

Title 10
Chapter 7.75
CALIFORNIA FILM COMMISSION

Article 3.

CALIFORNIA FILM AND TELEVISION TAX CREDIT PROGRAM 3.0

Section 5520. Definitions

(a) **“Applicable period”** refers to production outside the Los Angeles zone, but in the state of California, that commences with preproduction and ends when original photography concludes outside the Los Angeles zone. It includes the time necessary to strike a remote location and return to the Los Angeles zone.

(b) **“Applicant”** is any person, corporation, partnership, limited partnership, limited liability company (LLC) or other entity that is principally engaged in the production of a “qualified motion picture” and that controls the film or television program during preproduction, production and postproduction. The applicant is the qualified taxpayer that upon final approval will receive the tax credit certificate.

(c) **“California Film Commission”** (CFC) is a state entity established and described in Government Code section 14998 et seq. that, among other functions, facilitates and promotes motion picture and television production in the State of California.

(d) **“California in-state Vendor”** is a vendor or supplier which has an office or other place of business in California, and is registered or qualified with the California Secretary of State, or is required to file a return with the California Franchise Tax Board under Parts 10 or 11 of the Revenue and Taxation Code.

(e) **“Credit Allocation Letter”** (CAL) is the document issued by the California Film Commission reserving an amount of tax credits to an applicant having a qualified motion picture based on an estimate of qualified expenditures.

(f) **“Contracted Services”** means the hiring of a third party to work or perform services on behalf of the applicant including, but not limited to, visual effect shot costs, makeup prosthetic packages, sound mixing, and creation of postproduction delivery items.

(g) “**Feature Film**” means a production of a film with a minimum budget of one million dollars (\$1,000,000) that has a running time of at least seventy-five (75) minutes.

(h) “**Force Majeure**” means an event or series of events, which are not under the control of the qualified tax payer, including death, disability, disfigurement or breach by the motion picture director or principal cast member, an act of God, including, but not limited to, fire, flood, earthquake, storm, hurricane or other natural disaster, *labor disruption*, terrorist activities or government sanction.

(i) “**Hiatus**” means a break or interruption in the continuity of work.

(j) “**Independent film**” means a film with a running time of at least seventy-five (75) minutes with a minimum budget of one million dollars (\$1,000,000) which is produced by a company that is not publicly traded and a publicly traded company does not own, directly or indirectly, more than twenty-five percent (25%) of the producing company.

(k) “**Jobs Ratio**” means the amount of qualified wages paid to qualified individuals divided by the amount of tax credit as further described in Revenue and Taxation Code section 17053.98(b)(7) and 23698(b)(7).

(l) “**Local Hire Labor**” refers to qualified individuals who reside in California, but outside the Los Angeles zone, and who are working outside the Los Angeles zone during the applicable period.

(m) “**Miniseries**” means a motion picture based on a single theme or storyline that is resolved within the piece. A miniseries consists of two or more episodes each longer than 40 minutes of running time, exclusive of commercials, with a minimum production budget of one million dollars (\$1,000,000) per episode.

(n) “**Office or other place of business**” means real property with a physical address in California that is owned or leased by a vendor for the purpose of conducting business. For purposes of these regulations, conducting business includes maintaining a product inventory or otherwise creating, assembling or offering for sale the product purchased or leased by a motion picture production company.

(o) “**Outside Los Angeles zone vendor**” means a vendor or supplier in California which maintains an office or place of business outside the Los Angeles zone, and is registered or qualified with the California Secretary of State, or is required to file a return with the California Franchise Tax Board under Parts 10 or 11 of the Revenue and Taxation Code and employs one or more full-time employees, or is a sole proprietor working at the place of business outside the Los Angeles zone. Pass-through businesses do not qualify as an “Outside Los Angeles zone vendor.”

(p) **“Pass-through business”** means a company maintaining an office or other place of business in California that primarily fulfills orders from a production company for products or third-party services from sources other than its own inventories or employees.

(q) **“Pick-up order”** means a contractual obligation from a licensee-exhibitor that a pilot or television series has been ordered or renewed for the production of an initial episode or episodes to be delivered within a specific time frame.

(r) **“Pilot”** means the initial episode produced for a proposed television series that is longer than 40 minutes of running time, exclusive of commercials, with a minimum production budget of one million dollars (\$1,000,000).

(s) **“Principal photography days”** means the number of days shot by the principal unit with the director present and lead actors usually present. “Principal photography days” in California does not include the filming of primarily backgrounds, visual effects, action, and/or crowd scenes by the second, stunt, or visual effects units.

(t) **“Producer”** means any individual who receives an on-screen producer credit including but not limited to any of the following titles: producer, co-producer, line producer, executive producer, co-executive producer, associate producer, supervising producer, post producer, or visual effects producer.

(u) **“Production budget”** means the budget used by the applicant and production company and shall include qualified and non-qualified expenditures. Production budget shall include wages, goods, and services performed and incurred within and outside of California. It does not include costs which are not directly associated with the preproduction, production or postproduction of the project, such as, but not limited to, distribution prints and advertising, marketing, film festival participation, financing, or distribution costs such as DVD manufacturing.

(v) **“Reasonable Cause”** means unforeseen circumstances beyond the control of the applicant, including, but not limited to: an event of force majeure; the cancellation of a television series prior to the completion of the scheduled number of episodes; failure by third parties to perform; a change in essential talent such as the director, principal cast and the associated costs; and/or a change in production financing exigencies resulting in a significant reduction to the production budget.

(w) **“Recurring Series”** means any television series that was approved and issued a CAL in a previous allocation period.

(x) “Television Project” means pilots for new television series, new television series, miniseries, and recurring television series.

(y) “Television Season” means the initial exhibition of a set of interrelated new television episodes lasting no less than six (6) episodes and no more than thirty (30) episodes within a period of twelve (12) months.

(z) “Television Series” also known as “episodic television,” means a regularly occurring production and may include a series with multiple episodes available to the public in a single viewing and without regard to distribution transmission.

