

**TITLE 725. OKLAHOMA TOURISM AND RECREATION DEPARTMENT
CHAPTER 35. THE OKLAHOMA FILM AND MUSIC OFFICE**

SUBCHAPTER 1. OKLAHOMA FILM ENHANCEMENT REBATE PROGRAM

725:35-1-1. Purpose

The purpose of the Oklahoma Film Enhancement Rebate Program (Program) is ~~to create a new~~ an incentive program to attract film and television production to the state ~~build a film industry in the state.~~ In accordance with 68 O.S. § 3624, this Program shall be administered by the Oklahoma Tax Commission and Office of the Oklahoma Film and Music Commission (OFMO), ~~which is created within the Oklahoma Tourism and Recreation Department pursuant to 74 O.S. § 2236.~~

725:35-1-2. Definitions

- (a) ~~"Application" refers to the Application of Eligibility for Rebate Programs.~~
- (b) ~~"Director" refers to the Director of the Oklahoma Film and Music Office.~~
- (c) ~~"Rebate" is defined as a certain percentage (defined in 68 O.S. § 3624) of production costs incurred in Oklahoma directly attributable to the production of a film in this state if the OFMO determines that the proposed project has a reasonable chance of economic success.~~
- (d) ~~"Principal photography" is defined by the filming of major or significant components of a movie which involve lead actors.~~
- (e) ~~"Production board" is a scheduling device that breaks every scene by location, by day and night, and by interior or exterior.~~
- (f) ~~"Rebate claim" is defined as the documentation of production costs incurred in Oklahoma and submitted in compliance with the requirement of this Program.~~

In addition to the definitions in the statute (68 O.S. § 3623), the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

- (A) "Above the Line Personnel (ATL)" are as defined in 68 O.S. § 3623, namely individuals hired or credited on screen for the Production as producers (all levels), principal cast (SAG Schedule F/Run of Show or equivalent), screenwriters and the Film director(s).
- (B) "ATL Limitation" means up to twenty-five percent (25%) of total Qualifying Oklahoma Expenditures (QOE), see Section 725:35-1-4).
- (C) "Crew" is as defined in 68 O.S. § 3623, namely persons who work on the Production who are not ATL (also known in the industry as "below-the-line" personnel).
- (D) The "documented expenditures" referred to in 68 O.S. § 3624(A) shall mean QOE as described in Section 725:35-1-4 below.
- (E) "Eligibility Application" refers to the application of eligibility for the Program. If the application is approved by OFMO, a Film is "Pre-Qualified."
- (F) "Final Application" is the package submitted to OFMO documenting all requirements have been completed and the Production Company is requesting payment of a Rebate Claim.

- (G) "Fiscal Earmark Year" is the fiscal year to which payment of potential Rebate Claims is assigned.
- (H) "High-Impact Production" is a Production that meets the requirements of 68 O.S. § 3623 and is so designated by the Oklahoma Tourism and Recreation Department (OTRD) Executive Director.
- (I) "Loan Out Company" is a legal entity (i.e., corporation, partnership or limited liability company) used by ATL and Crew to contract their services to the Production.
- (J) "Loan-Out Limitation" means up to twenty-five percent (25%) of Salary Costs for Oklahoma-Based Crew [as found in Section 725:35-1-4(a)]. The OTRD Executive Director may, in their discretion, specify a different percentage for High Impact Productions.
- (K) "Application Estimate" is the estimated QOE submitted to OFMO 60 calendar days before the start of Principal Photography.
- (L) "Oklahoma-Based" means a natural person that files, or is legally claimed as a dependent on, an Oklahoma resident tax return, or a business entity registered and in good standing as a Domestic entity with the Oklahoma Secretary of State and that files an Oklahoma income tax return.
- (M) "Oklahoma Expatriate" is a person who previously resided for at least one year, but does not currently reside, in the state of Oklahoma.
- (N) "Oklahoma Loan Out Company" is a Loan-Out Company with an active registration to do business in the state of Oklahoma as a domestic or foreign entity and that either reports payments received for the Production as Oklahoma earnings for the artist on an IRS Form W-2 or is considered a disregarded entity for federal income tax purposes.
- (O) "Oklahoma Resident" means a person who is a resident under the Oklahoma Tax Code at the time of hire.
- (P) "Oklahoma Vendor" is a seller, renter or lessor of goods or services who charges Oklahoma sales tax under an Oklahoma Sales Tax Permit on taxable transactions and is either (1) Oklahoma-Based or (2) a foreign business entity with an active registration to do business in Oklahoma and a physical Oklahoma location for transacting business.
- (Q) "Payroll Burden" is employer-paid taxes (e.g., FICA, Medicare and unemployment insurance) and payroll-associated payments made on a specific employee's behalf by law or collective labor bargaining agreement (e.g., union dues and union fringes). Payroll Burden also includes the employer-paid portion of health insurance for an employee, provided such insurance was paid to an Oklahoma-Based insurance company or obtained through a licensed Oklahoma insurance broker.
- (R) "Per Diem" means fixed payments made to Crew and ATL in lieu of reimbursement for lodging/housing, meals and incidentals, up to a maximum of the Per Diem Rate allowed for the applicable location and date in the U.S. General Services Administration Per Diem Rates.
- (S) "Pre-Qualified" or "Pre-Qualification" means the status or act of approval being granted to a Production's Eligibility Application by OFMO.
- (T) "Principal Photography" is the filming of significant components of a Film which involve principal cast or, in the case of Films that do not involve live actors, the

beginning of substantive work on the animation or graphics that form the Film's primary visual story.

