.
- Results of Third Party CPA Review conducted by an accounting firm that has been mutually agreed upon in advance.
- Certification of Information (included on Final Rebate Application (Form E), signed by producers and notarized before submission, stating among other things, that all information provided to the Oklahoma Film + Music Office for the purposes of qualifying for the Oklahoma Film Enhancement Rebate program are true and correct and that there are no unpaid salaries, invoices, reimbursements for damages or liens against the production entity in the State of Oklahoma. No rebate money will be released until this notarized documentation is on file with the Oklahoma Film + Music Office.
- End Credit Requirement as described in Item 2E. Written confirmation of end credit included on Final Rebate Application (Form E).
- Final payroll report, both hard copy and electronic version, provided to the Oklahoma Film + Music Office directly from production payroll entity. Electronic version must be exportable to Excel. All qualifying fringes must be broken out. Fringes not tied to individuals and calculated separately will not be allowed.
- Production must provide final accounting ledger listing only qualified spend, tied exactly to spend categories listed on Final Rebate Application (Form E). The final accounting ledger must be grouped and subtotaled by the Form E spend categories. **Note**: All supporting documentation and receipts must be kept by the production company of record for a period of three (3) years and must be available for review by CPA during agreed upon procedures.

In addition to submitting the items above to the approved Third Party CPA, the production is required to provide the following items to the Oklahoma Film + Music Office when available:

- DVD of the final released version
- Film poster

Failure to provide the final information and items according to the time frame provided above may result in a loss of rebate. Within Thirty (30) days of all requirements being met, the Oklahoma Film + Music Office will issue a letter to the Oklahoma Tax Commission, requesting rebate payment, copying production company contact.

***Note:** All undisputed local wages and local vendor bills for completed services must be paid within 90 days of the end of principal photography or production will forfeit right to rebate. If local wages or service invoices are in dispute at 90 days after wrap of principal photography, the full original executed contract amount that was negotiated with Oklahoma crew and vendors that remain in dispute must be placed in an agreed upon Oklahoma bank in an escrow account until the dispute is resolved by both parties.

3H. Third Party Rebate Review and Payout Timeline

Pending receipt of results and supporting documentation of Third Party Review described in 2D, the Oklahoma Film + Music Office will approve or disapprove each claim within a period of thirty (30) days. The Oklahoma Tax Commission shall, upon notification of approval from the Oklahoma Film + Music Office, issue payment for all approved claims.

Only one rebate claim shall be processed per production. Once the production company has been paid for its rebate claim, no amendments for that claim are allowable.

Note: If the production receives a disapproval, the production has one opportunity to resubmit a corrected claim, including all supporting documentation, to the Oklahoma Film + Music Office. This must occur within a period of ten (10) calendar days of receipt of disapproval. Submission of corrected final claims will delay OF+MO's final approval to allow for review of resubmitted materials.

SECTION 4. Requesting Exemptions to Open Records Act

The Oklahoma Film + Music Office is subject to the State of Oklahoma Open Records Act, which governs public access to the records of government agencies. Under **Title 74 O.S. § 2231** of Oklahoma State Law, the following information provided to the Oklahoma Film + Music Office as a Department of the Oklahoma Tourism & Recreation Department, by a person or entity seeking economic advice from the Oklahoma Film + Music Office and any information compiled by us in response to submissions, may be kept confidential:

- Prospect Lists
- Booking Lists
- Subscriber Lists
- Permission Marketing Lists
- Personal Information

The Oklahoma Film + Music Office is also subject to **Title 51 O.S. § 24A.10C** that allows:

- Business Plans
- Feasibility Proposals
- Financing Proposals
- Marketing Plans
- Financial Statements
- Trade Secrets

Please note that in order to protect confidentiality of the above referenced items, *you must submit a request in writing to the Oklahoma Film + Music Office along with your Eligibility Application requesting that the information be withheld from disclosure on the grounds that it constitutes trade secrets, proprietary information or that the information, if disclosed, would cause substantial injury to the competitive position of the applicant.* Please specify the information for which you are seeking protection along with clearly stated reasons for the requested exception.

The Oklahoma Film + Music Office reserves the right to determine whether the information submitted by the applicant will be withheld from disclosure. The Oklahoma Film + Music Office will notify the applicant of any requests for disclosure and notify the applicant as to whether the information will be disclosed.

SECTION 5. Oklahoma Statutes

5A. Oklahoma Film Enhancement Rebate Program Statutes

Title 68. Chapter 1, Article 36A – Compete with Canada Film Act, **Section 3624**

A. There is hereby created the Oklahoma Film Enhancement Rebate Program. A rebate in the amount of up to thirty-five percent (35%) of documented expenditures made in Oklahoma directly attributable to the production of a film, television production, or television commercial, as defined in Section 3623 of this title, in this state, may be paid to the production company responsible for the production.

