



New York State Empire State Film Production Credit
&
New York City Made In New York Film Production Tax Credit

Instructions for Initial Application

Contents

Eligibility Requirements	2
Application Information	3
Form A Instructions	5
Section One: Applicant/Company Information	5
Section Two: Production Information	6
Section Three: Cost Summary	8
Form B: Schedule of Qualified Expenditures.....	8
Form C: Budget Cost Qualifier	9
Section Four: Facility & Location Information	11
Section Five: New York Employment Information	12
Section Six: End Credits	14
Section Seven: Required Attachments	14
Section Eight: Signature	14
Foiled Disclosure	14
Next Steps	15

Eligibility Requirements

This application can be used for either or both the Empire State Film Production Credit (the State program) and the New York City Made In New York Film Production Tax Credit (the City program). However, there are differences between the two programs in regard to the definition of Qualified production costs.

The two programs are similar and have similar qualifying thresholds. The difference is that for the City program, the measurement of thresholds—whether in dollars, for the facility threshold, or days, for the Location/Other threshold—is based upon costs incurred or shooting days within the five boroughs of New York City; while for the State program, the threshold is based upon costs incurred or shooting days anywhere within New York State, including the City. New York City consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island and Manhattan.

Days and costs which qualify for the New York City thresholds will also qualify for the New York State program. However, work or costs incurred in New York State but outside the City are eligible only for the State 10% credit.

Facility Threshold Requirements - In order to participate in any part of either program, a production must first meet this facility threshold.

For a feature film or television project to be eligible for the New York State and/or New York City credits, the production must:

- 1) shoot on a set built expressly for the production, on a stage located in a qualified production facility in New York State and/or New York City; AND
- 2) at least 75% of the total of all expenses related to work (excluding post-production) done at all facilities anywhere utilized by the production must be related to work done at the qualified facility.

Productions which meet this 75% threshold will qualify for the respective tax credits for all costs related to work done at the facility.

NOTE: To be eligible for the State credit the qualified facility must be in New York State. To be eligible for *both* the State and City credits, the qualified facility must be in New York City.

Location/Other Threshold Requirements

For location work, post-production, and any costs of other work done in New York outside the facility to be eligible, either:

- 1) If less than \$3,000,000 is spent on facility-related work, then at least 75% of the location shoot days must be in New York State and/or New York City.
 - a. To be eligible for the State credit, 75% of location days can be either in New York City or outside the City within New York State.
 - b. To be eligible for the City credit, 75% of location days must be in New York City.
- 2) If \$3,000,000 or more is spent on facility-related work, then there is no required percentage of location shoot days that must be in New York State and/or New York City.

It is possible to meet the facility requirement of both programs, but not one or both location thresholds. For example, a film may use a qualified stage within New York City, but decide to shoot 50% of its location days in the City and 50% outside the City *but in New York State*. If this film spends less than \$3 million at the stage in the City, its stage costs would be eligible for both the State 10% and City 5% credit; however, its location costs or other non-stage costs would only be eligible for the 10% State credit, because it has not met the location threshold for the City program. Costs incurred in the City would still be eligible for the State credit since all days/costs in the City are within the State.

If this film spends more than \$3 million at the stage in the City, it would not need to meet the location threshold, and any location days or other qualified non-stage costs in the City would be eligible for both the State 10% and City 5% credit; however, its location days or other qualified expenses outside the city but in New York State would only be eligible for the 10% State credit.

If this film instead shoots 50% of its location days in the City and 50% outside the State altogether, then if this film spends less than \$3 million at the stage, its stage costs would be eligible for the credit, however, none of its location or other non-stage costs would be eligible for either program. If this film spends more than \$3 million at the stage, then the film would not need to meet the location threshold, and the costs associated with any location days or other work such as post-production that occurs in the City would be eligible for both programs.

Application Information

The initial application for the New York State “Empire State Film Production Credit” and for the New York City “Made In New York Film Production Tax Credit” may be used for either or both programs. A complete Initial Application consists of the following documents:

FORM A – Initial Application for **New York State** *and/or* **New York City** with accompanying instructions. This application can be used to apply for the State *and/or* City credits. An original copy of this application must be submitted separately to both offices.

FORM C – Budget Cost Qualifier Detail Page and Summary Page. This form has two parts; the Detail and Summary pages must be submitted with the application as both a hard copy and as an Excel spreadsheet in electronic form. The Budget Cost Qualifier is a summary of projected budget costs, separated into columns identifying the costs as either qualified or not qualified to count towards the tax credit or the threshold requirements. The Detail Page is the worksheet to be filled out. The Summary Page is automatically generated and does not require inputs. The completed FORM C provides the supporting detail for information requested on FORM A.

