

**WASHINGTONFILMWORKS
GUIDELINES AND CRITERIA
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WashingtonFilmWorks
CRITERIA AND GUIDELINES FOR FUNDING ASSISTANCE

INTRODUCTION

WashingtonFilmWorks (WFW) offers funding assistance of up to 30% of total in-state Qualified Expenditures (including labor and talent who are Washington state residents) to commercial, television and feature film productions selected to be funded by WFW. In order to qualify for funding assistance, the production company must meet the following in-state spending thresholds:

- \$500,000 Feature Films
- \$300,000 Television
- \$150,000 Commercials

Financial contributions to WFW raised by the tax credit mechanism in 2SSB 6558 are capped at \$3.5 million per calendar year.

For more details about funding assistance through WFW refer to 2SSB 6558 and the WFW website (www.WashingtonFilmWorks.org)

APPLICATION

1. Feature films and television projects that would like to be considered for funding assistance must meet eligibility requirements (defined below) and file a completed application with WFW that includes:
 - a. Funding Assistance Application – available at www.WashingtonFilmWorks.org
 - b. Script – a shooting script (i.e., the version that is submitted to insurance company prior to the start of production). Preferred delivery is a PDF sent-via email to info@washingtonfilmworks.org
 - c. Budget – a line-item budget that includes projected in-state qualified expenditures.
 - d. Finance Plan – a full description of how the project will be financed
 - e. Proof of Funding – documentation demonstrating that the funds are secured
 - f. Producer’s Letter of Intent – letter explaining how the project contributes to the growth and development of the Washington State film industry and stating the producer’s intent to film the production in Washington State. The letter should also address his or her willingness and ability to enter into a contract with WFW setting forth the terms and conditions of funding assistance.

2. Commercial projects that would like to be considered for funding assistance must meet eligibility requirements (defined below) and file a completed application with WFW that includes:
 - a. Commercial Funding Assistance Application – available at www.WashingtonFilmWorks.org
 - b. Shooting or Story Board -- preferred delivery is a PDF sent-via email to info@washingtonfilmworks.org

- c. Budget – a line-item budget that includes projected in-state qualified expenditures
- d. Advertising Agency Award Letter
- e. Producer’s Letter of Intent – stating the producer’s intent to film the production in Washington State and his or her willingness and ability to enter into a contract with WFW setting forth the terms and conditions of funding assistance.

****For commercials, principal photography must commence no more than 45 days after receiving the Funding Letter of Intent outlining the terms of WFW funding assistance.**

DEFINITION OF TERMS

1. *Advertising Agency Award Letter* -- Letter from a reputable advertising agency that includes relevant production information such as the advertising agency, the product being advertised, production company being hired and budget for the commercial.
2. *Funding Assistance* – cash expenditures from an approved motion picture competitiveness program.
3. *Funding Letter of Intent* – Document issued by WFW outlining the terms and conditions of funding assistance.
4. *Movie of the Week (MOW)* – a television film that is produced for and originally distributed by a television network. All MOW approved by WFW must first premiere on television prior to having any theatrical distribution. Any project applying for funding assistance as a MOW must also include a letter of intent from a national television network as part of their application.
5. *Motion Picture* - a recorded audio-visual production intended for distribution to theaters, DVD, video, television or the internet or one or more episodes of a single television series, television pilots or presentations, or a commercial. The term production shall mean the same as the term motion picture for the purpose of these guidelines.
6. *Producer* – Individual associated with the production that is responsible for overseeing the business and financial decisions and will serve as the signatory on WFW contractual agreement.
7. *Production Company* – a business that is primarily (defined as 50% or more) engaged in the business of producing motion pictures.
8. *Qualified Production* - is a production that has been certified by WFW Program as fully meeting the requirements for funding assistance and is in receipt of a Funding Letter of Intent.
9. *Qualified Expenditures* - actual expenses incurred in Washington State for pre-production, production and post production including but not limited to: Qualified Production Costs, wages, rental equipment, food, property, permits, lodging, health insurance and retirement benefits.
10. *Qualified Production Costs* -- Most budgetary items including costs of technical and production crew, expenditures for facilities, props, make-up, wardrobe, set construction, background talent, etc.
11. *Washington State Business or Washington State Based Company* – Any sole proprietorship, partnership, limited liability entity or corporation with offices in

Washington State more than 1 year prior to the start of film production for which funding assistance is being claimed.

12. *Washington State Resident* – An individual who maintains a permanent dwelling within the state and spends an aggregate of at least six months each year within the state.
13. *WashingtonFilmWorks (WFW)* – The 501(c)(6) non-profit organization formed to be a film competitiveness program pursuant to 2SSB 6558 that will oversee the State of Washington’s funding assistance program for Qualified Productions.