B. The amount of rebate paid to the production company as provided for in subsection A of this section shall be increased by an additional two percent (2%) of documented expenditures if a production company spends at least Twenty Thousand Dollars ($20,000.00) for the use of music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production.

C. The rebate program shall be administered by the Office of the Oklahoma Film and Music Commission and the Oklahoma Tax Commission, as provided in the Compete with Canada Film Act.

D. To be eligible for a rebate payment:

1. The production company responsible for a film, television production, or television commercial, as defined in Section 3623 of this title, made in this state shall submit documentation to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state to residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production;

2. The production company has filed or will file any Oklahoma tax return or tax document which may be required by law;

3. Except major studio productions, the production company shall provide the name of the completion guarantor and a copy of the bond guaranteeing the completion of the project or if a film has not secured a completion bond, the production company shall provide evidence that all Oklahoma crew and local vendors have been paid and there are no liens against the production company pending in the state;

4. The minimum budget for the film shall be Fifty Thousand Dollars ($50,000.00) of which not less than Twenty-five Thousand Dollars ($25,000.00) shall be expended in this state.

5. The production company shall provide evidence of financing for production prior to the commencement of principal photography; and

6. The production company shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars ($1,000,000.00) and a workers' compensation policy pursuant to state law, which shall include coverage of employer's liability.

E. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of this act and an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title. If a production company has received such an exemption from sales taxes and submits a claim for rebate pursuant to the provisions of the Compete with Canada Film Act, the company shall be required to fully repay the amount of the exemption to the Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title.

F. The Office shall approve or disapprove all claims for rebate and shall notify the Tax Commission. The Tax Commission shall, upon notification of approval from the Office of the Oklahoma Film and Music Commission, issue payment for all approved claims from funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title. Provided, no claims for rebate expenditures made on or after July 1, 2009, shall be paid prior to July 1, 2010. The amount of payments in any single fiscal year shall not exceed Five Million Dollars ($5,000,000.00). If the amount of approved claims exceeds the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.

5B. Rebate Definitions

Title 68. Article 36A, Section 3623 of the Oklahoma State Statutes

As used in the Compete with Canada Film Act:

1. "Crew" means any person who works on preproduction, principal photography, and post production, with the exception of producers, principal cast, screenwriters, and the director. The qualifying salary of producers, principal cast (Schedule F SAG or contract run-of-show players), screenwriters and the director, also known as "above-the-line personnel", may be included as crew if the salaries are paid to loan-out corporations and limited liability companies registered to do business in the State of Oklahoma or the salaries are paid to Oklahoma-based above-the-line personnel. The qualifying salary of above-the-line personnel shall not comprise more than twenty-five percent (25%) of total expenditures as defined in paragraph 2 of this section. For purposes of this paragraph, "Oklahoma-based" means a company or individual with an Oklahoma income tax requirement.

2. "Expenditure" or "production cost" includes but is not limited to:

(a) wages or salaries of persons who are residents of this state and who have earned income from working on a film in this state, including payments to personal services corporations with respect to the services of qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,

(b) the cost of construction and operations, wardrobe, accessories and related services,

(c) the cost of photography, sound synchronization, lighting and related services,

(d) the cost of editing and related services,

(e) rental of facilities and equipment,

(f) other direct costs of producing a film, and

(g) the wages and salaries of persons who are defined and registered as an Oklahoma Expatriate by the Office of the Oklahoma Film and Music Commission;

3. "Film" means a professional single media, multimedia program or feature, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes, including, but not limited to, national advertising messages that are broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets; and

4. "Production Company" means a person or company who produces film for exhibition in theaters, on television or elsewhere.

5C. Child Pornography

A project that depicts or describes any child pornography, as defined in **Title 21, Subsection A 1024.1** of Oklahoma Statutes, shall not be eligible to receive assistance under this section.

5D. Obscenity

A project that depicts or describes any obscene material, as defined in **Title 21, Subsection B of Section 1024.1, Paragraph 1** of Oklahoma Statutes, shall not be eligible to receive assistance under this section.

5E. Open Records

As provided in **Title 51, Section 24A.2,** The Oklahoma Film + Music Office is subject to the Oklahoma Open Records Act. The Oklahoma Film + Music Office has certain exemptions as outlined previously in Section 5 of these Guidelines. To be exempt under the statutes in Section 5, a production must elect to be exempt by providing a written request to the Oklahoma Film + Music Office.

SECTION 6. Oklahoma Film + Music Office Administrative Rules

Please visit the Oklahoma Secretary of State's Office:
https://www.sos.ok.gov/oar/online/viewCode.aspx

The Oklahoma Film + Music Office's rules are contained in **Title 725, Chapter 35**.

SECTION 7. Agreed Upon Procedures for Third Party Rebate Reviews

1. Approved CPA Reviewer will read the regulations and compliance requirements of the Oklahoma Film Enhancement Rebate Program and perform a review in accordance with generally accepted accounting standards in the United States of America. We will present a final report based upon agreed-upon procedures:

(a) Only actual paid expenditures clearly and demonstrably in Oklahoma for the qualified production may be recorded and certified as direct production expenses or qualified personnel expenditures.