Project Budget – The budget upon which the Application is based is a mandatory part of the application.

Shooting Schedule (Optional) – If the shooting schedule is not available when the application is submitted, please submit one when it is available.

FOIL Letter – To protect confidentiality, you may submit a letter along with the application requesting that application information be withheld from disclosure. See Section Nine of these instructions for FOIL disclosure information.

These documents constitute the Initial application which leads to conditional approval of the project for the **New York State** and/or **New York City** film production tax credit. Receipt of a certificate of conditional eligibility does not guarantee receipt of the credit, which is dependent on the final application submission meeting the requirements of the credit. Please see the last page of this application for more information on “Next Steps”.

This application and its accompanying instructions are consistent with the New York City and New York State regulations governing the administration of the tax incentive. However, should anything in the form or instructions be inconsistent with the regulations, the regulations will control.

When to apply:

Applications must be submitted at least five business days prior to the start of principal photography but not more than 180 days (90 days for New York City applications) prior to the start of principal and ongoing photography. Applications submitted more than 180 days (90 days for New York City) prior to the scheduled start of principal photography will not be accepted.

Where to apply:

Please note that if you are applying for both the New York State and New York City programs, you need to submit a separate copy of the application with original signature pages to each office:

Please submit the completed FORM A, FORM C, Budget, and Shooting schedule (when available) in hardcopy. Form C must also be submitted in electronic format as an Excel document. Please submit to:

THE NEW YORK STATE GOVERNOR’S OFFICE FOR
MOTION PICTURE & TELEVISION DEVELOPMENT
633 Third Avenue, 33rd Floor
New York, NY 10017
(212) 803.2330
www.nylovesfilm.com

THE CITY OF NEW YORK MAYOR’S OFFICE
OF FILM, THEATRE AND BROADCASTING
1697 Broadway, 6th Floor
New York, NY 10019
(212) 489.6710
www.nyc.gov/film

FORM A INSTRUCTIONS

SECTION ONE: Applicant/Company Information

1-1 Check the appropriate box indicating the program(s) you are applying for.

1-2 Film or Program Title:

The name of the qualified feature film or television program being produced. If the production does not yet have a name, use the working title. You must notify the State and/or City offices in writing of any name changes.

1-3 Applicant:

The applicant is the corporation, partnership, limited partnership, or other entity or individual that is principally engaged in the production of the film or television program and that controls the film or television program during pre-production, production and post-production. The applicant is the entity that, upon final approval, will receive the tax credit certificate.

The applicant must be the entity that incurs and pays direct expenditures related to the physical production process and which is signatory to contracts with a payroll company, facility operators, vendors, etc. during the production.

New York City Applicants: The New York City Made in NY Film Production Tax Credit is only available to the applicant and only if the applicant is subject to the New York City General Corporation Tax or New York City Unincorporated Business Tax. The Credit is not assignable or transferable and may not be claimed by partners, members or shareholders in the applicant.

PLEASE CONSULT YOUR TAX ADVISOR TO DETERMINE THE TAX IMPLICATIONS FOR THE APPLICANT AND ANY PARTNERS, MEMBERS OR SHAREHOLDERS IN THE APPLICANT PRIOR TO FILLING OUT THIS FORM.

Indicate the Applicant's name, Employer Identification Number (EIN) or Social Security Number (SSN) and business address.

PRIVACY ACT NOTIFICATION: Individuals must provide their social security numbers pursuant to Tax Law § 658(b) or New York City Administrative Code § 11-102.1 and 42 USCS § 405(c)(2)(C)(i). Social security numbers will be used in administering the New York State and New York City film production tax credit programs as well as to establish and maintain a uniform system for identifying taxpayers entitled to claim the credits on their State or City tax returns, and for any other lawful purpose.

LLC, Partnership or S Corp: In addition, if the Applicant is an LLC, a partnership or an S-Corporation, attach additional sheet(s) listing the names, addresses and EINs or SSNs of all members, partners or shareholders and their respective percentages

NOTE: New York City does not recognize a Federal or State "S" election. S Corporations are taxed in New York City as if they were C Corporations.

1-4 Applicant's Primary Contact:

The name, address, telephone number and email address of the designated person *who signs this application* on behalf of the Applicant, and who will be primarily responsible for the supervision of the

preparation of this and all future communication or correspondence with the NY State and/or NY City Offices on behalf of the Applicant in regards to this application.

The Applicant's Primary Contact should be a person of authority - i.e., a corporate officer, general partner, managing member, or sole proprietor – of the applicant that is seeking the tax credit(s), and who will be in this position of authority through the completion of the film and submission of the Final Application. In the case of a corporation, this would be an officer of the corporation. This person should have authority to provide such additional documents and information about the Applicant and the qualified film as may be required by the NY State or NY City Office(s) through the completion of the Final Application.