(aa) “Visual effects” (VFX) means the creation, alteration or enhancement of images that cannot be captured on a set, or location during live action photography and therefore is primarily accomplished in post-production. Visual effects research, development, creation, alteration, or enhancement of images may also occur in pre-production or principal photography. Visual effects includes, but is not limited to, matte paintings, animation, set extensions, computer generated objects, characters and environments, compositing (combining two or more elements in a final image), and wire removals. “Visual effects” does not include fully animated projects, whether created by traditional or digital means.

Authority Cited: Sections 17053.98(b) and (e) and 23698(b) and (e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 6902.5, 17053.98 and 23698, Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5521. Application Process For Tax Credit Allocation

(a) The open allocation periods for the California Film & Television Tax Credit Program 3.0 shall be announced by the Director of the CFC prior to each new fiscal year on the CFC website. The California fiscal year is from July 1 to June 30. The announcement shall identify the application categories: Independent films, feature films, relocating television series, and television projects that may be submitted in each application period.

(b) An applicant that begins principal photography in California prior to receiving a CAL shall be disqualified from receiving such letter for that particular production.

(c) An applicant shall not submit a duplicate application for a project during any given allocation period. Submittal of duplicate applications shall be good cause to disqualify an applicant from the tax credit program.

(d) An applicant may submit a new application for the same project during any fiscal year if the qualified production did not receive or retain a tax credit allocation from a previous allocation period in the same fiscal year.

(e) An applicant, including any affiliated entities, that has been issued a tax credit allocation for a particular production that begins but does not complete principal photography of that production, shall not be eligible to reapply for a tax credit reservation for that particular production.

(f) Any expenditures for services, wages, or goods incurred prior to application approval shall not be considered qualified expenditures with the exception of production facility, office rentals, completion bonds and insurance premiums, which may be prorated to include the expenditures which are incurred on or after CAL issuance.

(g) An applicant of a television series shall submit one application for a television season of that television series. A television series with an order for additional episodes for the same season may apply in a subsequent television allocation period.

(h) The application process for tax credit allocation shall occur in two phases. Phase 1 requires applicants to complete and submit the online application as set forth on the CFC website. Phase II occurs after all applicants have been ranked by jobs ratios and the highest ranked productions per category are required to submit their documentation. The applicant shall initiate the online application process by selecting a production category from the following: Feature film, independent film with a qualified expenditure budget of ten million dollars (\$10,000,000) or less, independent film with a qualified expenditure budget over ten million dollars (\$10,000,000), new television series, recurring television series, pilot, mini-series, relocating television series. The application shall include the information-set forth below:

(1) Section 1: Applicant information.

(A) Production title, date submitted, production category, principal photography start date, post production end date, estimated tax credit, Application Jobs Ratio, applicant entity and taxpayer ID number; Identify if the applicant is a corporation, limited liability company, individual proprietorship, subchapter S corporation, partnership, or other. (A definition of the applicant that will receive the tax credit is included as per section 5520(b))

(2) Section 2: Contact information

(A) Enter the contact type and provide the contact name, title, address, email and phone for each of the following, as applicable: applicant contact, primary contact, production company contact, parent company contact, budget and schedule contact.

(3) Section 3: Financing sources and ownership.

(A) List the following information for financing sources:

1. Names of financing sources, amounts, percentage of funding. Named sources must total a minimum of 60% of total production budget.

(B) For Independents: List names of all equity investors including, without limitations, all partners (including percentage of ownership). Attest that applicant entity is not owned directly or indirectly more than 25% by a publicly traded company.

(4) Section 4: Proposed project.

(A) If it is a new television series indicate if TV Pilot was initially accepted in the program, number of episodes, and confirm over forty (40) minutes of running time exclusive of commercials. If it is a relocating television series indicate previous location, number of episodes previously shot and number of episodes included in this season. *Indicate if the previous season was filmed in California and if so, the number of principal photography days inside California and outside California.* If it is a mini-series, indicate the number of episodes and confirm over forty (40) minutes of running time exclusive of commercials.

(B) Production schedule. Provide start date of principal photography, end date of principal photography, estimated end date of post-production and projected or actual release date.

(C) Key Creatives: Provide names of executive producer(s), producer(s), writer(s), director, lead actor(s), director of photography, and *location manager.*

(D) Synopsis. The synopsis must be a minimum of 1600 and a maximum of 6000 characters and include a description of the main characters, plotline, beginning and ending, and major scene descriptions.

(5) Section 5: Production shoot days and Bonus Points.

(A) Principal photography (PP) Days.

1. Enter the requested data for PP Days. The online application will automatically calculate the totals.

a. Enter total PP days in Los Angeles (LA) zone.

b. Enter total PP days outside LA zone, but in California.

c. Total California PP days equals a. plus b.

d. Total percentage of PP days outside LA zone equals b. divided by c. x 100.

e. Enter total non-California PP days.

f. Total PP days equals c. plus e.

g. Total percentage of California PP days equals c. divided by f. x 100

(B) If shooting outside of Los Angeles zone, indicate the California counties where filming will occur.

(C) If shooting outside California, indicate state and/or country where filming will occur.

(6) Section 6: Production statistics.

(A) Provide the following information regarding labor statistics for in-state work:

1. Estimated total number of cast members.
2. Estimated total number of base crew members (Base crew is the average number of staff and shooting crew employed per principal photography day).
3. Estimated total extras/stand-in man-days. (The sum of the number of days, full or partial, a person is estimated to work).
4. By checking the box, Applicant acknowledges the following required documentation will be submitted if and when the Applicant applies for a tax credit certificate: Subject to self-reported voluntary information, include separate listings regarding the ethnicity and gender statistics of all individuals who received qualified wages (excluding extras) and all individuals who received non-qualified wages.

(B) Provide the following budget information.

1. Provide total production budget.
2. Provide total California expenditures (qualified and non-qualified).
3. Indicate if seventy-five percent (75%) or more of total production budget will be spent in California.

(C) Visual Effects: (excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less). Provide total worldwide VFX budget amount, total California VFX budget amount, and total California VFX budget eligible for bonus points. Indicate if the total California qualified VFX is equal or greater than 75% of total worldwide VFX budget or if the California qualified VFX is at least ten million dollars (\$10,000,000).

(7) Section 7: Additional tax credit calculation: Uplifts and bonus points.

