



Ohio Administrative Code

Rule 122:21-1-02 Eligibility; application process.

Effective: August 28, 2020

(A) An applicant who is a corporation, partnership, limited liability company, or other form or business entity must be registered with the Ohio secretary of state to do business in Ohio.

(B) Any application submitted must be submitted on a form prescribed by the director and meet the requirements set forth in division (B) of section 122.85 of the Revised Code and the budgetary requirements of division (C) of section 122.85 of the Revised Code.

(1) Documentation that shows the applicant has secured funding equal to at least fifty per cent of the total estimated production budget as required by division (B) of section 122.85 of the Revised Code can be evidenced by any one or a combination of paragraphs (B)(1)(a) to (B)(1)(d) of this rule.

(a) Private financing documented by any one or more of the following:

(i) Term sheet signed by a financial institution or other investment source declaring its total financial investment in the applicant production, the date that the investment will be made, the term of the investment and any condition for closing.

(ii) Executed loan agreement demonstrating a commitment to loan a specific amount of financing for the applicant production, the date the commitment was made and an established period in which the investment will take place.

(iii) Commitment letter signed by a financial institution or other investment source declaring its total financial investment in the applicant production, the date the commitment was made and an established period the investment will take place.

(b) Public financing documented by an approved council or commission ordinance, development agreement, letter of commitment or approval letter from a jurisdiction or public agency that contains the dollar amount of financing for the applicant production.



(c) Investor equity documented by, at a minimum, a signed letter of commitment from the investor containing the dollar amount committed and information from a financial institution or third-party accountant demonstrating to the satisfaction of the director the committed investor equity is unencumbered and available for the applicant production.

(d) Other funding source deemed to be acceptably documented by the director.

(2) Documentation of financial ability to undertake and complete the production also includes submission of a planned outline for the total funding of the production, which includes the expected sources of funding, dollar amounts, and anticipated times for receipt of funding.

(C) Eligible production expenditures are as authorized by section 122.85 of the Revised Code, which does not include alcoholic beverages. An applicant's eligible production expenditures may not include the expenditures for the purchase of alcoholic beverages.

(D) The application must include a certification by the applicant that the production does not require records to be maintained under 18 United States Code 2257 with respect to sexually explicit content.

(E) The application process includes the following steps:

(1) Applications are reviewed in two rounds each state fiscal year, as required by division (C) of section 122.85 of the Revised Code.

(a) For the first round each state fiscal year, applications may be submitted April fifteenth through June first.

(b) For the second round each state fiscal year, applications may be submitted October fifteenth through December first.

(2) Following the closing of the application window for each round, the director will review applications for completeness. If the information submitted in an application is materially



insufficient, requiring more than basic clarifications or supplemental information to be evaluated and ranked, the director will notify the applicant that its application will not be evaluated during that round. The applicant is not restricted from applying again in subsequent rounds.

(3) Upon review of the applications, the director may request clarification or supplemental information about a production. The applicant must respond to the director by June thirtieth for applications submitted in the first round of each state fiscal year and by December thirty-first for applications submitted in the second round of each state fiscal year. If an applicant fails to respond or provide the requested information, the director may determine the applicant's application insufficient for evaluation for tax credit eligibility in that round. If the director determines an applicant's application is insufficient for evaluation for tax credit eligibility, the applicant is not restricted from reapplying for evaluation in subsequent rounds.

(F) For each round the director scores and ranks all completed applications based on the extent of positive economic impact a production is likely to have in Ohio and the potential effect on developing a permanent workforce in motion picture or theatrical production industries in Ohio, in accordance with division (C) of section 122.85 of the Revised Code.

(1) Economic impact is based on the applicants total estimated eligible expenditures in Ohio directly associated with the production.

(a) The application in each round with the highest amount of total estimated eligible expenditures is assigned a score of ten.

(b) All other applications are given a score determined by calculating the total estimated eligible expenditures in Ohio directly associated with the applicants production divided by the highest estimated eligible expenditures for an applicant production in that round and multiplying the resulting quotient by ten. For example, in a round where the highest amount of estimated eligible expenditures of all applicants is one million dollars and an applicants estimated eligible expenditures is eight hundred fifty thousand dollars, the applicant would receive a score of 8.5 for economic impact.

(2) The effect on developing a permanent workforce in the motion picture or theatrical production industries is determined as follows:



(a) first, by the number of new jobs created.

(i) The number of new jobs created by an applicant project is derived by calculating the quotient resulting from the total estimated hours for which a wage greater than one and one half times the federal minimum wage will be paid to Ohio residents in the production divided by two-thousand eighty.

(ii) The application with the highest number of new jobs created in a round is given a score of five. All other applications are given the score calculated by dividing the number of new jobs created by the project by the highest number of new jobs created for applications in the round and multiplying the resulting quotient by five. For example, if an applicant project has twenty-five new jobs created and the project with highest amount of new jobs created in that round is one hundred, the applicant project receives a score of 1.25 for new jobs.

(b) Second, by the amount of eligible payroll added by employees in Ohio. For purposes of this section, eligible payroll means the estimated amount of compensation used to determine the withholding obligations in division (A) of section 5747.06 of the Revised Code and estimated to be paid by the applicant during the production to an employee of the production who is a resident of Ohio or an employee who is not a resident of Ohio and whose compensation is not exempt from the tax imposed under section 5747.02 of the Revised Code pursuant to a reciprocity agreement with another state under division (A)(3) of section 5747.05 of the Revised Code.

The applicant project with the highest amount of estimated total eligible payroll expenditures is given a score of five. All other applicants are given the score calculated by dividing the applicant project total eligible payroll by the highest amount of total eligible payroll for a project for the round and multiplying the resulting quotient by five. For example, if an applicant project has three hundred thousand dollars of total eligible payroll and the highest amount of total eligible payroll for a project in that round is one million dollars the applicant project is given a score of 1.5 for eligible payroll added by employees in Ohio.

(3) Starting with television series and then all other production types, the director ranks all applicants in each round by calculating the sum of the scores derived for positive economic impact and effect



on developing a permanent workforce in motion picture or theatrical production industries in Ohio from highest to lowest in accordance with division (C) of section 122.85 of the Revised Code. The director finds applicants eligible for Ohio motion picture tax credit in descending order until the amount of funds available for allocation in that round have either been exhausted or are insufficient to allocate credits for the total estimated tax credit amount for the next highest ranked project in that round, as determined by the director.

(G) The director will send notice of eligibility for motion picture tax credit by the following dates:

- (1) July thirty first for the first round of each state fiscal year; and,
- (2) January thirty first for the second round of each fiscal year.