PRODUCTION ELIGIBILITY REQUIREMENTS

A production is eligible for funding assistance if it satisfactorily completes its initial application and meets the requirements listed below:

1. Production must spend at least the following in-Qualified Expenditures:
 - a. \$500,000 Feature Films
 - b. \$300,000 Television
 - c. \$150,000 Commercials
2. Applicant certifies that it is not engaged, to any extent, in the production of erotic material, as defined in RCW 9.68.050
3. Applications for commercial production must be received from the entity that is primarily responsible for the production which includes developing and managing the allocation of funds from pre-production through post.
4. For feature films and television projects principal photography must commence no later than 120 days after receiving the Funding Letter of Intent.
5. For commercials, principal photography must commence no later than 45 days after receiving the funding letter of intent.
6. The production must comply with state and federal labor laws relating to minimum wage and overtime requirements.
7. **The production must make industry standard payments for health insurance and a retirement program for those positions typically covered by collective bargaining agreements.**
 - a. **For additional information on how to satisfy this requirement see the Benefits Provision section at the end of this document.**
8. Applicant must demonstrate that every effort will be made to maximize the hiring of local cast, crew and production and support services
9. Within 60 days of completing principal photography in Washington State, feature film and television productions must:
 - a. Submit a completion package that includes an electronic spreadsheet detailing all in-state expenditures and compensation paid to Washington state residents that will include a cover sheet detailing the amount of funding assistance the production intends to claim up to the maximum amount dictated by the Funding Letter of Intent No funding assistance will be paid to productions until the minimum in state spending threshold has been met.
 - b. File a completed Production Survey with the Department of Commerce (you can download a survey on their website at www.cted.wa.gov/forms/prodsurvey/)
10. Commercial production must complete the above requirements within 45 days of completing principal photography in Washington State.

11. Where such credits are given, the production must contain a “filmed in Washington State” credit (or similar language to be negotiated with production) and the WFW logo.
12. The producer must submit a viewable copy of the final production when commercially available to WFW and agrees to supply WFW with promotional materials (such as photos, trailers and poster art). WFW may use such materials for archival, governmental relations and marketing purposes.
13. Upon selection by WFW of producer’s application for funding assistance, producer must enter into a contract with WFW stipulating the producer’s intent to film the production in Washington State and setting forth the terms and conditions of funding assistance.

The following productions are not eligible for funding assistance:

1. Productions of a producer that has, or one or more of its principals have, a history of previous production problems that create significant doubt, as determined by WFW, regarding the producer’s ability to complete a production successfully. The production problems may include, but are not limited to:
 - a. Unpaid financial obligations, including employee benefits;
 - b. Cast, Crew or Supplier mistreatment;
 - c. Damage to locations that the producer did not repair upon completion of the production;
 - d. Fraud, misrepresentation, or failures to comply with applicable laws.
2. News or current events that are viewer or listener supported (or not supported by advertising) or a program that includes weather or financial market reports as a material portion of the program
3. Talk shows, game shows or contests
4. Sports event or activity
5. Awards show, gala or any production that solicits donations
6. Political Advertising
7. Video Game Production
8. A production produced primarily for industrial, corporate or institutional purposes

IN-STATE PRODUCTION COSTS ELIGIBLE FOR FUNDING ASSISTANCE

1. The following in-state Qualified Expenditures are eligible for funding assistance if purchased from a Washington State based business:
 - a. Set construction and operations
 - b. Wardrobe, accessories and make-up
 - c. Location fees and related services
 - d. Photography, sound synchronization, film processing and dailies, lighting and related services
 - e. Rental of facilities and equipment
 - f. Renting or leasing of vehicles
 - i. For additional incentives see sales tax exemption for production vehicle rental
 - g. All airfare purchased through a Washington based business or agency.
 - h. Any travel expenses, lodging or rental cars if it is for travel within the state of Washington.
 - i. Insurance coverage and bonding

- j. Per diem received in the state of Washington only
 - i. Per diem may not exceed the IRS rate or the minimum per diem amounts as outlined in applicable collective bargaining agreements
 - k. Food and lodging if purchased from a Washington State-based company.
 - i. For additional incentives see Hotel Motel Tax Exemptions
 - l. Marketing expenses associated with the production and incurred prior to the filing of the completion package
 - m. Post-production expenditures directly attributable to the qualified production
 - n. Other direct costs spent in Washington State directly related to the qualified production in accordance with generally accepted entertainment industry practices
2. Compensation paid to Washington state residents. This includes wages or salaries, fringe benefits or fees, and health insurance and retirement benefits of Washington State residents for talent, management and labor.
 3. Post-production budgets may not exceed 30% of the total qualified Washington State spend.