A list of eligible expenditures and wages are provided as stated in section 5523(a)(1) and 5524(e) and (f), as applicable.

(A) Out of zone Uplift. (Non-Independent productions excluding relocating TV series)

1. Enter total budgeted out of zone wages excluding local hire labor (applicable period).
2. Enter total budgeted out of zone non-wages (applicable period) excluding the total consumables.
3. Enter total non-wage expenditures totally consumed outside Los Angeles Zone (applicable period).
4. Applicable period is defined as in Section 5520 (a).

(B) Local Hire Labor Uplift: Total of out of zone local hire labor eligible for additional tax credits (includes independent films and relocating TV series).

(C) Total California Qualified Visual Effects (VFX) Uplift and/or bonus points. (excludes independent films with qualified expenditure budgets of ten million

dollars (\$10,000,000) or less). Total dollar amount for California VFX eligible for additional 5% tax credit and/or additional bonus points.

(D) Music Wages: (excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less).

Enter total California music scoring wages eligible for bonus points.

(E) Total Additional Tax Credit: The online application will automatically calculate the following: The total out of zone amount (non-independent productions only) and total California VFX amount and total local hire labor amount (includes independents and relocating TV series) which is eligible for an additional tax credit.

1. Multiply total out of zone amounts by .05

2. Multiply total VFX amount by .05

3. Multiply total local hire labor amount by .10 for non-independent productions and by .05 for independent films and relocating television series.

4. (Total additional amount of 1 + 2+ 3 above)

(8) Section 8: Estimated Credit Allocation and Jobs Ratio.

(A) Qualified Wages

(B) Qualified Non-wages

(C) If, applicable, enter total contingency, which can be no more than 10% of qualified expenditures.

(D) If applicable, enter total completion bond fee, which can be no more than 2% of qualified expenditures.

(E) Total qualified expenditures.

(F) Total tax credit uplifts

Total qualified expenditures shall be multiplied by 25% if production category is an independent film or relocating television series; totals in this section shall be multiplied by 20% for all other production categories. (Credit allocation applies only to the first ten million (\$10,000,000) of qualified expenditures for independent films and the first ten million (\$10,000,000) of qualified expenditures eligible for uplifts. Credit allocation applies only to the first one hundred million (\$100,000,000) of qualified expenditures for non-independent productions and the first one hundred million (\$100,000,000) of qualified expenditures eligible for uplifts.)

(G) Total tax credit uplift amount.

(H) Total tax credit amount including uplifts.

A jobs ratio shall be assigned to the application, based on the criteria in Section 5527 and the information provided by the applicant in this application. The jobs ratio number for the production will be indicated once the application is complete.

(9) Section 9. Certification.

(A) Clicking submit on the Application Summary is the applicant's acknowledgement, agreement and certification that the applicant has read and reviewed the application, including all its attachments, and that the content provided in the application by the applicant is true and accurate to the best of his or her knowledge or at least the knowledge of what would be expected of a reasonable person in the same capacity.

(B) Provide name, title, and date.

(i) Applicants shall be selected for Phase 2 of the application process based on the jobs ratio ranking of their application, pursuant to Section 5527.

(j) The CFC shall notify, by electronic mail, the top ranked projects in each category of qualified motion pictures, as provided for in sections 17053.98(i) and 23698(i) of the Revenue and Taxation Code. These applicants shall provide the additional materials and supporting documentation as requested by CFC as described in subsection (k) below within the timeframe provided on the electronic notification, which shall be *within* three (3) business days and *can be extended to* no more than seven (7) business days from the electronic notification date for legitimate business reasons.

(k) The applicant shall submit the following:

(1) An electronic copy of the qualified expenditure budget in an industry standard budgeting program. The electronic copy shall be uploaded to the online application *portal* for the qualified motion picture. The industry standard budgeting program shall provide the following:

(A) Qualified wage expenditures and qualified non-wage expenditures. If applicable, also indicate costs which will be incurred outside the Los Angeles zone during the applicable period.

(B) For non-independent productions (excluding relocating TV series in their first season in California) indicate those accounts for which an additional five percent (5%) tax credit is allowed for qualified expenditures purchased or rented and used outside the Los Angeles zone during preproduction through strike on location; qualified visual effects if at least ten million dollars (\$10,000,000) or seventy-five percent (75%) of worldwide visual effects paid or incurred in the state; and qualified wages for services performed outside the Los Angeles zone during preproduction through strike by individuals who reside within the Los Angeles Zone. *Productions shall also indicate those accounts for which an additional ten percent (10%) tax credit is allowed for local hire labor.*

(C) A television series shall submit a qualified expenditure budget including all pattern and amortization costs, or separate amortization and pattern budgets. The budget shall be in an industry standard budgeting program uploaded to the

online application. The Production Budget shall indicate, as applicable, the information required in subsection (k) (1)(A) and (B) above.

(D) For independent films and relocating television series in their first season in California, indicate those accounts for which an additional five percent (5%) tax credit is allowed for local hire labor.

(2) Fringe Matrix: Applicant shall submit information on fringe rates included in the qualified expenditure budget. After entering project title, category, and date, applicant shall provide a detailed breakdown of qualified fringe benefit rates for union and/or non-union extras, union and/or non-union crew, Director's Guild of America (DGA) crew, as applicable. Fringes rates include: state unemployment tax, payroll/handling fees, pension, health, welfare, vacation and holiday, workers compensation, DGA fringes, non-union health insurance. Casting fees are not included as fringe but as a line item in the budget. Overstatement of fringe amounts is not allowed.

(3) One-Line Schedule ("production board"). Applicant shall submit in PDF or equivalent format a One-Line Schedule which shall include scene descriptions, scene numbers, holidays and cast numbers and shall indicate which days are scheduled for filming outside of the Los Angeles zone.

(A) A television series may submit in PDF or equivalent format, a production calendar, including: the start and end dates of the season, the number of in-state and out-of-state principal photography days, holidays, and the total number of episodes in lieu of a one-line shooting schedule. The production calendar must indicate which days are scheduled for filming outside the Los Angeles zone.

