

## Guidelines

### Incentive for Audio Visual Co-production with foreign countries

#### OVERVIEW

India aims to create an enabling environment for sustained growth of Media & Entertainment sector. India has formulated detailed incentives for official Audio-Visual Co-production with foreign countries.

For all qualifying projects, the film production company can claim a payable cash incentive of upto 30% on Indian qualifying expenditure subject to a maximum of INR 2 crore (USD 2,60,000).

#### Introduction

**1.1** The Government has formulated a scheme for providing incentives for official audio-visual co-production of films. The Government has set up Film Facilitation Office (FFO) under the aegis of National Film Development Corporation (NFDC) with a view to promote global collaboration in filmmaking and facilitate film shootings by domestic and international filmmakers in India. The incentive scheme will be executed through FFO.

1.2 The co-production agreements ("**Treaty**") allow for both bi-lateral and multi-lateral co-productions. Bi-lateral co-productions are where all the co-producers are from the applicable co-production countries whereas multi-lateral involves those parties plus what is termed a Third-party Co-producer or (in some cases) a Non-party Co-producer or both.

1.3 The Government has now approved financial incentives for co-production of projects i.e., for audio visual co-production with foreign countries and for shooting foreign films in India, as a component under Development Communication and Dissemination of Filmic Content (DCDFC) Scheme .

1.4 An official Indian co-production ("**Co-production**") is a production (or "**Project**"), between India and one or more countries made under one of the India's official bi-lateral co-production treaties on Audio-Visual Co-production, which has been granted official 'Co-production Status' by the Ministry of Information & Broadcasting .

1.5 Qualifying as an official Indian co-production grants eligibility to apply for either one of the following two incentive schemes, in addition to the benefits outlined in the treaty:

##### **1.5.1 Incentive for Audio Visual Co-production with foreign countries**

1.5.2 Incentive for shooting foreign films in India, covered under "**Reimbursement Guidelines for Shooting Foreign Films in India**"

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- 1.6 The **“Reimbursement”** is an incentive provided by the Ministry of I&B, Government of India, reimbursing up to 30% of Qualifying Co-Production Expenditure (**“QCE”**, please see section 4).
- 1.7 **The maximum Reimbursement available per Projects INR2,00,00,000 (USD 2,60,000).**
- 1.8 The reimbursement shall be subject to availability of fund allocated for the given Financial Year (April – March)
  2. This document sets out the guidelines for Reimbursement applicants (**“Applicants”**) referring to Indian Co-producers and outlines the requirements for the application process. These guidelines may be subject to change/ revision and their interpretation and application with the approval of Ministry of Information & Broadcasting.
3. ELIGIBILITY
  - 2.1 **The project must have been granted the “Co-Production” status by the Ministry of I&B and the participating country(ies), under one of the India’s official bi-lateral co-production treaties on Audio-Visual Co-production.**
  - 2.2 **Projects that have been granted official Co-production Status after 01.04.2022 are eligible for the incentive.**
  - 2.3 **For Documentaries (only), a prior permit to film in India needs to be obtained from the Ministry of External Affairs.**

### APPLICANT PROFILE

- 2.4 An Applicant must be an **“Indian Co-producer”** i.e., an individual, partnership, body corporate or unincorporated association, established and/ or incorporated in India, who is a co-producer of a project.
- 2.5 The maximum number of co-producers allowed for a Project shall be governed by the treaty(ies).
- 2.6 No co-producer may be linked to another co-producer by common ownership, management, or control (except to the extent that such link is inherent in the making of the co-production).
- 2.7 Each co-producer shall continue to play an active role throughout the period of co-production (including production planning and decision-making) and assume responsibility for carrying through practical and financial arrangements for the project.
- 2.8 The co-producers must have entered into a binding agreement, the terms of which reflect their respective roles, responsibilities, financial commitments, and liabilities, in accordance with the respective co-production treaty for the co-production.
- 2.9 Should there be more than one Indian Co-Producers, co-production should identify an **“Indian Delegate Co-Producer”** who will handle the operations and financing among the other co-production activities and will be eligible to claim the Reimbursement.

- 2.10 Companies that appear to exist as little more than in name only (“letterbox” companies) will not qualify as co-producer.

### PRODUCTION FORMATS

- 2.11 Scope of eligible production formats (“Projects”) will be governed as per the binding treaty(ies).