IN-STATE PRODUCTION COSTS NOT ELIGIBLE FOR FUNDING ASSISTANCE

1. Any purchase made outside of Washington State (even if the items are brought into the state for production or purchased from a Washington state based company).
2. Any employee compensation described in #2 above for out-of-state residents.
3. Gift cards or money orders given to any cast or crew member.
4. Payment of penalties or fines including but not limited to parking tickets, moving violations, bank fines and / or late charges.
5. Out of state payroll fees.
6. In-kind or trade contributions on a production.
7. Per diem given to Washington State residents traveling out-of-state.
8. Internet purchases made from non-Washington State businesses, even if the delivery location is in Washington State.
9. Purchases made through vendors that act as an agent or facilitator for out-of-state businesses.
10. Cellular phone reimbursements or calling card purchases.
11. Purchase of capital equipment such as props, computers, and other production assets kept in inventory for future productions.

APPLICATION PROCESS

The following outlines the details of the application process and deadlines for funding assistance:

1. WFW will accept applications at any time throughout the calendar year. Applications for funding assistance can be found at (www.WashingtonFilmWorks.org)
 - a. Commercial productions may submit an application to the WFW Executive Director and have it reviewed for eligibility and completeness prior to being awarded the job by an advertising agency. However a determination about funding assistance will not be given until the Advertising Agency Award Letter (i.e, proof of funding) has been given to the WFW. **It should be noted that**

commercials must be approved for funding assistance prior to start of production.

2. Completed applications should be mailed to:

WashingtonFilmWorks
Attn: Executive Director
1218 Third Ave, Suite 1515
Seattle, WA 98101

***Acceptable forms of application delivery include: USPS, private delivery service or hand delivery. Any other form of delivery for an initial application, including emailed or faxed copies will not be accepted by WFW.

3. When applications are received, they will be dated and organized according to principal photography start date.
4. The WFW Executive Director will review each application to ensure all necessary documentation is attached. If the application is incomplete or documents missing the Executive Director will contact the production company to request the missing information. The application will not be considered for funding assistance until the application is complete.
 - a. Commercials: Please see #4 under Additional Guidelines and Criteria for Commercials at the end of this document.
5. Completed applications will be reviewed by the WFW Board of Directors and / or the Executive Director to determine the estimated amount of the qualified expenditures, the total cost of the production and other information necessary to determine both eligibility and level of funding assistance. WFW will determine which applications to approve and which to deny based on any or all of the following factors (not listed in any order of significance):
 - a. Chronological order or receipt of application
 - b. Amount of in-state production spending
 - c. Number of in-state film workers to be hired
 - d. Evidence of industry standard payments for health insurance and a retirement program for those positions typically covered by a collective bargaining agreement
 - i. For additional information on how to satisfy this requirement please see the section titled Benefits Provision at the end of this document.
 - e. Estimated production start date
 - f. Locations to be used in the state
 - g. Type of production (e.g. full length film, television episode, etc.)
 - h. Evidence of distribution commitments
 - i. Other benefits to the state, including but not limited to promotional value, long-term financial benefits, contribution to development of Washington State crew and talent base or production industry infrastructure

***All funding assistance will be at the sole discretion of the Board of Directors of WFW or any such other committee or group designated by the Board of Directors. All productions are subject to these guidelines and criteria of funding assistance of WFW.

6. During review of the application, WFW may request additional information, conduct a site visit of a functioning office in the state, or discuss the initial application with the production company. The company will have five (5) business days to supply any additional information requested by WFW. If the information is not received within five (5) business days, the application will be removed and will not be considered until such information is received.
7. It should be noted that productions will only be considered when funds are available. It is possible that at the time of a producer's initial inquiry, all of the funds will have been reserved by earlier productions. In that event, the producer will be informed of the next date when a review of one or more productions may be performed. When funds become available, it may be necessary to reapply for funding assistance.