(4) Applicant shall submit in PDF or equivalent format the screenplay, including scene numbers that match the submitted schedule for the production. If the application is for a pilot that does not have a script, this requirement shall be waived. This requirement is waived for recurring television series.

(5) Applicant shall submit supporting documentation that confirms at least 60% of production financing. Applicant shall include documentation for each financing source including, but not limited to, commitment letters, financing agreements, term sheets, and/or bank statements in PDF or equivalent format. Applications submitted without the sufficient documentation described above, which shall be determined in the sole discretion of CFC, shall be considered incomplete and good cause to disqualify the application.

(6) Pick-up order. A pilot, new television series or relocating television series shall submit evidence, in PDF or equivalent format, that the pilot or series is scheduled for photography, e.g. a pick-up order, when applying for a credit allocation. Recurring television series may submit applications without a pick-up order but shall not receive a credit allocation until proof of a pick-up order has

been submitted. Any recurring television series that has not supplied a pick-up order within 140 calendar days of the CAL date for the allocation period for which it submitted an application will be removed from the queue and may reapply during the next television allocation period.

(7) Narrative statement pursuant to sections 17053.98 (g)(2)(A)(x) and 23698(g)(2)(A)(x).

(8) Relocating statement. Applicant certifies that the credit provided is the primary reason for relocation to California (if applicable). The Applicant must state that at least 75 percent of principal photography days of its most recent season was filmed outside of California. If submitting a relocating statement, the detailed narrative statement as per Revenue and Tax code sections 17053.98 (g)(2)(A)(x) and 23698(g)(2)(A)(x) is not required. The certification shall be submitted in PDF or equivalent format.

(9) Unlawful harassment policy. Applicant shall submit company's written policy against unlawful harassment as set forth in section 17053.98(g)(2)(A)(xi) and 23698(g)(2)(A)(xi) of the Revenue and Taxation code.

(10) A summary of the applicant's voluntary programs to increase the representation of women and minorities and information about how the programs are publicized to interested parties as set forth in sections 17053.98(g)(2)(A)(xiii) and 23698(g)(2)(A)(xiii). This requirement is waived for independent films with qualified expenditures of ten million dollars (\$10,000,000) or less.

(11) Company and financial information, if available and as applicable, as required by sections 17053.98(g)(2)(A)(v-vii) and 23698(g)(2)(A)(v-vii).

(l) Within thirty (30) business days of receipt of the completed application and all requested supporting documents, the Director of the CFC, or his or her designee, will notify the applicant whether the application is accepted or disqualified. An approved application shall meet the Eligibility Requirements in Section 5522. Upon approval, a Credit Allocation Letter, (CAL) CFC Form D3 (New. June 25, 2019) hereby incorporated by reference, shall be issued to the applicant indicating the amount of tax credits allocated, as provided in Section 5526. Failure to timely submit all requested documents above, as applicable, shall be good cause to disqualify the applicant.

(m) As soon as feasible, but not less than four (4) weeks prior to the start of principal photography, the production accountant is required to attend an orientation meeting with the Director of the CFC or his or her designee, along with any or all of the following staff members: a primary producer, production manager or other appropriate personnel as determined by the applicant. Applicants and staff members shall not be required to attend more than one (1) orientation meeting for a motion picture in the program.

(n) Any television series, relocated television series and any television series based on a pilot that has been approved and issued a Credit Allocation Letter, shall be given first priority for a credit allocation during an open allocation period in each subsequent year in the life of that series whenever credits are allocated and available within a fiscal year.

(1) Each recurring television series shall submit a new application and pick-up order, if available, for each season during any open television project application period as specified by the CFC in its written notification. The narrative statement requirement as set forth in sections 17053.98(g)(A)(x) and 23698(g)(A)(x) of the Revenue and Taxation code for all projects shall be deemed as met for recurring television series with the statement submitted by that series when it was accepted into the program as a pilot, new or relocating television series.

(2) Recurring television series will be prioritized in subsequent years based upon the fiscal year of original credit allocation, with oldest television series applications entitled to first priority. In the event that further prioritization is necessary, the jobs ratio from the most current application for the series shall be used.

(o) Principal photography in California shall commence no later than one hundred eighty (180) calendar days after the credit allocation letter is issued. Qualified motion pictures with qualified expenditures of at least one hundred million dollars (\$100,000,000) must begin principal photography (as defined in Section 5520(s)) no later than two hundred and forty (240) days after CAL issuance. If the production does not begin principal photography prior to the 180 or 240 day deadline, the tax credit allocation shall be revoked, unless a Force Majeure event has occurred which directly prevented the production from commencing within the deadline. With submission of documentation verifying such event, the CFC may grant an extension. If a production implements a hiatus during the principal photography period, any and all hiatus period(s) may be no longer than one hundred twenty (120) calendar days in aggregate for the entire duration of the production.

Authority Cited: Sections 17053.98(e) and (j) and 23698(e) and (j), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 6902.5, 17053.98(g) and 23698(g), Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5522. Eligibility Determination

(a) If applicant is planning to produce a “qualified motion picture,” then applicant shall ensure that the “qualified motion picture” complies with the provisions of sections 17053.98 (b)(18) and 23698 (b)(18) of the Revenue and Taxation Code and applicant must film at least seventy-five percent (75%) of principal photography days wholly in California or seventy-five percent (75%) of the total production budget shall be incurred in California.

(b) To qualify as a new television series, the television series, shall produce episodes with a running time longer than forty (40) minutes, exclusive of commercials, and with a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(c) To qualify as a television series that relocated to California, the television series shall meet the following criteria:

(1) Provide a certification from the applicant that the tax credit provided pursuant to this section is the primary reason for relocating to California.

(2) Produce episodes of any length, filmed its most recent season outside of California, and have a minimum production budget of one million dollars (\$1,000,000.00) per episode.

(3) At least 75 percent of principal photography days of its most recent season have been filmed outside of California.

(d) To qualify as a pilot for a new television series, the pilot episode shall have a running time longer than forty (40) minutes, exclusive of commercials, shall be produced in California with a minimum budget of one million dollars (\$1,000,000), and shall be the initial episode in a proposed television series.