## 3.APPLICATION AND DISBURSAL PROCESS

- 3.1 An online application form for the interim approval, 1<sup>st</sup> and Final disbursements are available on the FFO website; document/ format link here
- 3.2 The Indian co-producer can (as an option) claim the 1<sup>st</sup> reimbursements, maximum up to 50% of the eligible reimbursement (as determined during the interim approval), post commencement of principal photography in India. Reimbursement shall be divided among the Producer as per their respective share of the financial contribution for the project. It will be the responsibility of the Indian Co-producer to disburse the reimbursement amongst the other co-producers proportionally as per their respective share of the financial contribution for the project.
- 3.3 The final claim can be made upon completion, where the Indian co-producer can claim the entire eligible amount or balance(in case where he has received the 1<sup>st</sup> disbursement) amounts for reimbursement
- 3.4 The process is as follows:

### INTERIM DISBURSAL

1. Once a project has been granted a Co-Production status by the Ministry of I&B or approved by Ministry of External Affairs in case of Documentaries, the Indian co-producer must submit the online application with the supporting documents (Refer to Annexure). **The application must be submitted at least 4 weeks before the start of principal photography**
2. The applicant will be assigned with a unique application number to track further progress and updates.
3. Any documents/ information pending shall be intimated to the applicant by the FFO within 20 working days of receipt of application.
4. Applicant must submit additionally requested documents within 15 working days of intimation.
5. **Application shall be evaluated by a Special Incentive Evaluation Committee (“SIEC”) only after all prescribed documents and additional documents, as requested by FFO, have been submitted.**
6. FFO shall process the application within 20 business days from the date of receipt of complete documentation from the applicant.

7. On successful evaluation of the application, FFO will issue an Interim Approval Certificate which will be valid for a period of 12 months, for the purpose of Final Claim of Incentive.

### 1<sup>ST</sup> DISBURSEMENT AND THEREAFTER FINAL DISBURSEMENT

1. Post commencement of Principle Photography, the applicant can submit the online claim application, for a disbursement of an amount up to 50% of the eligible reimbursement.
2. A final reimbursement claim can only be made once the project is complete.
3. For both, the 1<sup>st</sup> and Final Disbursement claim, the Indian co-producer must submit an application along with the supporting documents (Refer to Annexure) within 90 days of project completion.
4. Any documents/ information pending shall be intimated to the applicant by the FFO within 20 working days of receipt of application.
5. Applicant must submit additionally requested documents within 15 working days of intimation.
6. Application shall be evaluated by a Special Incentive Evaluation Committee ("SIEC") only after all prescribed documents and additional documents, as requested by FFO, have been submitted. The decision of the Committee is final and shall not be challenged in any Court of Law.
7. FFO shall process the application within 20 working days from the date of receipt of complete documentation from the applicant.
8. **ACTUAL DISBURSEMENT:**
  - I. For the 1<sup>st</sup> claim of Disbursement, an amount up to a maximum of 50% of eligibility shall be disbursed upon filing of an approval
  - II. Balance and Final claim on completion of project, with the NOC being mandatory for all projects which are flagged for screening by the SEO and for Documentaries.

## 1. QUALIFYING CO-PRODUCTION EXPENDITURE ("QCE")

- 4 QCE includes expenditure on goods, services, facilities, and cost of personnel from India, directly contributing to the making of the co-production. For calculation purposes the QCE amount shall be exclusive of GST.
  - 4.1 QCE Inclusions
    - Expenditure on filmmaking facilities and locations in India.
    - Expenditure on filmmaking goods sourced in India.
    - Accommodation expenses, including reasonable per diem expenses, should be included in the

spend of the country where the goods/services are provided.

- Expenditure on personnel, who are residents of India (whether working in India or elsewhere)

## QCE EXCLUSIONS

4.2 QCE may not include:

- Acquisition/licensing costs (e.g., rights to pre-existing material)
- Business overheads
- Marketing costs
- Trade association fees
- Delivery cost
- Financing cost
- Insurance and completion bond
- Contingent payments
- Fees reinvested into the same project
- International and interstate/ domestic travel (air and non-Air), and local conveyance

## 2. SUBMISSION OF MATERIALS

- a. FFO will have the right to publicize the filming of the Applicants co-production in India and the Applicant will assist FFO to facilitate the promotion as requested.
- b. FFO may request that the Applicant and/or co-producer provide sample footage, rushes shot in India or publicity material for NFDC's or FFO's marketing purposes, which MUST be submitted.

## 3. GENERAL

- 6.1 The Ministry of Information & Broadcasting and NFDC/FFO must be given a credit in the end credits or end crawl in all cases on all prints of the film (or other content as applicable), in the form of 'Filmed in India' credit and FFO logo as provided by FFO in a reasonably respectable place. In case of Documentaries due and similar credit has to be given to the Ministry of External Affairs
- 6.2 FFO shall have no obligation to pay the Reimbursement to anyone other than the party then entitled to the Reimbursement as set forth in the forms of Assignment and Acknowledgement delivered most recently to FFO, notwithstanding any contrary notice or other information delivered to FFO by Producer, assignee or any third party.