NOTIFICATION

1. WFW intends to approve or deny completed applications for feature films and television projects within 10 business days of receipt but reserves the right to take up to 30 days to respond to applications.
2. WFW intends to approve or deny commercial applications within 5 days of receipt, but reserves the right to take up to 30 days to respond.
3. A decision to extend funding assistance to a production will be confirmed by a Funding Letter of Intent which will include:
 - a. Maximum amount of funding assistance
 - b. Date that eligibility for qualified expenditures begins
 - i. Note: Qualified pre-production expenditures for feature films and television projects made three months prior to certification will be considered for funding assistance.
 - ii. Qualified pre-production expenditures for commercial projects made six weeks prior to certification will be considered for funding assistance.
4. Following the receipt of the Funding Letter of Intent, a written contract between the production company and WFW will be drafted and executed which will include a certification number, funding assistance guidelines, and pertinent forms and deadlines. Unless the deadline is extended by mutual agreement, the contract must be signed within two weeks after receiving the Funding Letter of Intent.
5. If a production is not chosen for funding assistance the production may re-apply at a later date.

QUALIFIED PRODUCTION REQUIREMENTS

BEFORE PRODUCTION

1. To secure funding assistance producer must complete the contract between WFW and the production. The agreement must be signed within two weeks of receiving the Funding Letter of Intent. After the agreement is received, a fully executed copy will be returned for the production company's records.

2. Guidelines regarding qualified production expenditures as well as the Industry Code of Conduct (to be provided by WFW) must be distributed to department heads prior to the start of production.
3. A meeting to discuss WFW policies and procedures and the completion package process must take place between the Executive Director and the producers prior to the start of production.

DURING PRODUCTION

1. Each Washington State resident employed on a qualified production must complete a Declaration of Residency form (to be provided by WFW) and provide proof of residency, which includes:
 - a. Valid Washington State driver's license with an issue date more than six months prior to the commencement of principal photography or
 - b. A current Washington State voter registration card with an issue date more than six months prior to the commencement of principal photography or
 - c. Copies of six months of utility bills with Washington State address

** Cast, crew, or extras making less than \$500 on a production are not required to provide proof of residency, but must sign the Declaration of Residency form.
2. The production must keep a detailed electronic account ledger of all expenditures incurred in Washington State during pre-production (incurred after certified date of eligibility), production and post-production (if applicable). Full vendor names must be visible on the ledger.
3. The production must keep all vendor receipts for which the production is applying for funding assistance.

AFTER PRODUCTION

1. Within 60 days of completing principal photography in Washington State the production company must submit a completion package to WFW containing the following items:
 - a. Section I – Production Overview
 - i. Signed letter from the Production Accountant confirming
 - i. The Washington State expense report has been reviewed for accuracy
 - ii. All financial obligations incurred in the state of Washington have been paid and
 - iii. The total amount of funding assistance being requested
 - ii. An Expense Transaction Detail Spreadsheet itemizing all in-state spend (from your accounting software or an Excel spreadsheet). If preferred, this ledger may be divided into two reports: 1) payroll data for crew and talent and 2) all other expenses.
 - i. The total amount on this spreadsheet(s) should reflect all eligible in-state expenses that the production is claiming for funding assistance.
 - ii. Vendor and Petty Cash data must include the following categories:

1. Account ID, Transaction Date, Payee, Amount, Source of Payment (check or petty cash envelope number), Invoice/Reference Number and Memo detailing purchase.
- iii. Payroll reports for crew and talent must include the following:
 1. Gross Payroll, Payroll Taxes and Benefits Paid
- iv. Total Production Budget
 1. Estimated vs. Actual costs should both be included
- iii. Chart of Accounts for reference
- iv. The Department of Commerce Production Survey
 - i. This survey can be found online at www.cted.wa.gov/forms/prodsurvey/. Once you have filled out the survey, print a copy to include with your completion package. Separate surveys are required to accompany both the completion package and post-production package, where applicable.
- b. Section II – Crew Detail
 - i. Comprehensive crew list sorted alphabetically by last name. The list must also include department and job title, hourly or daily pay rate for each individual. All non-Washington crew should be clearly marked.
 - ii. WFW strongly encourages each production to use the crew list templates provided in the filmmaker packets.
- c. Section III – Declaration of Residency for Crew
 - i. All residency forms and proof of residency (i.e., copies of driver’s license, voter registration card and / or 6 months of utility bills) must be sorted alpha by last name.
 - ii. Only Washington residents need to complete the Declaration of Residency form and provide documentation.
- d. Section IV – Cast and Extras List
 - i. Comprehensive cast list sorted alphabetically by last name. The list must include character name. All non-Washington cast should be clearly marked.
 - ii. Comprehensive list of extras sorted alphabetically by last name. All non-Washington extras should be clearly marked.
- e. Section V – Declaration of Residency for Cast and Extras
 - i. All residency forms and proof of residency (i.e., copies of driver’s license, voter registration card and / or 6 months of utility bills) must be sorted alpha by last name.
 - ii. Only Washington residents need to complete the Declaration of Residency form and provide documentation.
 - iii. Cast, crew, or extras making less than \$500 on a production are not required to provide proof of residency, but must sign the Declaration of Residency form.
- f. Section VI – Petty Cash Envelopes and Receipts
 - i. Petty Cash envelopes - copied, numbered and presented in numerical order.
 - i. Any non-Washington expenses and receipts from a petty cash envelope should be marked out with a thick black pen.