(e) An animated production is not considered a qualified motion picture and shall not be eligible for a tax credit. Animated production means content created that does not utilize or incorporate live action footage but creates a motion picture consisting principally of computer generated or hand painted images. An animated production does not engage in principal photography and therefore does not meet the conditions for eligibility set forth in sections 17053.98(b)(13) and 23698(b)(13) of the Revenue and Taxation Code.

(f) Tax credits for a “feature film”, “television series”, “pilot” or “mini-series” shall be applied to a maximum of one hundred million dollars (\$100,000,000.00) of the qualified expenditure budget. There shall be no maximum on the production budget.

(1) A one hundred million dollar (\$100,000,000.00) qualified expenditure maximum applies to the 5% augmentation as per Section 5524(e)(1-3).

(2) A one hundred million dollar (\$100,000,000.00) qualified expenditure maximum applies to the 10% augmentation as per Section 5524 (f)(4).

(3) A one hundred million dollar (\$100,000,000.00) qualified expenditure maximum applies to the 5% augmentation as per Section 5524(g) with respect to a relocating television series.

(g) Tax credits for an independent film shall be applied to a maximum of ten million dollars (\$10,000,000.00) of the qualified expenditure budget. There shall be no maximum on the production budget.

(1) A ten million dollar (\$10,000,000.00) qualified expenditure maximum applies to the 5% augmentation as per Section 5524(g).

(h) Revocation of the tax credit allocation is final and shall not be subject to administrative appeal or review.

Authority Cited: Sections 17053.98(e) and 23698(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.98 and 23698 Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5523. Qualified Expenditures

(a) The qualified expenditures shall be allowed as provided in sections 17053.98(b)(16) and 23698(b)(16) of the Revenue and Taxation Code.

(1) Qualified Wages shall also include payments to a qualified entity to the extent its services are performed in California, including, but not limited to, Qualified Expenditures as defined in sections 17053.98(b)(15) and 23698(b)(15) of the Revenue and Taxation Code. Examples of Qualified Expenditures are set forth on the Qualified Expenditure Charts as identified on the CFC website. These charts are only provided as a reference for the applicant and should not be considered conclusive or limiting.

(b) The non-qualifying expenditures are as provided in sections 17053.98(b)(21)(B) and 23698(b)(21)(B) of the Revenue and Taxation Code. The following expenses shall not be allowed as qualified expenditures:

(1) State and federal income taxes.

(2) Certified public accountant expenses for the report required in Section 5526(a)(6).

(3) Expenditures for rentals or purchases outside the state regardless if used in the state, and services performed outside the state are not considered qualified expenditures including, but not limited to, digital visual effects work which is physically performed out-of-state.

(4) Expenditures for the exhibition of the qualified motion picture including, but not limited to, digital cinema distribution copies and release prints.

(5) Expenditures incurred thirty (30) days after the creation of the final elements, such as, but not limited to, composite answer print, air master, and digital cinema files. Creation of additional versions for foreign distribution and/or archival purposes are not considered final elements.

(6) *Financial contribution expenditures related to the pilot career pathways training program.*

Authority Cited: Sections 17053.98(b) and (e) and 23698 (b) and (e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5524. Tax Credit Allocation

(a) The amount of tax credit allocated shall be based on the percentage of the qualified expenditures as provided in sections 17053.98(a) and 23698(a) of the Revenue and Taxation Code.

(b) *Allocation of unused credits as provided in Revenue and Taxation Code 17053.85, 17053.95, 23685, and 23695 shall be as follows: 20% of unused credits each fiscal year through 2024-25. Credits shall be divided by percentage and project type as provided in sections 17053.98 (i)(E) and 23698 (i)(E) of the Revenue and Taxation Code.*

(c) If all tax credits have been allocated for any application period, qualified motion pictures shall be placed in a prioritized waiting list according to their project type and in the order of their jobs ratio ranking until one of the following occurs: credits become available that allocation period, the production elects to be removed from the queue, or until the allocation period ends.

(d) If the applicant is producing a series of feature films that will be filmed concurrently and the series of films continues the narrative of the original work and financing is confirmed, then the CFC shall have the authority to divide the allocation over multiple fiscal years if it is determined that the production schedule occurs over more than one fiscal year.

(e) For the purposes of this section, a five percent (5%) augmentation (“uplift”) to the tax credit allocation for non-independent motion pictures (excluding relocating television series in its first season in California) shall be made by the CFC when any of the following conditions have been met:

(1) The production company pays or incurs qualified expenditures relating to qualified visual effects work totaling a minimum of ten million dollars (\$10,000,000) is incurred in California or at least seventy-five percent (75%) of total worldwide visual effects expenditures is incurred in California.

(2) The production company pays or incurs qualified wages for services performed outside the Los Angeles zone during the applicable period relating to original photography outside the Los Angeles zone by individuals who reside within the Los Angeles zone. The foregoing amounts shall be substantiated by documentation including, but not limited to, timesheets and payroll records as requested by the CFC and/or the CPA performing the Agreed Upon Procedures.

(3) The production company purchases or leases tangible personal property outside the Los Angeles zone during the applicable period and the personal property is used or consumed outside the Los Angeles zone. Tangible personal property must be purchased, rented or leased from an outside of Los Angeles vendor through an office or other place of business outside the Los Angeles zone. Rentals or purchases from a pass-through business do not qualify for the five percent (5%) augmentation.

(A) If the tangible personal property purchased or leased outside the Los Angeles zone was not completely used or consumed solely outside the Los Angeles zone, the production company shall apportion amounts paid or incurred for tangible personal property outside the Los Angeles zone during the applicable period by multiplying these non-wage outside the Los Angeles zone expenditures by the ratio of days of principal photography outside the Los Angeles zone to the total number of days of principal photography.

(B) If the tangible personal property purchased or leased outside the Los Angeles zone was completely used or consumed solely outside the Los Angeles zone, the production company may elect to substantiate that with its records. Tangible person property purchased or leased outside the Los Angeles zone shall be deemed to be completely used or consumed provided the property was of a type or nature such that it would have no residual material value remaining after its use or consumption outside the Los Angeles zone. Examples of such property include, but are not limited to, food and catering items, rented hotel or corporate housing usage, construction supplies and materials for sets, automotive or other fuels, security services, location and stage services, government permit fees, personnel services, printing, equipment rentals for the applicable period outside

the Los Angeles Zone, transportation services, dry cleaning, and shipping and travel costs from within the state to and from the out of zone location.