(U) "Production" is a project to make a Film.

(V) "Production Budget" is the total budgeted cost of the Production.

(W) "Production Company" is as defined in 68 O.S. § 3623, more specifically the legal entity responsible for the Production. Eligibility and Final Applications will be filed by the Production Company and, unless previously agreed to in writing by OFMO, payment of approved Rebate Claims will be made to the Production Company.

(X) "Proof of Funding" is demonstration in a form acceptable to OFMO that a Production has or will have funding in place to cover the Production's budget. Acceptable forms will be specifically approved by OFMO, but could include a letter of intent from a recognized industry financier, written verification of dedicated deposits in a recognized financial institution or a letter of credit from an acceptable guarantor.

(Y) "Rebate" is the percentage defined in 68 O.S. § 3624 of QOE.

(Z) "Rebate Claim" is the formal request for OFMO to issue a Rebate under the Program. Only one Rebate Claim shall be processed per Production.

(AA) "Rebate Schedule" is a schedule of dates, deadlines and submittals the Production must achieve to submit the Final Application and have its Rebate Claim approved.

(BB) "Salary Costs" are those salaries and wages designated as Oklahoma earnings on payroll records, along with the associated Payroll Burden, Per Diem and Housing Allowance;

(CC) "Scouting Expenses" are costs incurred to identify locations, Crew, facilities, services and equipment to be used in the Production.

(DD) "Start of Pre-Production" is the opening of an Oklahoma office for the Production, or incurring QOE other than Scouting Expenses, or otherwise commencing business on the Production in Oklahoma other than scouting.

725:35-1-3. Program requirements and qualification

~~(a) — Production companies cannot use this Program in addition to the sales tax rebate provided in Title 68, Section 3624 of the Oklahoma Statutes.~~

~~(b) — Production companies shall provide an affidavit as required by law.~~

~~(c) — The following is a list of qualifying Oklahoma expenditures:~~

~~(1) — Above and below the line wages or salaries paid to Oklahoma residents~~

~~(2) — Wages or salaries paid to Oklahoma Expatriates (as described in item (d) below)~~

~~(3) — Salaries for resident and non-resident above the line personnel paid to loan-out corporations or limited liability companies registered to do business with the Oklahoma Secretary of State's Office. No more than Twenty five percent (25%) of total rebated amount can be comprised of qualifying above the line salaries~~

~~(4) — Underlying rights for screenplay and novels paid to an Oklahoma entity or individuals with an Oklahoma tax liability (also subject to the 25% cap detailed above)~~

~~(5) — The cost of construction and operations, wardrobe, accessories and related services procured in Oklahoma or paid to an Oklahoma company~~

~~(6) — The cost of photography, sound synchronization, lighting and related services~~

~~(7) — Rental of facilities and equipment paid to an Oklahoma company~~

(8) — Other direct costs of pre-production, production and post-production of a film to include:

- (A) — Location scouting expenditures made in Oklahoma
- (B) — Employer paid payroll taxes for Oklahoma employees, including SUI, FUI, FICA, and Workers Comp
- (C) — Union fringe paid to Oklahoma crew
- (D) — Shipping and postage for packages originating within Oklahoma
- (E) — Hotel costs
- (F) — Completion bonding if utilizing an Oklahoma-based company
- (G) — Production insurance if utilizing an Oklahoma-based company
- (H) — The purchase of airline tickets for the purposes of location scouting and production of the film if utilizing an Oklahoma-based travel agency
- (I) — Per Diem paid to cast and crew for Oklahoma filming dates
- (J) — Third party audits conducted by pre-certified Oklahoma accounting firms

(d) — Oklahoma Expatriate Program: Included in the definition of qualifying "crew" are wages and salaries paid to an individual registered as an Oklahoma Expatriate by the Oklahoma Film & Music Office. The Expatriate roster consists of Oklahoma below-the-line crew not currently residing in Oklahoma, who have pre-registered with the Oklahoma Film & Music Office, by first meeting all requirements. That roster will be made available to producers in an effort to supplement Oklahoma's existing crew base.