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- 6.3 Applicants must ensure at all times during the production that it, the co-producer(s), and all their employees comply with all applicable laws, statutes, regulations, and ministerial decisions in force from time to time, including, but not limited to, the Indian Labor laws relating to working conditions and minimum wage of employees.
- 6.4 Applicants are encouraged to use digital modes of payments and retain digitally printed receipts to facilitate a smooth hassle-free process.
- 6.5 FFO will use all reasonable efforts to maintain the confidentiality of the information provided by the Applicant but may be required to share certain information supplied by the Applicant with The Ministry of I&B, public authorities, regulators, and independent consultants.
- 6.6 FFO shall be entitled at any time, through a qualified accountant to inspect and audit all books of account and records maintained by the Applicant and/or the co-producer in respect of all data relevant to the Reimbursement and to contact the Applicant's auditors directly where required.
- 6.7 In the event FFO reasonably suspects (in its sole and absolute discretion) the presence of dishonesty, fraud or willful negligence or misconduct on behalf of the Co-producer and/or Applicant, it may cancel, reject, withdraw, withhold or revoke (in whole or in part) the Reimbursement with the approval of Ministry of Information & Broadcasting. Further, FFO with the approval of Ministry of Information & Broadcasting may, in its sole and absolute discretion impose a permanent restriction on the Applicant and/or Producer from applying for and/or receiving a Reimbursement (whether directly or indirectly or in whole or in part) in the future. FFO reserves the right to report any suspected fraudulent submissions to the appropriate Law enforcement agencies.
- 6.8 In case of any queries/concerns, the applicant may reach out to FFO on +91-11-24367338 or through email at [ffo@nfdcindia.com](mailto:ffo@nfdcindia.com). These guidelines may be downloaded from the [FFO website](#).

## Annexure 1

### Signees of the audio-visual co-production treaty

- Bangladesh
- Brazil
- Canada
- China
- France
- Germany
- Italy
- Israel
- Korea
- New Zealand
- Poland
- Spain
- UK & Northern Ireland
- Russia
- Portugal

Details to all the international treaties can be found [here](https://www.ffc.gov.in/en/co-productions/international-treaties)  
<https://www.ffc.gov.in/en/co-productions/international-treaties>

## Annexure 2

### Document Checklist

#### Interim Disbursal

1. Duly filled application form.
2. Permit for filming in India as issued by the Ministry of I&B or Ministry of External Affairs (in case of documentaries)
3. Document on grant of official co-production status from Ministry of I&B
4. Document on grant of official co-production status all partner country(ies)
5. Indian Co-producer must produce their Registration certificate/ company CIN<sup>1</sup> and a copy of their self-attested PAN Card
6. Total itemized QCE (estimate) budget for the production expenses in India
7. The applicant is required to make a statutory declaration as to the truth of the particulars given in the application.

#### 1<sup>st</sup> Disbursal

1. Duly filled application form.
2. Interim approval certificate
3. Self-attested statement by the applicant authenticating that 50% of the total budget has been spent.
4. Bank Letter with account information certified by bank, to which the refunds shall be transferred
5. Registration details of the Auditor appointed by the applicant to audit the production expenditure incurred in India.
6. Certificate of the Auditor i.e., an item wise audited statement, certifying the Production expenses incurred by the Applicant in the Republic of India.
7. Bank/ card statement from which payouts are made for production in India.

#### Final Disbursal

1. Duly filled application form.
2. Completion certificate of the film.



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3. Interim Approval Certificate & 1<sup>st</sup> Disbursal Approval (if availed)
4. Registration details of the Auditor appointed by the applicant to audit the production expenditure incurred in India.
5. Certificate of the Auditor i.e., an item wise audited statement, certifying the Production expenses incurred by the Applicant in the Republic of India.
6. Bank statement from which payouts are made for production in India
7. Expenditure which are covered under Goods and Services Tax Act, 2017 (GST) should be presented with GST compliant invoices and information
8. The Feedback Form of the FFO duly filled in by the Indian Co-producer i.e., the Applicant
9. The applicant is required to make a statutory declaration as to the truth of the particulars given in the application and that the production has been carried out in accordance with the clauses given in the Official Co-Production Agreement between India and specific partner country(ies).
10. Where applicable, the following must accompany the application:
  - Liaison Officers Report, in cases where the Script Evaluation Officer / Government of India / State Government assigns an LO to the production team
  - No Objection certificate (NOC) from the concerned officer/ Mission, for all Documentaries and those projects where SEO recommends the film be screened to a representative of the Government of India, in India or an Indian Mission abroad.
11. Self-Declaration form stating no harm/ negative impact done on the environment and/or to natural resources.