1-5 Applicant's Secondary Contact:

The name, address, telephone number and email address of a person who works closely with the Applicant's Primary Contact and who can provide additional documents and information about the Applicant and the qualified film as may be required by the Office(s) through the completion of the Final Application.

SECTION TWO: Production Information

2-1 Type of Production: Indicate as follows:

Feature Film means a production intended for commercial distribution to a motion picture theater or directly to the home video or DVD market that has a running time of at least seventy-five (75) minutes in length.

Television Pilot means the initial episode produced for a proposed television series. This category will include shorter formats which are known as "television presentation," a production of at least fifteen (15) minutes in length, produced for the purposes of selling a proposed television series, but not intended for broadcast.

Television Series, which may also be known as "episodic television series," means a regularly occurring production intended in its initial run for weekly broadcast on television, whether free or via subscription-based service, that has a running time of at least thirty (30) minutes in length (inclusive of commercial advertisement and interstitial programming).

NOTE: Television Series/episodic programs should apply per production season, i.e., one application should be filled out for the total of all episodes being produced for that show's broadcast season. The production season will be considered complete when post production on the final episode of the season is completed and the entire season is ready for delivery. Indicate the number of episodes included in this application.

Television Film, which may also be known as "movie-of-the-week," "mow," "made for television movie," or "mini-series," means a production intended for broadcast on television, whether free or via a subscription-based service, that has a running time of at least ninety (90) minutes in length (inclusive of commercial advertisement and interstitial programming).

2-2 Presentation Credits:

List here additional production company partners, financial partners, or other companies participating in the production of the qualified film that are anticipated to appear in the opening or closing credits as producers or presenters of the completed production.

2-3 Production Schedule:

Indicate the key dates for each major phase of the production process as accurately as possible.

NOTE: While it is understood that start dates may change, the Applicant **MUST** be scheduled to begin principal and ongoing photography on the qualified film within 180 days (90 days for New York City) after submitting this application. Applications submitted more than 180 days prior to the start of principal photography will not be accepted (90 days prior for New York City).

- a. Prep or “pre-production” means the process of preparation for actual physical production and is considered to begin with the establishment of a dedicated production office, the hiring of key crew members such as a Unit Production Manager and/or Line Producer, and includes, but is not limited to, activities such as location scouting, hiring of crew, construction of sets, etc. Pre-production does **NOT** include the process of development.
- b. Principal Photography Start Date means the first date of principal and ongoing filming of major and significant portions of a qualified film that involves the main lead actors. “Ongoing” means that once the process of principal photography begins it continues with no significant breaks or delays in an industry standard work schedule for the majority of the total days scheduled for principal photography. Principal Photography End Date means the date principal and ongoing photography that involves the main lead actors is concluded

NOTE: Re: Television Series: It is understood that under certain industry practices episodic television production seasons can include planned, reasonable interruptions of “ongoing” production. If the project being applied for in this Initial Application is a production season of an episodic television program series, and such an interruption is anticipated, notify the NY State and/or NY City Office(s).

- c. Additional Photography/Reshoots Start Date means the first date after the Principal Photography End Date on which either 2nd Unit or other additional photography which does not include the main actors begins, or when the lead actors are reconvened for 'reshoots' or additional scenes that were not a part of the initial phase of principal and ongoing photography described in 2-3-b.
- d. Post Production End Date means the date post production on the qualified film has been finished and the project is ready for delivery to a distributor. Post production can continue beyond a festival screening. Post production does **NOT** include activities related to marketing, promotion or distribution. In the case of a film with a planned theatrical release or a television project with a broadcast or cable release, post production does **NOT** include any activity specifically related to DVD or home video distribution,. In the case of a Television Series, the production season will be considered complete when post production on the final episode of the season is completed and the entire season is ready for delivery.
- e. Projected Release/Air Date. If there is no distribution agreement in place, and no tentative projected release or air date, indicate the date the production will be ready for release or broadcast.

2-4 Production Contacts:

Provide the name, address, telephone number, and email address for the key personnel listed in this section. The Producer or Line Producer/Unit Production Manager will be the primary production-related contacts with the Office through at least the pre -production and production process. They will be directly involved with the day-to-day operations of the production and have access to current budgets, schedules, and similar documents that will be updated as the production progresses.

2-5 Additional Key Personnel: Indicate key creative and administrative personnel.

2-6 Distributor : (List all—for TV, list network, cable channel, etc.)

If there are any contractual distribution agreements in place, list all distributors for all domestic and foreign markets and territories, beginning with US domestic theatrical, broadcast, cable and/or satellite television and home video.