(1) — If a producer chooses to hire one of the qualifying crew members whose name appears on that roster, wages and salaries paid to that person will qualify as an Expenditure or Production Cost and count towards the minimum requirement of Twenty five Thousand (\$25,000) in Oklahoma expenditures.

(2) — Before rebate payment can be made, producer must provide proof to the Oklahoma Film & Music Office that the individual has filed (or has agreed in writing to file) an Oklahoma income tax return for the year services were rendered on the production to the Oklahoma Film & Music Office.

(3) — A further requirement is that in exchange for utilizing a crew member from the Expatriate Roster as a qualifying local expenditure, the production must accept assignment of an intern provided by an Oklahoma institution of higher education or Career Tech for an agreed upon length of time during the course of the production (to be assigned to the expatriate or other appropriate personnel).

(e) — Third Party Audit Requirement: In order to be eligible to receive rebate monies, the production must retain the services of an independent certified public accountant to serve as a Third Party Auditor. In order for this to be a rebatable expenditure, the production must appoint a Third Party Auditor who is licensed to do business in the state of Oklahoma and who shall not be related to the producer. The Director of the Oklahoma Film & Music Office must be provided with the name, address and telephone number of the independent auditor proposed by the producer in order to make contact with the auditor prior to beginning the audit. The audit shall be performed in accordance with auditing standards generally accepted in the United States of America and the auditor shall have sufficient knowledge of accounting principles and practices generally recognized in the film and television industries. The auditor shall present a final report based upon agreed upon procedures:

~~(1) — Only actual paid expenditures clearly and demonstrably in Oklahoma for the qualified production may be recorded and certified as direct production expenses or qualified personnel expenditures.~~

~~(2) — The costs to be recorded are actual costs and shall not include any mark-ups or profit additions. These costs must be made in Oklahoma; must be directly attributable to the production or distribution of the qualified production which is the subject of the Oklahoma Film Enhancement Rebate Program; and must be subject to taxation in Oklahoma.~~

~~(3) — The cost report must be in US dollars and the period during which the expenditures were incurred must be disclosed.~~

~~(4) — It is the eligible production company's responsibility to ensure that all of the required information is provided.~~

~~(5) — For payments made to loan-out companies or limited liability companies, the auditor must verify that the loan-out or LLC is registered with the Oklahoma Secretary of State's Office to do business in the state of Oklahoma.~~

~~(6) — Auditor must ensure that salaries for both resident and non-resident above-the-line personnel paid to loan-out corporations or limited liability companies registered to do business in Oklahoma do not comprise more than Twenty-five percent (25%) of the total amount being submitted for rebate.~~

~~(f) — End Credit Requirement: The following screen credit and the current Oklahoma Film and Music Office logo or written confirmation thereof must be included in the end credit crawl of all release prints of a completed short or long form film: "Filmed in Oklahoma utilizing the Oklahoma Film Enhancement Rebate Program."~~

~~(g) — Rebate Payout Timeline: For expenditures made in FY10 (July 1, 2009—June 30, 2010) the rebate is payable on or after July 1, 2010 pursuant to the production meeting all requirements of the Oklahoma Film Enhancement Rebate Program. Thereafter, rebates will be paid out immediately after all requirements have been met with no fiscal year delay. Beginning July 1, 2010, and pending receipt of results and supporting documentation of Third Party Audit described in 2D, the Oklahoma Film & Music Office will approve or disapprove of all claims within a period of thirty (30) days. The Oklahoma Tax Commission shall, upon notification of approval from the Oklahoma Film & Music Office, issue payment for all approved claims.~~

~~(h) — When, Where and How to Apply for the Rebate:~~

~~(1) — Applications must be submitted at least sixty (60) calendar days but no more than one hundred eighty (180) calendar days prior to the start of production. Applications submitted more than 180 calendar days or less than 60 days prior to the scheduled start of production will not be accepted.~~

~~(2) — Applications must be submitted to The Oklahoma Film & Music Office, 120 N. Robinson Avenue, Suite 600, Oklahoma City, OK 73102. Phone: (405) 230-8440 Website: www.oklahomafilm.org~~

~~(3) — Applicants must complete, sign and submit hard copies of all required forms, which are available from the Oklahoma Film and Music Office at the above address, or on line at www.oklahomafilm.org, and provide the latest version of the shooting script and production budget. Required forms are: Form A — Project Information; Form B — Application of Eligibility; Form C — Filming Permit; Form D — Statement of Budget; Form E — Expatriate Program Registration;~~

~~Form F— Summary of Local Expenditures; Form G— Certification of Information; Form H— Confirmation of End Credit Inclusion; and Form I— Final Rebate Application.~~

~~(4)— Applicants must schedule an interview to discuss their application with the Oklahoma Film & Music Office by calling (405) 230-8440. The meeting must be attended by a producer or a line producer, unit production manager or production accountant or their designee, subject to the approval of the Director of the Oklahoma Film & Music Office.~~