(f) A ten percent (10%) augmentation (“uplift”) for non-independent productions excluding relocating TV series, is available if the production company pays or incurs qualified wages for services performed by local hire labor outside the Los Angeles zone during the applicable period relating to original photography outside the Los Angeles zone. The foregoing amounts shall be substantiated by documentation including but not limited to timesheets and payroll records as requested by the CFC and/or the CPA performing the Agreed Upon Procedures.

(g) The maximum amount of tax credits allowed for independent films and/or relocating television series for their initial season in California is twenty-five percent (25%) and therefore the five percent (5%) uplift is not applicable to such productions except for an additional five percent (5%) uplift for local hire labor. As noted in section (f) above, documentation will be required to determine if applicant qualifies for this uplift.

Authority Cited: Sections 17053.98(a)(e) (i) and (j) and 23698(a)(e) (i) and (j), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5525. Approved Applicant Responsibility – Phase III

(a) An applicant issued a credit allocation letter shall be required to comply with the following during the production period:

(1) On the first day of principal photography and after a hiatus period, if applicable, submit by email to the CFC the daily call sheet, signed by the production manager or equivalent position, in PDF or equivalent format.

(2) Each week or as available, submit by email to the CFC the final production reports for each day of principal photography, signed by the Unit Production Manager or equivalent position, in PDF or equivalent format.

(3) If applicable, submit an email notification to the CFC indicating any significant changes to the project including anticipated changes in the estimated qualified expenditures, change of start date, shooting location, number of television episodes ordered, title change of project, financing, key personnel or any other factors that have significantly changed since issuance of the CAL.

(4) Participation in career-based learning and training programs and public service opportunities approved by the CFC in consultation with the California

Department of Education (CDE) and/or California Community College Chancellor's Office (CCCCO) aimed at exposing high school and community college students to jobs in the entertainment industry. To meet the requirements of this section, the applicant may do any of the following:

(A) Provide to students enrolled in an accredited *California* high school or community college three (3) paid internship positions for a minimum of *one hundred (100) hours* each or a combination of internships or internship with a minimum of *one hundred (100) hours* per student and *three hundred (300) hours* in total. *Interns must be 18 years of age or older.* Internship experience must include working with professionals in the film industry and hands-on work assignments; or

(B) Provide to students enrolled in an accredited *California* high school or community college classroom workshops, *panels* or demonstrations on aspects of the film industry, which may include but is not limited to set operations, post-production and specific technical crafts conducted by entertainment industry professionals; or

(C) Provide to students enrolled in an accredited *California* high school or community college a minimum of eight (8) hours of professional skills tours, which may include visits to observe set operations, set construction, wardrobe department, art department and editorial department; or

(D) Provide a minimum of eight (8) hours of continuing education for educators and/or faculty to observe the set operations, post-production, and other specialized departments in the film industry; or

(E) Make a financial contribution to a specific local or state educational agency or higher education institution specializing in arts, media, and entertainment career oriented programs. The contribution shall be based on 0.25 percent of the estimated tax credit reservation with a minimum financial contribution of \$5,000 and a maximum required financial contribution of \$12,000. (Note: An applicant may contribute an amount in excess of the maximum); or

(F) Provide a learning opportunity or financial contribution of equal time or value through other arts, media, and entertainment programs, workforce programs, etc. which are not affiliated with CCCCCO or CDE and is approved by the CFC.

(5) Make a financial contribution to fund a pilot career pathways training program to a non-profit fiscal agent as determined by CFC.

A. The contribution shall be based on 0.25 percent of the estimated tax credit reservation as stated on the CAL.

B. The contribution shall be submitted to the CFC no later than ten (10) business days after the CAL date; failure to submit the contribution within this time frame may result in revocation of the CAL.

C. The contribution is refundable if the project does not receive a tax credit certificate. A portion may also be refundable if the tax credit amount is significantly reduced due to reasonable cause as per Section 5520 (v).

Authority Cited: Sections 17053.98(e) and 23698(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code, Section 14998.1, Government Code.

Section 5526. Credit Certificate Issuance Process- Phase IV

(a) The applicant shall be required to submit the following documents upon completion of the qualified motion picture, in an electronic format and /or hard copy, as directed by the CFC.

(1) Proof of copyright registration of the screenplay, teleplay, motion picture, television series or *pilot*.

(2) Documentation indicating the date of completion of post production. Documentation may include, but not be limited to, the facility invoice evidencing the date the final element was completed or other reasonable documentation as determined by the CFC.

(3) List of all Cast and Crew for the project.

(4) Copy of Script Supervisor's Lined Script or the continuity/spotting log of the project. TV series must submit episodes 2 and 5 of the series.

(5) Expenditure Summary Report as set forth on the CFC website. The applicant shall revise any contact information changes in the application portion of the CFC website including the CPA firm performing the Agreed Upon Procedures (AUP).

- A. Section 1. Applicant Information. The on-line application will automatically generate the applicant information. Input copyright registration number and seller's permit number, if applicable.
- B. Section 2. Contact Information. The on-line application will automatically generate the contact information for parent company and CPA firm.
- C. Section 3. Project Information. If television series, indicate number of completed episodes. Report start date of pre-production, principal photography, hiatus start date if applicable, hiatus return date if applicable, end of principal photography, end date of post-production (creation of final element), projected or actual release date (if known).