<sup>1</sup> Documents to be notarized by relevant Government Agency or Indian Embassy or Consulate. All documents must be translated in English and notarized along with documents in local Languages.

### Definitions

- Above the line: It covers individuals who guide and influence the creative direction of the narrative in a film before shooting starts. E.g., Executive Producer, Producer, Director, Screenwriter, Cast etc.
- Applicant: An individual or a company who makes a formal application for the incentive. In this context, it may refer to a Line Producer or a Line Production Services Company or an Executive/ Co-Producer.
- Below the line: It covers team members that cross over from principal photography through post-production. E.g., Film Editor, Editorial Team, 1st Assistant Director, Art Team, Stunt Team, Composer, Hair Stylist, VFX Team, Make Up, Camera Team, Sound Team, Production Assistants
- Budget: Refers to the appropriated funds (INR) allotted to FFO every Financial Year (April – March), to fund reimbursements under the filming and co-production incentives.
- Documentary: A motion picture that shapes and interprets factual material for purposes of education or entertainment.
- Financial year (FY): In India, the government's financial year runs from 1 April to 31 March the following year.
- GoI Representative - An Officer of any official Ministry or Department of the Government of India (Ex: Ministry of Information and Broadcasting) and Office of an Indian Embassy / Mission located abroad.
- International Production Companies (“International Producer”): A production services company, established in another country, which must own the copyright in the accredited production throughout the period during which the production is produced in India.
- Liaison Officer (LO): A Government Officer who is specifically appointed subsequent to the recommendation made by the Script Evaluation Officer (SEO). His/ Her job is to ensure that the recommendations made by the SEO are full adhered to.
- Line Producer (LP): An individual or a company responsible for managing the budget and overseeing all operations and logistics for a film from pre-production to post-production. They must be based in India and be in possession of a valid Permanent Account Number (PAN) as per the Indian Income Tax Act, 1961 and a valid Goods and Services Tax Registration Certificate under the Central and State Goods and Services Tax Act 2017 (CGST and SGST).
- Line Production Service Company (LPSC): A production services company based in India, in possession of a valid Permanent Account Number (PAN) as per the Indian Income Tax Act, 1961 and a valid Goods and Services Tax Registration Certificate under the Central and State Goods and Services Tax Act 2017 (CGST and SGST).
- Ministry of Information and Broadcasting: Ministerial level agency of the Government of India responsible for the formulation and administration of rules, regulations, and laws in the areas of information, broadcasting, the press, and the Cinema of India.
- Ministry of External Affairs: The Ministry of External Affairs of India is the government agency

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responsible for maintaining the foreign relations of India.

- On the line: It covers team members that bridge the gap between preproduction and principal photography. E.g., Line Producer, Director of Photography, Casting Director, Location Manager, Production Designer, Art Director etc.
- Principal Photography: Also referred to as shooting, is the process of recording all the footage that will be used in a movie. Everything that may appear on screen or be heard is filmed. This may include scenes with actors, special effects, and scenery shots depending on what type of movie it is.
- Project: For the purpose of this document, a Project may refer to a Foreign/International Feature Films (including Animations), Reality TV & Web Shows/Series, Commercial TV Shows/Series, Web Shows/Series and Documentaries. A single season per series is considered as an individual project.
- Project completion: When the project is regarded as ready for presentation to the general public (actual release not essential) i.e., ready to be delivered to a distributor or a broadcaster.
- Reimbursement: An incentive provided by NFDC which involves a repayment of expense for made for the purpose of filmmaking.
- Script Evaluation Officer (SEO): The Script Evaluation Officer (SEO) - An expert from a panel constituted by the Ministry who will evaluate the script with a view to ensure that the film has nothing objectionable from the point of view of presentation of a correct and balanced perspective on the topic covered.
- **Special Incentive Evaluation Committee (SIEC): A committee setup to evaluate applications, both at the interim, intermediary, and final approval stages. The committee shall constitute of:**
  - **Permanent Members (for their term in office)**
    - **Managing Director, NFDC**
    - **Head, FFO**
    - **Director Finance, NFDC**
  - **Engaged on assignment basis**
    - **A Financial expert (preferably a Chartered Accountant, having the experience of account and audit of a film with a view to determine production cost estimates and shall be an advisor on contractual/outsourced basis)**
    - **Industry expert**
    - **Representative from a panel of LPs/LPSCs enlisted with FFO**
- **Treaty:** An agreement made by negotiations between two parties, established in writing and signed by representatives of the parties.