~~(i)— Notice of Pre-Approval/Disapproval of Eligibility Application:~~

~~(1)— If the Eligibility Application is approved, applicant will receive a letter of eligibility signed by the Director of the Oklahoma Film & Music Office listing the items provided on the application and any supporting documentation currently on file with the office along with the projected amount of rebate pending the production meeting all requirements under the Oklahoma Film Enhancement Rebate Program. At that point, the projected rebate amount, and only that specific amount, will be earmarked for the production, providing applicant meets all benchmarks in the application process.~~

~~(2)— Receipt of the eligibility letter does not guarantee receipt of rebate monies. Final eligibility and the amount of the rebate will be determined after submission and review of the final application, the results of a Third Party Audit, and all required supporting documentation.~~

~~(3)— If the Eligibility Application is not approved, the Oklahoma Film & Music Office shall provide applicant with a notice of disapproval which shall state the reasons therefore.~~

~~(4)— As specified in Oklahoma statute, no more than one (1) application per fiscal year per specific production (based on production title, script and budget) will be accepted.~~

~~(j)— Requirements after Principal Photography:~~

~~(1)— No more than Ninety (90) calendar days after the payment of all Oklahoma expenditures, the production must submit the following to the Oklahoma Film & Music Office:~~

~~(A)— Final Rebate Application (Form I)~~

~~(B)— Final budget and signed statement of budget (Form D)~~

~~(C)— Amount of wages and qualifying expenditures~~

~~(D)— Final payroll report provided directly to the Oklahoma Film & Music Office from production payroll company~~

~~(E)— Final cast and crew lists~~

~~(F)— Daily production reports for all Oklahoma filming days~~

~~(G)— Completed Summary of Local Expenditures (Form F)~~

~~(H)— Final accounting ledger (all supporting documentation and receipts must be kept by the production company of record for a period of three (3) years)~~

~~(I)— The production company has filed or will file any Oklahoma tax return or tax document which may be required by law~~

~~(J)— Final production shooting schedule~~

~~(K) — Results of Third Party Audit conducted by an accounting firm that has been mutually agreed upon in advance. Third Party Audit will be at the expense of the production. This is deemed a qualifying expenditure if certified Oklahoma accounting firm is used.~~

~~(L) — Certification of Information, signed by producers and notarized before submission, stating among other things, that all information provided to the Oklahoma Film & Music Office for the purposes of qualifying for the Oklahoma Film Enhancement Rebate program are true and correct and that there are no unpaid salaries, invoices, reimbursements for damages or liens against the production entity in the State of Oklahoma. No rebate money will be released until this notarized documentation is on file with the Oklahoma Film & Music Office (Form G)~~

~~(M) — End Credit Requirement as described in Item 2E~~

~~(2) — Failure to provide the final information according to the time frame provided above may result in a loss of the credit. Within Thirty (30) days of all requirements being met, the Oklahoma Film & Music Office will issue a letter to Oklahoma Tax Commission, requesting rebate payment, copying production company contact.~~

~~(k) — Requesting Exemptions to Open Records Act:~~

~~(1) — The Oklahoma Film & Music Office is subject to the State of Oklahoma Open Records Act, which governs public access to the records of government agencies. Under Title 74 O.S. § 2231 of Oklahoma State Law, certain information provided to the Oklahoma Film & Music Office as a Division of the Oklahoma Tourism & Recreation Department, by a person or entity seeking economic advice from the Oklahoma Film & Music Office and any information compiled by us in response to submissions, may be kept confidential.~~

~~(2) — In order to protect confidentiality of the above referenced items, rebate applicants must submit a request in writing to the Oklahoma Film & Music Office along with the Eligibility Application requesting that the information be withheld from disclosure on the grounds that it constitutes trade secrets, proprietary information or that the information, if disclosed, would cause substantial injury to the competitive position of the applicant. Applicants must specify the information for which they are seeking protection along with clearly stated reasons for the requested exception.~~

~~(3) — The Oklahoma Film & Music Office reserves the right to determine whether the information submitted by the applicant will be withheld from disclosure. The Oklahoma Film & Music Office will notify the applicant of any requests for disclosure and notify the applicant as to whether the information will be disclosed.~~

~~(l) — Required Benchmarks for Rebate Eligibility Process:~~

~~(1) — 180 Calendar Days (and no sooner) Prior to Production you may submit an Eligibility Application for the Oklahoma Film Enhancement Rebate Program signed by authorized production personnel along with all other required documentation.~~

~~(2) — 60 Calendar Days (minimum) Prior to Production, a production must show proof that fifty percent (50%) of the production budget is in place in the form of a signed and certified letter of intent from a recognized financier or by written verification of the amount of the production's balance from a recognized financial institution. Letter must include name, address, phone number and contact name and account number for financier/bank for verification purposes. Note: Sixty (60) days prior to production is the last point at which a production may revise their Eligibility Application to increase their projected rebate amount and have monies earmarked in advance, subject to availability of funds.~~