- ii. Acceptable receipts include the payee name, the location in Washington, date of expense, what was purchased and amount paid.
- g. Section VII – Vendor Invoices / Vendor List
 - i. All invoices should be filed alphabetically by vendor name.
 - i. Only invoices included in your Washington State expense report (Section I, number 2) should be included in this section.
 - ii. All invoices should be referenced to a chart of accounts or account ID on this report.
 - iii. Acceptable receipts include the payee name, the location in Washington, date of expense, what was purchased and amount paid.

****NOTE: WFW REQUIRES AN INDEPENDENT FINANCIAL REVIEW OF EVERY COMPLETION PACKAGE WITH AN INCENTIVE AMOUNT OVER \$75,000. WFW will contract with an independent finance firm to review the completion package upon submission. The review will be done at the expense of the production company and the fee (not to exceed \$5000) will be deducted from the incentive amount.**

- 2. If a qualified production has been previously approved for post production funding assistance, then it may submit a separate completion package for post production services within 1 year of submitting the production Completion Package.

DISQUALIFICATION

- 1. A qualified production will cease to be eligible for funding assistance if the WFW Program determines that:
 - a. Principal photography started before funding assistance had been assigned to the production and before WFW issues a Funding Letter of Intent unless otherwise approved for commercial productions.
 - b. Principal photography did not start within 120 days of receiving the Funding Letter of Intent from WFW for any reason other than an act of God.
 - c. The production schedule is not being met as described in the overview or shooting schedule.
 - d. The production company commits fraud or misrepresentation, fails to comply with the applicable laws, or acts to tarnish the reputation of the WFW Program.

THE DEPARTMENT OF COMMERCE SURVEY DETAILS

- 1. In order to recognize the accountability and effectiveness of tax policy, the legislature requires that each production that obtains WFW funding assistance complete a survey within 60 days after completion of principal photography. Such survey will include the following information:
 - a. The amount of anticipated funding assistance received
 - b. The amount of production / post production spending left in the state

- c. The number of total employment positions and the total number of Washington resident hires.
- d. Full time and part time employment positions as a percent of total employment
- e. Number of jobs at the following annualized wage bands: less than \$30,000; \$30,000 to \$60,000; \$60,000 and greater;
- f. Number of jobs that employer provided medical, dental and retirement benefits by each wage band.

***The Department of Commerce department may request further information as needed

2. The Department of Commerce will make the survey template available on its website (www.cted.wa.gov/forms/prodsurvey/). In the cases where a separate post-production completion package is being filed, a second survey will be required.
3. Commercials: Please see #8 under Additional Guidelines and Criteria for Commercials at the end of this document.

WASHINGTON STATE TAX EXEMPTIONS

1. A production's ability to claim sales and use tax exemptions is not effected by the receipt of funding assistance from WFW.

BENEFITS PROVISION

The Washington State law that created this funding assistance program calls for all productions receiving funding assistance to "make payments for health insurance and retirement benefits."

Productions will meet this requirement if they enter into an agreement with the various trade unions that represent workers in the motion picture industry, and provide health insurance and retirement programs tailored for the industry.

In cases where a production does not have such an agreement in place the applicant can meet this requirement by providing adequate health insurance coverage and making adequate contributions to retirement programs. These contributions must be industry standard payments that are equal to the amounts paid under applicable collective bargaining agreements.

WFW defines an adequate health insurance program as one that considers all of the following:

- Coverage that starts by the beginning of the month following hiring
- Covers pre-existing conditions in accordance with relevant state laws
- Has no more than a \$500 deductible
- Covers 80% of costs
- Provides for Vision, Dental and Prescription coverage
- Has a COBRA provision
- Makes some payment into a Flexible Spending Account (FSA) program

WFW defines an adequate contribution into a retirement program as a minimum of 2% of the hourly salary. These funds need to be deposited into an existing IRA, 401 K, or some kind of retirement plan that remains in place after the end of the production and is for the benefit of the employee. In no case may the aggregate payment to the health insurance and retirement

program be less than the industry standard payments that are equal to the amounts paid under applicable collective bargaining agreements.

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