(b) The costs to be recorded are actual costs and shall not include any mark-ups or profit additions on the part of the production entity receiving the rebate. An exception to this is made in cases where an Oklahoma Production Services Entity has been utilized as set forth in Section 3D. These costs must (1) be incurred in Oklahoma, (2) be directly attributable to the production or distribution of the qualified production which is the subject of the Oklahoma Film Enhancement Rebate Program and (3) be subject to taxation in Oklahoma.

(c) The cost report must be in US dollars and the period during which the expenditures were incurred must be disclosed.

(d) It is the eligible production company's responsibility to ensure that all of the required information is provided.

(e) For payments made to loan out companies or limited liability companies, the reviewer must verify that the loan out or LLC is registered with the Oklahoma Secretary of State's Office to do business in the state of Oklahoma.

(f) Reviewer must ensure that salaries for both resident and non-resident above-the-line personnel paid to loan-out corporations or limited liability companies registered to do business in Oklahoma do not comprise more than Twenty-five percent (25%) of the total amount being submitted for rebate.

2. Approved CPA Reviewer will test, on a sample basis, payments to individuals (payroll), whether they were made to an individual or a loan-out company, and verify the agreement of: the date the expense was incurred, the indiviudal/loan-out company name and the amount of the expense to supporting records. Reviewer will also inspect the invoice (or equivalent documentation) to verify that the expense was incurred in Oklahoma if such invoice has been included in the report as a Qualified Oklahoma Expense in accordance with the Oklahoma Film Enhancement Rebate Program Guidelines. The sample will be selected in the following manner:

(a) Reviewer will select all employees whose total earnings were in excess of Seventy-five thousand dollars ($75,000) ("Top Strata")

(b) Reviewer will haphazardly select twenty-five (**25)** employees whose total earnings were less than or equal to seventy-five thousand dollars ($75,000) ("Strata 1").

3. Approved CPA Reviewer will test, on a sample basis, all expenses other than payments to individuals (non-payroll) from the list included in the Report of All Production Expenses and All Qualifying Oklahoma Expenses of the Project (Bible) and agree the vendor and the amount of the expense from the Bible to supporting documents. Reviewer will also inspect the invoice (or equivalent documentation) to verify that the expense was incurred in Oklahoma if such invoice has been included in the report as a Qualified Oklahoma Expense in accordance with the Oklahoma Film Enhancement Rebate Program Guidelines. The sample will be selected in the following manner:

   (a) Reviewer will select all non-payroll expenditures in excess of twenty-thousand dollars ($20,000) from the Bible ("Top Strata").

   (b) Reviewer will haphazardly select fifty (**50)** non-payroll expenditures greater than five hundred dollars ($500) and less than or equal to $20,000 ("Strata 1").

   (c) Reviewer will haphazardly select twenty-five **(25)** non-payroll expenditures less than or equal to five hundred dollars ($500) ("Strata 2").

4. Approved CPA Reviewer will apply the rate of misstatement of the exceptions identified in Strata 1 of procedure #2 and Stratas 1 and 2 of procedure #3 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. In the event that there is a high rate (defined below) of misclassified expenses (i.e., non-qualified expenses categorized as qualified), Reviewer will notify the Oklahoma Film + Music Office and request that the Production Company carefully review and revise the schedules of Qualified Expenses unless the Production Company elects (with concurrence of the Department) to forego this revision and accept a lower calculated credit based on the application of the error rate as outlined below:

   (a) If the Company, with the concurrence of the Oklahoma Film + Music Office elects to revise the schedules, Reviewer will then perform the above procedures on the revised schedules. (Note: If this step is necessary, the additional time required to perform these procedures will be billed at standard hourly billing rates.)

   (b) "High rate of misclassified expenses" - If the total population error (aggregate error of all populations tested), after applying the rate of misstatement to the respective populations tested, is equal to or greater than the greater of a) fifty thousand dollars ($50,000) or b) one percent (1%) of total Qualified Expenses submitted for each period.

   (c) To the extent that exceptions are found that are not subject to a revision of schedules as discussed above (i.e., less than a "high rate of misclassified expenses"), the total of all calculated misstatements for each population tested will be deducted from the original schedules of Qualified Expenses to arrive at a revised amount for Oklahoma Qualified Expenses.

5. Approved CPA Reviewer will calculate the amount of credit at thirty-five percent (35%) of the Qualified Oklahoma Expenses.

6. Approved CPA Reviewer will verify that the Company spent in excess of twenty thousand dollars ($20,000) for the use of music created by an Oklahoma resident that was recorded in

Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production and Reviewer will calculate the amount of the supplemental credit at two percent (2%) of the Qualified Oklahoma Expenses, if applicable.

7. In all instances where a procedure is noted as agreement of amounts, such agreement is defined as being within one dollar ($1.00).