~~(3) — 30 Calendar Days (minimum) Prior to Production (via the same methods described for Fifty percent (50%) verification above), production must show proof of ability to cash flow the production on previously established date of commencement of Production. Also required at Thirty (30) days:~~

- ~~(A) — Copy of the shooting schedule and inclusion on revisions distribution list (or as soon as available prior to principal photography).~~
- ~~(B) — Latest version of production budget and signed Statement of Budget (Form D)~~
- ~~(C) — Latest version of the script and inclusion in revisions distribution list~~
- ~~(D) — Latest version of Crew List tagged as resident and non-resident hires~~
- ~~(E) — Copy of the completion bond (where applicable, see Guidelines, Item 6A, D3)~~
- ~~(F) — Copy of the Certificate of General Liability, carrying a minimum of One Million Dollars (\$1,000,000) (USD) in coverage~~
- ~~(G) — Proof of Workers Compensation Policy pursuant to Oklahoma State law~~
- ~~(H) — Legal Counsel name and contact information for producers and financiers~~
- ~~(I) — Additional documents as may be requested by the Oklahoma Film & Music Office~~

~~(4) — If a production delays the start of Production as provided in the eligibility application process, its rebate eligibility will be pushed the same length of time between its initial start date and its newly revised start date. Any productions behind it in the eligibility cue with start dates within this window of time will move ahead, thereby having first claim to rebate funds. Should a production push the start of production a second time, it will move to the back of the eligibility cue. Should a production push its start of production a third time, its Eligibility Application becomes null and void. A subsequent re-application will be delayed until the next fiscal year.~~

~~(5) — Eligibility is non-transferable. Each Eligibility Application shall be filed under the title of the screenplay submitted to the Oklahoma Film & Music Office. Projects deemed eligible for the rebate under each application shall only be eligible to the extent that project is substantially based on the screenplay previously submitted and on file with the Oklahoma Film & Music Office and supporting budget submitted for said project title.~~

(a) Applying for Rebate Eligibility:

- (1) Applications and all necessary forms will be submitted through the OFMO website (okfilmmusic.org) or as otherwise specified by OFMO.
- (2) Unless otherwise agreed to by OFMO, Eligibility Applications will be submitted at least 60 calendar days prior to the Start of Principal Photography. The exact requirements of the Eligibility Application are shown on the OFMO website, but generally include:
 - (A) General information about the Production;
 - (B) Contact information;
 - (C) Preliminary Production milestone dates;
 - (D) A copy of the screenplay;
 - (E) The Production Budget top sheet and estimated headcount;
 - (F) Various acknowledgements of Program and OFMO requirements and agreements to abide by them.
- (3) Applicants may track the status of their Eligibility Application on the OFMO website.
- (4) Application does not guarantee acceptance. OFMO considers each Eligibility Application individually based upon many factors, including compliance with these Rules, the benefits of the project to Oklahoma (such as jobs, tourism, branding, image and follow-on work), funds available, anticipated future Program needs and other projects applying for a Rebate.
- (5) If the Eligibility Application is approved, the Production Company will be Pre-Qualified and OFMO will work with the Production to establish a Rebate Schedule.
- (6) At the time of Pre-Qualification, Productions are assigned to a Fiscal Earmark Year based upon the start of Principal Photography.
- (7) Pre-Qualification does not guarantee ultimate approval of a Rebate Claim. The Production Company must meet the requirements of the Rebate Schedule and their Final Application must be approved in order for the Rebate Claim to be approved.
- (8) If the Eligibility Application is denied, OFMO will provide the applicant with the reason(s) it was denied.
- (9) Only one Eligibility Application per fiscal year per Production will be accepted.
- (b) Application Estimate: If the Eligibility Application is approved, the Application Estimate will be multiplied by the appropriate rebate percentage to determine the estimated amount to be paid in the Rebate Claim (the "Potential Rebate Claim").
- (c) If the Final Application and actual Rebate Claim are approved:
 - (1) If the actual QOE are less than or equal to the Application Estimate, the Rebate Claim will be paid in full.
 - (2) If the actual QOE are more than the Application Estimate, the Potential Rebate Claim amount will be paid within the normal payment timeframe and the remainder will be considered an additional claim and may, depending upon OFMO's discretion and budget, be paid at a later date outside the normal timeframe.
- (d) Rebate Schedule: After Pre-Qualification, OFMO and the Production Company will establish a schedule of dates based upon the following benchmarks:
 - (1) 60 calendar days prior to Principal Photography – submit Application Estimate and Proof of Funding for at least fifty percent (50%) of the Production Budget.