SECTION THREE: Cost Summary

The purpose of this section is to help you calculate which of the costs your production will incur can be considered “qualified production costs” for the Empire State Film Production Credit and/or the Made In NY production Tax Credit program(s).

In order to complete this section, you will need to refer to two additional forms: **Form B** (Schedule of Qualified Expenditures) and **Form C** (Budget Cost Qualifier). See page 9 of these instructions for more information on completing Form C.

Form B – Schedule of Qualified Expenditures

Form B is an industry standard detailed budget form that indicates, line by line, whether a particular budget line item is or is not considered a Qualified production cost eligible for the calculation of thresholds and for the tax credit. You will need to refer to this document to determine if a particular cost can be considered a Qualified production cost when filling out the Budget Cost Qualifier (Form C).

Qualified production costs generally include most ‘below the line’ expenditures that are incurred in New York State, or, for applicants seeking the New York City tax credit, within the five boroughs of New York City, such as costs for technical and crew production, use of film production facilities, props, makeup, wardrobe, non speaking background extras, film processing, camera, sound recording, set construction, lighting, shooting, editing and meals.

Certain types of costs have been specifically excluded from eligibility to be considered Qualified production costs. Qualified production costs shall NOT include (i) costs for a story, script or scenario to be used for a qualified film and (ii) wages or salaries or other compensation for writers, directors, including music directors, producers, actors and performers (other than background actors with no scripted lines).

Certain other commonly encountered production costs may require a further qualifying step to determine if or when they can be considered Qualified production costs. Please note the comments provided on the Schedule of Qualified Expenditures (Form B) alongside certain line items, or call the NY State or NY City film offices for further clarification.

General Travel Costs are costs related to travel into or out of **New York State, including New York City**, from outside the State, such as airfare, hotels, travel related per diem, extra meals, etc. paid to individuals who are brought into New York State to work on the qualified film. General Travel costs are NOT qualified costs. For example, if the production brings a technician from out of state to work on the qualified film, the costs associated with that individual's plane tickets traveling to/from New York State, hotel/ housing while in New York State, travel related per diems, etc. are NOT qualified. However, all normal costs associated with the individual's work on the qualified film while in New York State, including New York City, as part of the New York based crew/production, including his/her salary, transportation to and from the set, regular production sponsored meals, etc., are eligible as long as they are incurred in New York State and, for applicants to the New York City program, within the five boroughs of New York City.

New York State Distant Location Travel: Applicants to the Empire State Film Production Credit ONLY can apply for the credit on costs incurred for intrastate travel --i.e., travel between two points within NY State--to a location in NY State that is contractually considered outside the various unions' 'report to zone' for either location or facility shooting on the qualified film. Costs for NYS Distant Location Travel, including transportation to the distant location from a point of origin within NY State, hotels, meals and travel-related per diems, are

Qualified for all qualified individuals working on the film. HOWEVER, the maximum dollar amount allowed to be considered Qualified for each type of travel-related expense (transportation, hotel, meals, per diem, etc.) for any individual member of the production may NOT EXCEED the amount contractually set for the IATSE NY local union crew members. For example, if an actor or technician is flown from NY City for two weeks of location shooting in Buffalo, the amount of the costs of that actor's airfare, hotel room, meals, etc., which can be claimed as a Qualified expense may not exceed the cost allotted by contract for an individual IATSE Local 52 grip.

For the purposes of the **New York City** Made In NY Film Production Tax Credit program, distant location travel costs that are otherwise eligible for the New York State program are not eligible for the New York City program, as these costs are incurred outside New York City.

Form C – Budget Cost Qualifier

Form C is designed to assist you in determining which costs are eligible to be applied to which program; note that all costs that qualify for the City program and 5% tax credit will automatically be included as qualified in the calculation of the State program thresholds and 10% tax credit.

For applicants to the Empire State Film Production Credit: “Qualified production costs” means production costs ONLY to the extent such costs are attributable to the use of tangible property or the performance of services within **New York State, including New York City**, directly and predominantly in the production (including pre-production and post production) of a qualified film. For the purpose of this definition, “attributable to the use of tangible property or the performance of services within New York State” shall only include costs and their pro rata portions which are incurred directly in New York State. NO cost or salary which is incurred OUTSIDE New York State can be considered Qualified, and goods and services purchased or contracted outside New York State can be Qualified ONLY to the degree and for the time they are specifically used or employed in New York State.

For applicants to the New York City Made In New York Film Production Tax Credit: “Qualified production costs” means production costs ONLY to the extent such costs are attributable to the use of tangible property or the performance of services within **New York City**, directly and predominantly in the production (including pre-production and post production) of a qualified film. For the purpose of this definition, “attributable to the use of tangible property or the performance of services within New York City” shall only include costs and their pro rata portions which are incurred directly in New York City. NO cost or salary which is incurred OUTSIDE New York City can be considered Qualified, and goods and services purchased or contracted outside New York City can be Qualified ONLY to the degree and for the time they are specifically used or employed in New York City. **New York City** consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island, and Manhattan.