- D. Section 4. Production Shoot Days and Locations. Provide production shooting days inside and outside the Los Angeles zone, counties outside the LA zone, other states or countries; and provide Local Community Expenditure Report Form LE3. (New June 25, 2019), incorporated by reference, for each county outside of Los Angeles county with expenditures of one hundred thousand dollars (\$100,000) or more, if applicable.
- E. Section 5A Production and Financial Statistics. Provide total number of cast, base crew, extras and stand-in man days, residents and non-residents, CA Vendors, number of outside zone local hires.
- F. Section 5B&C. Financial Statistics. Provide total worldwide expenditures; total California expenditures; qualified and non-qualified; total worldwide VFX expenditures; total CA expenditures, qualified and non-qualified; total qualified California VFX expenditures eligible for uplifts and/or bonus points (excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less).
- G. Section 5D. Total California music scoring/recording wages eligible for bonus points (excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less).
- H. Section 5H. Subject to self-reported voluntary information, include separate listings regarding the ethnicity and gender statistics of all individuals that received qualified wages (excluding extras) and all individuals that received non-qualified wages.
- I. Section 6. Career Readiness and Pilot Skills Training Program.
 (i) Verification of fulfillment of career readiness requirement utilizing one of the required forms CR1, CR2, CR3, CR4, CR5 (New. June 25, 2019), incorporated by reference. If applicable, verify submission of career readiness payment. (ii) Verification of pilot skills training program contribution with date paid and amount.
- J. Section 7. Uplifts and Bonus Points (as per AUP findings)
 (i) Out of zone Uplift. (Non-Independent productions only)
 1. Enter total out of Los Angeles zone wages excluding Local Hire Labor (applicable period).
 2. Enter total out of Los Angeles zone non-wages (applicable period) excluding the total consumables;
 3. Enter total non-wage expenditures totally consumed outside Los Angeles Zone (applicable period).
 4. Total out of Los Angeles zone uplift amount is calculated.
 (ii) Local hire labor uplift: Total of out of zone local hire labor eligible for uplift.
 (iii) Visual Effects (VFX) uplift and/or bonus points (excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less).
Total dollar amount for California VFX eligible for additional 5% tax credit and/or additional bonus points.
 (iv) Total music wages eligible for bonus points (excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less).

(v) Total additional tax credit: The online application will automatically calculate the following: The total out of Los Angeles zone amount (non-independent productions only) and total California VFX amount and total local hire labor amount which is eligible for an additional tax credit.

1. Multiply total out of zone amounts by .05
 2. Multiply total VFX amount by .05
 3. Multiply total Local Hire Labor amount by .10 for Non-Independent productions and by .05 for Independent Films and Relocating Television Series.
 4. (Total additional amount of 1 + 2+ 3 above calculated automatically)
- K. Section 8. Credit Amount. As per the findings of the CPA performing the AUP, provide the Total Qualified Wages; Total Qualified Non-Wages; and completion bond fee, if applicable. Total Qualified Expenditures, Tax Credit Amount, Uplifts tax credit amount, and Total Adjusted Credit Amount will be automatically calculated by the on-line application.
- L. Section 9. Jobs Ratio and Final Tax Credit. The online application automatically calculates the Jobs Ratio and the percentage change from the CAL jobs ratio amount. If there is an overstatement, the penalty will be indicated. The final credit amount indicated will be the least of the CAL amount, the adjusted credit amount or the Amount with Penalty.
- M. Section 10. Signature certification. Print the Expenditure Summary Report. By signing the Report, the applicant acknowledges, agrees and certifies that the applicant has read and reviewed the summary, and that the content provided is true and accurate to the best of his or her knowledge or at least the knowledge of what would be expected of a reasonable person in the same capacity. Submit to the CPA performing the AUP.

(6) An agreed upon procedures report in compliance with the Program 3.0 AUP dated June 25, 2019, hereby incorporated by reference. The agreed upon procedures report shall be prepared and certified by a certified public accountant (CPA) who meets the following criteria:

(A) Maintains an active license or has proof of a valid out-of-state accounting firm registration for the firm practicing attest services in California.

(B) The accounting firm performing the assurance services shall provide documentation from the California Society of Certified Public Accountants or other organization administering said review, indicating that a Peer Review Report was completed within the last three years and the rating was a Pass. If the firm performing attest services is newly formed, the firm must provide evidence it is registered for review by an organization administering the review in the state in which the firm resides.

(C) Successful completion of a California Film Commission Orientation Meeting for CPAs performing Agreed Upon Procedures for the California Film and

Television Tax Credit Program 3.0. The frequency of training shall be offered on an as needed basis as determined by the CFC.

(7) The actual layout of the main and end titles produced by a title house or other postproduction facility.

(8) Documentation from each visual effects, title, digital effects and/or post sound company contracted by the production company, indicating the total dollar amount of work performed within the State of California shall be certified by managerial level personnel with knowledge of the project.

(9) Documentation from the designated representative of the California Community Colleges Chancellor's office and/or the California Department of Education or the CFC, verifying participation in the career-based learning and training program as required in Section 5525 (a)(4).

(10) A miniseries shall submit documentation verifying that its initial distribution consists of two or more episodes *longer than forty (40) minutes each exclusive of commercials.*

(11) A listing of other jurisdictions in which any member of the applicants combined reporting group has produced a qualified motion picture in the preceding year pursuant to Section 17053.98 (g)(3)(C)(I) of the Revenue and Tax Code. Updated information as per Section 5521(k)(11) is also required.

(12) Documentation verifying that the applicable fee was paid by the qualified taxpayer to fund a pilot career pathways technical skills training program.

(b) The production shall be completed within 30 months from the issuance date of the CAL as required in sections 17053.98(b)(18)(B)(ii) and 23698(b)(18)(B)(ii) of the Revenue and Taxation Code.

(c) The Qualified Motion Picture shall be considered complete when the process of postproduction has been finished and a final composite answer print, delivery air master, or digital cinema files of the qualified motion picture is completed.

(d) The CFC shall review all the required materials submitted by the applicant to determine the sufficiency of the required documentation and that the applicant meets all the criteria for the program. During the review, the CFC may reject insufficient documentation not in compliance with the requirements found in this section or may request additional documentation to determine if the production is a qualified motion picture and to verify the qualified expenditures. The CFC shall approve or disapprove the request for the tax credit certificate.

(e) Upon rejection of insufficient documentation or disapproval of the request for a tax credit certificate, the CFC shall provide the applicant with a notice of

disapproval stating the reasons for the disapproval. Disapproval is final and shall not be subject to administrative appeal or review.