- (2) Prior to paying salaries or wages to a Production Company's employee in Oklahoma – submit a certificate of workers' compensation insurance with limits pursuant to Oklahoma law.
- (3) 30 calendar days prior to Principal Photography – submit the following:

 - (A) Proof of Funding for the Production Budget;
 - (B) Updated shooting schedule;
 - (C) Updated screenplay;
 - (D) Copy of the Completion Bond (defined in (e) below), if applicable;
 - (E) Additional documents as may be reasonably requested by OFMO.
- (4) 10 calendar days prior to Principal Photography

 - (A) Submit a certificate of general liability insurance with a minimum limit of \$1,000,000 in coverage (or a binder for such with a start date no later than the estimated Start of Pre-Production);
 - (B) Submit a certificate of automobile liability insurance with minimums of \$250,000/500,000/250,000 coverage (or a binder for such with a start date no later than the estimated Start of Pre-Production) or certification that no employee of the Production will drive an automobile as part of the Production;
 - (C) Work with OFMO to draft and distribute a press release about the Production to relevant media.
- (5) During Principal Photography – submit the following (preferably in advance, if practical):

 - (A) Updates to the shooting schedule;
 - (B) Updates to the screenplay.
- (6) Within 90 calendar days of completion of the Production (or payment date of last QOE, if later):

 - (A) Upload through the OFMO website the list of Oklahoma Crew, Oklahoma Expatriates and Oklahoma Vendors used on the Production;
 - (B) Submit the Final Application.
- (e) Completion Bond: Unless a Production is backed by a major studio or other financing source acceptable to OFMO, the Production will post a Completion Bond from a guarantor acceptable to OFMO guaranteeing the completion of the Production and payment of all Oklahoma liabilities. In lieu of a Completion Bond, a Production may produce evidence acceptable to OFMO that all Crew, vendors and taxes have been paid and there are no outstanding or potential liens in Oklahoma against the Production Company.
- (f) Incremental Music Rebate: To qualify for the additional rebate for Oklahoma music described in 68 O.S. § 3624(B), QOE described in Section 725:35-1-4(g)(9) must be \$20,000 or more.
- (g) End of Production Requirements:

 - (1) Unless otherwise approved by OFMO, the end credit crawl of all release prints of a completed short or long-form film shall include "Filmed in Oklahoma utilizing the Oklahoma Film Enhancement Rebate Program" and a logo provided by OFMO.
 - (2) The Production Company shall provide to OFMO

 - (A) A film poster, final release copy of the Film on DVD and digital link to a copy of the Film if available.
 - (B) Production stills, behind-the-scenes footage or other images OFMO can use to promote the Program.

(h) Certified Public Accountant's Report: Final Rebate Applications will be accompanied by a CPA's Report, prepared at the expense of the Applicant, attesting that the amounts in the application are QOE that comply with the requirements of these rules.

(1) Reports will be prepared by a CPA currently licensed by the State of Oklahoma and who is independent under the American Institute of certified Public Accountants' (AICPA) Independence Rule.

(2) CPAs will carry professional liability insurance, in a form and from a carrier acceptable to OFMO, for at least \$500,000.

(3) The CPA's examination will be conducted according to the AICPA's Attestation Standards.

(4) Reports will use a materiality threshold set by OFMO and published on its website.

(5) CPAs will work with the Production Company to resolve exceptions or discrepancies prior to submitting the Final Application, such that the CPA's Report attests to the validity and accuracy of the amounts on the Application without exception.

(6) The CPA's Report will attest:

(A) Actual Production expenditures were at least \$50,000 and QOE at least \$25,000, or if a High-Impact Production, actual expenditures were at least \$50,000,000 and QOE at least \$16,666,667.

(B) All amounts on the Application are properly calculated and materially accurate.

(C) All Oklahoma payroll tax returns due from the Production Company (or its payroll processor) have been filed.

(D) All Oklahoma income tax returns for the Production Company due as of the review date have been filed.

(7) The CPA will retain all workpapers for the CPA's Report for seven years, during which they may be subject to audit by the OFMO or its agents, upon a request by OFMO.

(i) Final Application:

(1) Upon completion of the Production and requirements herein, the Production Company will submit a Final Application.

(2) Submitting a Final Application does not guarantee approval. OFMO will approve or disapprove of all claims within 60 calendar days of receipt of a properly completed Final Application.

(3) If a Final Application or Rebate Claim is denied, the Production Company may attempt to correct any discrepancies or problems and resubmit within thirty (30) days of denial.

(4) Once a Final Application is approved by OFMO,

(A) Amendments are not allowed;

(B) The Production Company will work with OFMO to establish a vendor ID with the State.

(5) The Oklahoma Tax Commission will, upon notification of approval from the OFMO, issue payment for all approved Rebate Claims, subject to any Fiscal Year Maximum imposed by statute and any other agreements that the Production Company and OFMO have agreed to in writing in the case that the Production is a High-Impact Production.