For applicants to both the State and City programs: Production costs incurred for tangible property or the performance of services used or employed in New York State but outside New York City are NOT considered qualified costs for the New York City film production tax credit and cannot be applied to either the program’s threshold requirements or to the 5% city tax credit. In order to qualify for both parts (QPF and Location) of both programs, a production must meet the threshold requirements for the New York City Made In New York tax credit program.

Form C has two parts: The Detail Page, which you must fill out, and the Summary Page, which is automatically generated from the Detail Page. Both parts must be submitted with the application.

Detail Page

The Detail Page is an industry standard two page budget summary or ‘top sheet’ which has been adapted to help you identify which costs within your specific budget qualify and can be applied to the New York State and City tax credit programs and to the threshold requirements for each program.

The Detail Page breaks costs into 3 general types of costs:

In New York City costs (i.e., only costs incurred within the five boroughs of New York City)

In New York State costs (i.e., costs incurred in New York State but OUTSIDE New York City)

Outside New York State costs (i.e., costs incurred OUTSIDE New York State)

These three general types of costs are then further divided into subcategories. Each subcategory is represented by a separate column on the form.

In New York Costs consists of five subcategories:

- a. **Qualified Facility NYC Costs** - means all Qualified costs related to all activity / days at a New York City Qualified Production Facility (QPF). *These costs qualify for both the NYC and NYS programs. *See below for more detail on what to include as Facility Costs.*
- b. **Qualified Facility NYS Costs** are costs related to activity at a qualified facility in New York State but OUTSIDE New York City. These costs qualify for the NYS program (but not the NYC program). Do not double count or include NYC costs in this column. **See below for more detail on what to include as Facility Costs*
- c. **Location/Other NYC costs** - means all Qualified costs incurred anywhere within New York City OTHER THAN at a Qualified production facility. Include location and other costs. *Again, these costs qualify for both the NYC and NYS programs.*
- d. **Location/Other NYS costs** - means all Qualified location and other costs incurred in New York State but OUTSIDE New York City. These costs qualify for the NYS program (but not the NYC program). Do not double count or include NYC costs in this column.
- e. **NON Qualified Costs in New York** – means those costs that are NOT eligible to qualify even though they are incurred within New York City or New York State, such as directors fees, stars' salaries, General Travel, etc.

Outside New York costs consist of two subcategories:

- f. **Facility** – means costs incurred at any production facility that is NOT in New York State
- g. **Location/Other** – means any location or other costs incurred outside of New York State but not at a production facility.

Because it is a summary or 'top sheet' of a more extensive budget form, Form C Detail Page will collapse or combine a number of lines from the more detailed Form B, Schedule of Qualified Expenditures, and/or your own detail budget, into larger departmental totals. Both Qualified and non-qualified costs will be subsumed within departments. For example, in the Above the Line department of Director & Staff, while the salary and some costs associated with the Director are NOT qualified, the salaries and expenses related to the Director's assistant, secretary, office needs, etc. are Qualified when they are incurred in New York (as noted above, NO salaries or costs are Qualified if they occur OUTSIDE New York). When filling out the form, simply place the appropriate totals in the appropriate columns.

NOTE: Cells containing subtotals and totals contain formulas that will automatically calculate the appropriate amounts. Do not attempt to adjust these amounts.

The Grand Total on Form C (cell K71) should match the Grand Total of your budget.

Facility Costs

In determining which costs should go into the facility columns (New York City or New York State Qualified Facility and the Outside New York Facility columns), you should include all costs related to work done at the facility, including production activity. Expenditures at the facility could include:

Facility lease/licensing cost: indicate cost of the License or Operating agreement with the facility. If the agreement includes bundled costs directly related to use of the stage itself (as opposed to set operations), such as power, HVAC, waste removal, etc, include here.

Construction and Wrap: During days spent in the processes of construction and wrap of sets at any facility, this would include all costs incurred for activity at the facility, including the cost of materials for set construction, salaries of crew working at the facility, meals at the facility, transportation related to the facility activity, services at the facility, etc.

Camera Roll Days: During the days filming is actually taking place at a facility, all costs related to production activity at the facility, including set operations, crew salaries, meals, camera and equipment rentals, transportation, etc.