(f) Upon approval, the tax credit certificate, CFC Form M3 (New. June 25, 2019), hereby incorporated by reference, shall be issued to the applicant beginning on July 1, 2020. If the entity that incurs the qualified expenditures is a partnership, limited liability company or subchapter S corporation (pass-through entity), that entity is the applicant for purposes of filing the tax credit application and receiving the final tax credit certificate.

Authority Cited: Section 17053.98(a)(d)(e) and (f) and 23698(a)(d)(e) and (f), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code, Section 14998.1, Government Code.

5527. Jobs Ratio Ranking Process

(a) For the purposes of the jobs ratio calculation, qualified wages shall include: (1) Qualified wages which are directly paid by the applicant or its payroll service; plus (2) thirty-five percent (35%) of all qualified non-wage expenditures, including contracted services in which the qualified wages are not directly paid by the applicant, but by the vendor. *Qualified VFX expenditures may be apportioned as 70% qualified wage and 30% qualified non-wage for VFX work performed by third party California vendors.*

(b) The jobs ratio as defined in Section 5520 (k) may be increased by up to twenty-five percent (25%) if the qualified motion picture demonstrates an increase in economic activity in the state. This activity is based on the following:

(1) *One to seven bonus points based on the visual effects expenditures per project category, e.g., independent film, non-independent feature, television project. Excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less.*

(2) *One to ten bonus points based on the percentage of principal photography days outside the Los Angeles Zone in relation to the qualified motion picture's total principal photography days in the state. To qualify for bonus points, a principal photography day outside the Los Angeles Zone must include at minimum filming the first scene of the day outside the Los Angeles Zone.*

(3) *One to five bonus points based on the wages paid to scoring musicians, including the following positions: Instrumental musicians, vocalists, music arrangers, orchestrators, Musical Instrument Digital Interface (MIDI) transcribers, music copyists, music librarians, conductors (unless also the*

composer), and musician and choral contractors employed solely for the purpose of recording music for the qualified motion picture. Excludes independent films with qualified expenditure budgets of ten million dollars (\$10,000,000) or less.

(c) The CFC shall establish the bonus point ranges as follows:

(1) Percentage points for principal photography days out of the Los Angeles zone as provided in subsection (b)(2) shall be determined by applying percentage points on a linear proportionate scale. Starting with 10% of principal photography days, the applicants will receive one point for every 10 percent increase of out of zone principal photography days (10% or more but less than 20% of the above days = 1 point, 20% or more but less than 30% of the above days = 2 points, etc.) until the maximum cap of points is received. The percentages are determined by dividing the out of zone principal photography days by the total principal photography days.

(A) If the maximum number of points is not achieved by any project in a given year's applicant pool, the CFC may decrease the step size (for example from 10% to 5% incremental steps) needed to gain an additional point in subsequent allocations but maintain the linear proportionate structure.

(2) Bonus points for VFX as provided in subsection (b)(1) shall be determined utilizing the following method: The CFC shall use the National Institute of Standards and Technology formula to create cut-off values that sort an equal number of projects into each point range as further described below.

Following the *National Institute of Standards and Technology (NIST) "Engineering Statistics Handbook: Percentile"* formula, the applicant pool is first ranked from lowest to highest value in each of the three categories, where 1 corresponds to the lowest rank. The formula then finds the rank n associated with each percentile cut-off as follows:

$$n = P/100 \times (N + 1)$$

P is the percentile of interest. If there are ten possible point ranges for example, then P = 10 would correspond to the 10th percentile, P = 20th to the 20th percentile, and so forth, until the 100th percentile has been calculated. N is the total number of applicants in the current applicant pool.

The formula then uses a standard rounding and conversion procedure to turn the rank n into a monetary cut-off value. The Excel function *PERCENTILE* automatically does this calculation according to the same NIST formula (see citation: <http://www.itl.nist.gov/div898/handbook/prc/section2/prc262.htm>) The CFC shall use this Excel function to determine initial cut-offs, and then choose final cut-offs within +/- 10 percent of what the formula produces, such that the ranges can be rounded. Ranges may be adjusted for future

application periods based on the data collected from previous application periods.

(3) Bonus points for music wages as provided in section (b)(3) shall be determined by utilizing music wage data from submitted budgets in prior tax credit programs and from music contractors. After determining the highest to lowest qualified wage figures per type of production, ranges with percentage points by production type were calculated.

(d) Ranges to establish the points for the above criteria shall be posted on the CFC website prior to any application period.

(e) The jobs ratio calculation shall not include any increase to the tax credit from work outside the Los Angeles zone or qualified visual effects incurred in California as set forth in Section 5524 (e). It also shall not include any increase to the tax credit from expenditures relating to a contingency or completion bond.

(f) The jobs ratio multiplied by (total points [acquired in (b)(1)-(3), as applicable] x 1/100) + 1 shall be the adjusted jobs ratio which shall be utilized to rank qualified motion pictures within each category during the application process, pursuant to Section 5521 (i).

(g) This process shall be automatically calculated on the online application, based on the information provided by the applicant.

(h) If information submitted by an applicant is overstated on the application, the applicant will be penalized as provided in Revenue and Taxation Code Sections 17053.98(d)(2) and 23698(d)(2).

Authority Cited: Sections 17053.98(e) and 23698(e), Revenue and Taxation Code, Section 11152, Government Code. Reference: Sections 17053.98 and 23698, Revenue and Taxation Code, Section 14998.1, Government Code

Section 5528. On Screen Credit and Promotional Requirements

(a) All productions that are issued a tax credit certificate shall be required to comply with the following provisions:

(1) Provide an on-screen acknowledgement to: THE STATE OF CALIFORNIA AND THE CALIFORNIA FILM COMMISSION and include the California Film Commission Logo, to be provided by the CFC to the applicant, except where that acknowledgement may be prohibited by the Children's Television Act or any other local, state, or federal government policy. Such acknowledgement and logo shall appear on every episode of a television series except where prohibited as above.

(2) Provide five (5) production stills in digital file format cleared by the production company and with cast approvals to illustrate the diversity of California locations and/or job creation for promotional use by the CFC.

Authority Cited: Revenue and Taxation Code, Section 14998.1, Section 11152 Government Code. Section 17053.98(e) and 23698(e), Revenue and Taxation Code, Section 14998.1, Government Code.