(j) Fiscal Year Maximum: The Program has a rolling cap, which adds a new amount to the fund available to pay Rebate Claims each fiscal year. In order to ensure funds are available to pay all Pre-Qualified Productions, OFMO assigns each Pre-Qualification to a Fiscal Earmark Year, which may be one or more fiscal years in the future. If the total amount available to pay claims in any one fiscal year is restricted by statute, claim approval priority will be determined using the Fiscal Earmark Year and some Productions might have to wait until the first day of a future Fiscal Earmark Year in order to receive payment. This statutory maximum would not affect the amount of the Rebate Claim or its ultimate payment, but could affect the timing of when it is paid.

(k) Delays, Transferability and Expiration:

(1) A Pre-Qualified Production may delay the start of Principal Photography two times as described below. If the start is delayed a third time, or a Production does not start by the date specified in their latest update to the Production Schedule submitted to OFMO, Pre-Qualification is revoked, the Eligibility Application is denied and the Production cannot apply again until the following fiscal year.

(A) The first time a Pre-Qualified Production delays the start of Principal Photography, it moves to the end of the queue for the Fiscal Earmark Year of the new start date. Subsequent Pre-Qualifications with the same Fiscal Earmark Year are placed after it in the queue.

(B) The second time a Pre-Qualified Production delays the start of Principal Photography, it is placed last in the queue for the Fiscal Earmark Year of the new start date. Subsequent Pre-Qualifications with the same Fiscal Earmark Year are placed ahead of it in the queue.

(2) Pre-Qualification is specific to the Production and Production Company, and is non-transferable. Productions, screenplays and budgets may evolve but must remain substantially similar to those submitted in the Eligibility Application.

(3) Unless otherwise approved by OFMO, Pre-Qualification expires:

(A) Two years after the approval date of the Eligibility Application, if Principal Photography has not started, OR

(B) Two years from the start of Principal Photography.

(l) Open Records Act Exemptions:

(1) OFMO is subject to the State of Oklahoma Open Records Act, which governs public access to the records of government agencies. Under 74 O.S. § 2231, certain information provided to OFMO by a person or entity seeking economic advice from OFMO and any information compiled by OFMO in response to submissions, may be kept confidential.

(2) In order to protect confidentiality of such items, applicants must submit a written request to OFMO at the time of the Eligibility Application to withhold its information from disclosure on the grounds that it constitutes trade secrets, proprietary information or that the information, if disclosed, would cause substantial injury to the competitive position of the applicant. Applicants must specify the information for which they are seeking protection along with clearly stated reasons for the requested exception.

(3) OFMO reserves the right to determine whether the information submitted by the applicant will be withheld from disclosure. OFMO will notify the applicant of any requests for disclosure and notify the applicant as to whether the information will be disclosed.

(m) High Impact Production Requirements: Due to the size of potential rebates and considerable number of variables in High Impact Productions, the Executive Director is authorized to negotiate and finalize High Impact Production Requirements as part of the High Impact Production Eligibility Application process. High Impact Production Requirements can be tailored to the type and scope of the Production, and may carry additional incentives, provided these requirements and incentives do not contradict statutory provisions of the ACT. Applicants would be required to meet the High Impact Production Requirements in order for the Final Application to be approved.

725:35-1-4. ~~Items not eligible for rebate~~ Qualifying Oklahoma Expenditures

- ~~(a) Dollars spent out of state renting or buying goods and services and bringing them into Oklahoma to work.~~
- ~~(b) Raw stock purchased outside of Oklahoma.~~
- ~~(c) Salaries and computer/kit/box rentals made to non-Oklahoma residents.~~
- ~~(d) Shipping and postage costs.~~
- ~~(e) Airfares, unless they are purchased through an Oklahoma based travel agent.~~
- ~~(f) Insurance, unless it is purchased through an Oklahoma based insurance agent.~~
- (a) Salary Costs for Oklahoma-Based Crew;
- (b) Salary Costs for Oklahoma Expatriate Crew (as described in Section 725:35-1-5);
- (c) Payments to Oklahoma Loan-Out Companies for Oklahoma-Based Crew;
- (d) Payments to Oklahoma Loan-Out Companies for Crew that is not Oklahoma-Based, subject to the Loan-Out Limitation;
- (e) Subject to the twenty-five percent limitation, the sum of:
 - (1) payments to Oklahoma-Based ATL;
 - (2) payments to Oklahoma Loan-Out Companies for ATL; and (3) payments to an Oklahoma-Based entity for using the Film's underlying creative work (e.g., screenplay or novel).
- (f) Permits and fees paid to an Oklahoma state, county, or municipal governmental or quasi-governmental entity;
- (g) Payments to an Oklahoma Vendor for the following:
 - (1) Studio, stage or set construction and dismantling;
 - (2) Production scheduling, management, administration and operations;
 - (3) Casting and security services;
 - (4) Wardrobe and make-up materials, consumables and services;
 - (5) Set props and accessories (individual props costing in excess of fifty thousand dollars (\$50,000) require prior approval by OFMO to be included as a QOE);
 - (6) Cameras, film, microphones, tape, digital storage media and other materials and equipment used to record sound and images;
 - (7) Photography, visual image editing, animation, computer graphics and effects, and related visual services;
 - (8) Sound (other than music) recording, editing, synchronization and related services;
 - (9) Licensing or use rights for music, or recording of songs or musical score, used in the Film;
 - (10) Lighting and electrical materials, equipment and services;
 - (11) Location, building, facility, equipment, prop and wardrobe rental;