Other Facility Expenditures: Indicate here all costs that are incurred at any facilities that do not relate specifically to days prepping, shooting or wrapping on a stage, including, for example, production office rental if at the facility (including office equipment and staff salaries), telephone charges, etc

NOTE: If you are shooting any days on a production facility anywhere within New York City or State that does not include a stage of at least 7,000 square feet and hence is considered a Non-Qualified production facility, those costs associated with the non-qualified facility must be included with the “Non-qualified Facility costs” in Section 3-2 of Form A and will count against the 75% Facility Threshold requirement. On Form C, these costs should be included in the Location/Other column. Contact the State and/or City Offices for assistance.

Summary Page

The Summary Page of Form C is automatically generated when you fill in the Detail Page. Do not attempt to alter or fill in cells on the Summary Page, simply print it out and use it to help you fill in the appropriate sections 3-1 and 3-2 of Form A.

3-1 Total Budget

Refer to Form C: Summary Page. Indicate the Total Budget and the Total Qualified Costs for New York State and for New York City only, as reported on Form C: Summary Page.

3-2 NY Facility Threshold calculation

Refer to Form C: Summary Page. Indicate the NYC Qualified Facility Costs, NYS Qualified Facility Costs, the Non Qualified Facility Costs and their percentages as reported on Form C: Summary Page. Total Facility Costs are automatically calculated when using the form’s fillable fields.

***Note:** facility costs shown on Form C: Summary Page do NOT include any post production costs. This is because the calculations for meeting the 75% **facility threshold requirement** of both the New York State and New York City programs specifically exclude post production costs. The Form C: Summary Page also does not isolate non-qualified facility costs within New York. These costs must be included with the “Non-qualified Facility costs” in Section 3-2 of Form A and will count against the 75% Facility Threshold requirement. Contact the State and/or City Offices for assistance.*

SECTION FOUR: Facility & Location Information

4-1-a Primary New York State or New York City Qualified Production Facility (QPF)

Name, address and contact of the primary New York State or New York City Qualified Production Facility. A “qualified film production facility” means a film production facility in New York State or City, which contains at least one sound stage having a minimum of seven thousand square feet of contiguous production space.

ATTENTION: If you fail to secure a signed license or operating agreement with a New York State or City Qualified Production Facility you will NOT qualify for the program and your final application will be denied regardless of the prior approval of this Initial Application.

4-1-b New York State or City Qualified Production Facility Schedule

License or Operating Agreement start/end date: If you do not have a signed license or operating agreement with a New York State or City QPF, indicate anticipated

Construction start/end dates: Indicate anticipated dates at QPF

Stage shooting start/end dates: The dates on which principal and ongoing photography at the New York State or City QPF begin and end.

Wrap start/end dates: Indicate anticipated wrap date at the QPF.

Additional New York State or New York City Qualified Production Facilities

If you are also shooting at additional New York State or City Qualified Production Facilities in addition to the one documented in 4-1 above, attach additional copies of section 4-1 with all the same information requested in sections 4-1 a and b above for each additional New York State or City QPF.

4-2 NON-Qualified Production Facility

If you are shooting at any non-qualified production facility, within or outside New York State, other than any of the New York State or City QPFs listed in 4-1 above, attach copies of section 4-1 with all the same information requested in sections 4-1-a and b, above for each additional facility.

NOTE: You MUST indicate ALL film production facilities at which you plan to work within or outside New York State. Failure to disclose work at all facilities will be grounds for disqualifying this application (e.g., if you work at any film production facility in New York State without a soundstage of 7000 sq ft or larger, you must include that facility).

4-3 Post Production Facility

List the name and address of all post-production facilities and include the post production supervisor, whether in or outside New York State or New York City.

4-4 Production Schedule--Shooting Days

1st (or Main) Unit:

Complete the table in the application indicating the number of days cameras roll for principal photography on location or at any film production facility or facilities, whether qualified or not, in New York City, New York State (outside the City) and outside New York State. The total number of principal photography shoot days are automatically calculated when using the form's fillable fields.

Calculate the percentage of the total number of location days that were shot in New York City. (i.e., divide NYC Location Days by Total Location Days to get percentage)

Calculate the percentage of the total number of location days that were shot in New York State including New York City. (i.e., Add NYC Location Days and NY State Location Days, then divide by Total Location Days to get percentage.)

2nd Unit

Complete the table in the application indicating the number of 2nd unit or other camera roll days in New York City, New York State (outside the City) and outside New York State. The total number of days for each are automatically calculated when using the form's fillable fields.

SECTION FIVE: New York Employment Information

All information should correlate with budget submitted as part of this Application.

- 5-1 **New York Production Employees** are ALL employees assigned to work on the film in New York City or New York State (regardless of their personal residence or point of origin).
New York City Resident Employees are employees whose home address for employment purposes is in the New York City.

New York Wages are ALL wages and compensation paid to all Production Employees (regardless of their personal residence or point of origin) for work performed in New York City or New York State.
New York City Resident Wages are wages paid to employees whose home address for employment purposes is in the city of New York.

NOTE: New York City consists of the five boroughs of Bronx, Queens, Brooklyn, Staten Island, and Manhattan.

To determine which NY Production Employees are Qualified, and which are considered to be Above or Below the Line, please refer to Schedule of Qualified Expenditures (Form B).

- a. **Above the Line – Qualified NY Production Employees ONLY**
Indicate the number of Above the Line New York Production Employees whose wages or salaries are Qualified and their total Qualified New York Wages and Compensation, whether resident or not.
- c. **Above the Line NON-Qualified – NY Production Employees who are NOT Qualified**
Indicate the number of Above the Line New York Production Employees who are NOT Qualified (Director, Producer, Talent, etc.) and their total New York Wages and Compensation, whether resident or not.
- e. **Production Employees (includes pre-production and production, but NOT post production) -** Indicate the number of Below the Line NY Production Employees engaged in the pre-production and production (shooting) process who are Qualified and their total Qualified New York Wages and Compensation. Do not include post-production employees here. If an employee is significantly employed in both production and post-production processes, include here, but not in post-production (i.e., do not double count Below the Line employees).
- f. **Background actors –** Indicate the number of background actors (extras), number of man days, and total wages. “Number of hires” are the actual number of background actors hired. “Number of man days” are the total number of days which all background actors are scheduled to work. For example, if you have 20 background actors each working for 10 days, there are 20 hires and 200 total man days.
- i. **Post-production Employees -** Indicate the number of Below the Line NY Production Employees engaged ONLY in the post- production process who are Qualified and their total Qualified NY Wages and Compensation.

NYC Resident Employees (lines b, d, g, h, & j) – For each of the categories immediately above, indicate the # of and wages of those employees who are **resident** in New York City. If you have information about resident employees this, please provide. Otherwise, please note that this information will be requested on the final application.

5-2 Total Production NY employees – This is the total of all employees assigned to work on the film in NY and their wages, including background actors. Include qualified and non-qualified, resident and non-resident employees/wages. This total should equal the sum of 5-1 a + c + e + f(# hires) + i above. These totals are automatically calculated when using the form’s fillable fields.

5-3 Diversity information (NYC Applicants only) – Include information here about the number of minority and women employees and their wages, and minority and women employees and wages as a % of total employees and wages for the requested categories. Include all minorities and all women in each appropriate column, even if the same employees are included in both minority and women columns. Include both qualified and non-qualified employees/wages. "Minority" refers to Blacks, Hispanics (non-European), Asians and Native Americans (American Indians, Eskimos, Aleuts).

If you have information about minority employees at this point, please provide. Include extras where indicated. Otherwise, please note that this information will be required on the final application.

SECTION SIX: End Credits

This section confirms that an applicant applying to the State and/or City program(s) agrees to acknowledge The New York State Governor's Office for Motion Picture & Television Development and/or The City of New York Mayor's Office for Film, Theatre and Broadcasting in the screen credits of the qualified film and in addition to include the "NY ♥ FILM" and/or "Made in NY" program logos.

SECTION SEVEN: Required Attachments

1. Attach the completed FORM C (Budget Cost Qualifier) in both a hard copy and electronic version. FORM C is a mandatory part of this Initial Application; it must be submitted with this application form in order for this application to be considered complete. Please include both the summary worksheet and the detail worksheet.
2. Attach a copy of your most current detailed budget. The most current version of your projected budget is a mandatory part of this Initial Application. It must be submitted with the initial application in order for the application to be considered complete. If the budget is not finalized, you will need to submit a copy of the final (sign-off) budget at the start of principal photography.
3. Attach a copy of the shooting schedule (if available). If the shooting schedule is not available when the application is submitted, please submit one when it is completed.

SECTION EIGHT: Signature

The individual who signs the application should be the person listed as the primary contact in Section 1-3 above.

The signature on the Initial Application must be provided by the corporate officer, general partner, managing member, or sole proprietor of the applicant seeking the New York State and the New York City production tax credits. Please indicate the signer's title and relationship to the applicant.

All other information requested by the application should be provided by the corporate officer, general partner, managing member, or sole proprietor of applicant seeking the film production tax credit.

The signer of the application attests, under penalties of perjury, that they have examined the application and accompanying documents and, to the best of their knowledge and belief, they are true, correct and complete.

FOIL Disclosure (New York City & New York State)

IMPORTANT— HOW TO PROTECT YOUR INFORMATION

Both the New York State Governor's Office for Motion Picture & Television Development, as part of the New York State Department of Economic Development, and the Mayor's Office of Film, Theatre and Broadcasting of the City of New York are subject to the New York State Freedom of Information Law ("FOIL"), which governs public access to the records of government agencies (see Public Officers Law sections 84 through 90).