- (12) Stunts, special effects, pyrotechnics, firefighting, safety, handling/wrangling, security and other specialty services;
 - (13) Lodging and accommodations (whether paid for directly by the Production Company or provided as an allowance in the amount of actual costs of housing) for ATL and Crew;
 - (14) Food, restaurants and catering;
 - (15) Transportation of ATL, Crew, equipment and supplies;
 - (16) Travel costs to and from Oklahoma paid to or through a travel agent;
 - (17) Completion bonds and insurance (either guarantor or broker must be an Oklahoma Vendor);
 - (18) Shipping and postage for packages originating or terminating within Oklahoma;
 - (19) Fees, interest and financing charges paid to Oklahoma-Based financial institutions;
 - (20) Other materials, supplies and contracted services approved in advance by OFMO;
 - (21) CPA Report.
- (h) Payments to an Oklahoma Vendor for the following valid Scouting Expenses of the Production:
- (1) Location scouting, planning and packaging services;
 - (2) Travel costs to and from Oklahoma paid to a travel agent;
 - (3) Lodging and accommodations within Oklahoma;
 - (4) Transportation within Oklahoma;
 - (5) Meals purchased within Oklahoma.
- (i) Payments made in accordance with the High Impact Production Requirements.
- (j) Reimbursements made to individuals for goods and services that would have been QOE if paid directly by the Production, provided the individual provides a receipt for such goods and services.

725:35-1-5. Procedures for submission and review of rebate claimsOklahoma Expatriate Crew Program

- (a) ~~To qualify for the rebate program, the production company must provide the following to the OFMO prior to the beginning of principal photography:~~
- (1) ~~Application of eligibility for rebate programs;~~
 - (2) ~~Copy of the proposed budget;~~
 - (3) ~~Copy of the script and the inclusion of the OFMO on the project's revisions distribution list;~~
 - (4) ~~Copy of the production board or equivalent documentation;~~
- (b) ~~After a production company meets all requirements, the Director will issue a formal letter of acknowledgement of qualification.~~
- (c) ~~At the completion of principal photography, the production company must provide the following information before the claim can be reviewed by the Film Rebate Committee:~~
- (1) ~~Submit verifiable documentation to the OFMO of the amount of wages paid for employment in Oklahoma to residents of Oklahoma directly related to the production;~~
 - (2) ~~File an Oklahoma income tax return;~~
 - (3) ~~Complete the OFMO expenditure form;~~
 - (4) ~~Provide the following screen credit, "Filmed in Oklahoma under the Auspices of the Oklahoma Film Enhancement Rebate Program"; and~~

~~(5) — To provide evidence of a recognizable domestic or foreign distribution agreement within one (1) year from the end of principal photography.~~

~~(d) — Review and approval of rebate claims.~~

~~(1) — The Film Rebate Committee will be comprised of volunteers with expertise in the film industry, accounting or other related areas, enlisted by the Director. This committee shall review applications for rebates and make recommendations to the Director.~~

~~(2) — The Director shall approve or disapprove each completed rebate claim within sixty (60) days of submission of the rebate claim. The Oklahoma Tax Commission shall issue payment for all approved rebate claims, providing funds are available.~~

~~(3) — Rebate claims shall be paid in the order in which the rebate claims are approved by the Director.~~

~~(4) — If an approved rebate claim is not paid in whole or in part, the unpaid rebate claim or unpaid portion may be paid in the following fiscal year as allowed in 68 O.S. § 3624.D (F), providing funds are available.~~

~~(5) — Only one rebate claim shall be processed per film. Once the production company has been paid for that rebate claim, no amendments for that rebate claim are allowable.~~

~~(6) — Rebate claims that are disapproved by the Director may be corrected and resubmitted to the Director for reconsideration within ten (10) business days after the date of disapproval. Only one resubmission per rebate claim is allowed.~~

(a) OFMO will maintain a roster of Oklahoma Expatriate Crew and make such roster available to a Production Company upon request.

(b) The Expatriate roster will consist of Oklahoma Expatriates who:

(1) Have registered as an Oklahoma Expatriate with OFMO;

(2) Have completed a Declaration of Expatriate Status satisfactory to OFMO;

(3) At the request of OFMO, agree to be accompanied by an intern provided by an Oklahoma educational institution for a period of time acceptable to OFMO during the Production.