You should be aware that applicants who submit information to either Office may request that the information be exempted from public disclosure, pursuant to section 87(2)(a-d) on the grounds that the information constitutes trade secrets, proprietary information or that the information, if disclosed, would cause substantial injury to the competitive position of the applicant. Such a request must be in made in writing separately to each Office, must specify the information to be withheld and must state the reasons for the requested exception.

Each Office separately reserves the right to determine whether the information submitted by the applicant will be withheld from disclosure. Each Office will notify the applicant of any requests for disclosure of applicants' information and notify the applicant as to whether the information will be disclosed.

Applicants may submit their request for non-disclosure of information with the application submitted to each Office.

Next Steps

What happens after you submit this Initial Application?

- 1. Interview** – You must call The New York State Governor’s Office of Motion Picture Development (NYS Office) at (212) 803-2330 to schedule an appointment to discuss the application. This meeting must be attended by a producer and either the line producer, unit production manager, production accountant or their designee, subject to approval of the NYC and NYS Offices.
- 2. Approval** – If the initial application is approved, the NYS Office and/or NYC Office shall issue a certificate of conditional eligibility to the authorized applicant. If the Initial application is disapproved, the NYS or NYC Office shall provide the applicant with a notice of disapproval which shall state the reasons therefore. Such disapproval shall be a rejection of the applicant’s initial application. An authorized applicant that disagrees with the disapproval or the amount of the credit may appeal pursuant to the process as set forth in the regulations of the New York City Made In New York Film Production Tax Credit Program and the New York State Empire State Film Production Tax Credit Program. For a copy of the regulations please visit the websites listed below. Receipt of the certificate of conditional eligibility does not guarantee availability of the credit or amount of the credit. Final eligibility and the amount of the credit will be determined after submission and review of the final application and the required supporting documentation.
- 3. Notification of Start of Principal and Ongoing Photography** – If the Initial Application is approved, the production will be required to notify both the NYS and NYC Offices, in writing, on the date principal and ongoing photography begins on the qualified film. At that time, the production is required to provide the NYS and NYC office with:
 - Written notice of start of principal and ongoing photography
 - Crew call sheet for the first day of production
 - Current “sign off” budget
 - Updated FORM C that ties to the current budget
 - Additional documents as may be requested by either Office.
 - If a shooting schedule has not yet been submitted, please include one at this time.
- 4. Final Application** – No more than 60 days (90 days for New York City) after the completion of post production on the qualified film, the production must submit a completed Final Application (FORMS D & E) and all the supporting documents, including but not limited to a final budget, separate general ledger runs for each qualified column in Form E, payroll report (Form F), cast & crew list, production shooting schedule, daily production reports and any other documents required to accompany that Final Application. Failure to provide the final information may result in a loss of the credit.

5. **Record Retention** - Each authorized and approved applicant must maintain records, in paper or electronic form, of any qualified production costs used to calculate its potential or actual benefit(s) under this program for a minimum of three years from the date of filing of the tax return on which the applicant claims the tax credit. The NYS Office and the NYC Office shall have the right to request such records upon reasonable notice.

Thank you for bringing your project to **New York** and for applying for the **New York City Made In New York** and the **New York State Empire State Film Break** tax incentive programs. If you have further questions, please contact us at:

THE NEW YORK STATE GOVERNOR'S OFFICE FOR
MOTION PICTURE & TELEVISION DEVELOPMENT
633 Third Avenue, 33rd Floor
New York, NY 10017
(212) 803.2330
www.nylovesfilm.com

ELIOT SPITZER, GOVERNOR

PAT FOYE, CHAIR, EMPIRE STATE DEVELOPMENT/DOWNSTATE
DAN GUNDERSEN, CHAIR, EMPIRE STATE DEVELOPMENT/UPSTATE

PAT SWINNEY KAUFMAN, EXECUTIVE DIRECTOR
NYS GOVERNOR'S OFFICE FOR MOTION PICTURE
& TELEVISION DEVELOPMENT

THE CITY OF NEW YORK MAYOR'S OFFICE
OF FILM, THEATRE AND BROADCASTING
1697 Broadway, 6th Floor
New York, NY 10019
(212) 489.6710
www.nyc.gov/film

MICHAEL R BLOOMBERG, MAYOR

DANIEL L. DOCTOROFF, DEPUTY MAYOR
FOR ECONOMIC DEVELOPMENT & REBUILDING

KATHERINE L OLIVER COMMISSIONER
MAYOR'S OFFICE OF FILM,
THEATRE & BROADCASTING