

On the basis of Article 123 of the Constitution of the Republic of Serbia, Article 8 of the Law on Budget of the Republic of Serbia for the year 2020 (“Official gazette of RS” no. 84/19) and Article 42 paragraph 1 of the Law on Government (“Official gazette of RS” no. 55/05, 71/05 – correction, 101/07, 65/08, 16/11, 68/12 – US, 72/12, 7/14 – CC, 44/14, and 30/18 – other law)

the Government renders the following

**REGULATION
ON INVESTOR INCENTIVE FOR THE PRODUCTION OF AUDIOVISUAL
WORKS
IN THE REPUBLIC OF SERBIA**

I. INTRODUCTORY PROVISIONS

Article 1

This Regulation prescribes the manner and conditions of awarding incentives to the investor producing an audiovisual work in the Republic of Serbia, for the purpose of inciting economic activities and boosting employment in connection with audiovisual production in the Republic of Serbia, as well as the promotion of Serbia’s potential in this field, i.e. its infrastructure, production and service activities.

Article 2

For the purpose of this Regulation, certain terms have the following meaning:

1) an investor is a legal or natural person for whose account and whose funds are used to finance or co-finance the production of an audiovisual work (hereinafter: the Investor);

2) the production budget is the total amount of funds intended for the production of an audiovisual work, from preparation for recording to the answer print or digital copy is ready for distribution, broadcasting and presentation to the general public and which does not include distribution and marketing costs;

3) qualified or eligible costs are expenses spent on the territory of the Republic of Serbia which are recognized as costs spent for the production of an audiovisual work in the territory of the Republic of Serbia, based on the report of a certified auditing company;

4) an applicant for the awarding and payment of incentives (hereinafter: the Applicant) is an Investor or a domestic legal or natural person who produces an audiovisual work on behalf of the Investor in the Republic of Serbia;

5) completion of the production of an audiovisual work, in the sense of this Regulation, is the day when the answer print or digital copy of the audiovisual work is ready for distribution, i.e. the day when all the activities on the realization of the project on the territory of the Republic of Serbia have been completed, including the obtaining of all evidence to confirm total funds spent for the production of an audiovisual work (invoices, contracts and bank statements from a commercial bank with indication of executed payment, etc.), or when all payments are made according to the invoices issued;

6) a project, for the purposes of this Regulation, is a unique process composed of a series of activities defined by a beginning and end, resulting in an audiovisual work, the uniqueness of which is reflected in the same program basis and in the same period of realization, regardless of whether it occurs as a whole or in separate segments.

Article 3

Incentives in accordance with this Regulation are allocated to the Investor as non-refundable, by reimbursing part of the eligible costs incurred in the Republic of Serbia.

Incentives are allocated in the amount of 25% of eligible costs, all in accordance with the independent auditor's report on the production costs of the audiovisual work in the Republic of Serbia.

Exceptionally from paragraph 2 of this Article, and under condition that for realization of audiovisual work in question, were allocated incentives in the amount higher than EUR 5.000.000 in the production budget, incentives are allocated in the amount of 30% of eligible costs, all in accordance with the independent auditor's report on the production costs of the audiovisual work in the Republic of Serbia.

In accordance with this Regulation, the authorities and organizations of the Republic of Serbia, i.e. bodies and departments of local authorities, public companies, funds and directorates, as well as institutions established by the Republic of Serbia and/or local authorities, do not have the right to award incentives.

In the event the Republic of Serbia, autonomous province and unit of local self-government, through the competent authorities, and the legal entity that manages and/or disposes of public funds, has granted state aid for the production of an audiovisual work in any form, the total amount of state aid and incentives awarded under this Regulation may not exceed 50% of total amount of funds intended for the production of an audiovisual work in the Republic of Serbia.

Incentives allocated for a special-purpose film are awarded in the amount of 20% of eligible costs, provided that the total amount of approved funds awarded over three consecutive fiscal years does not exceed the prescribed maximum amount of state aid of small value (*de minimis* state aid) in accordance with the regulations governing the rules for granting state aid.

II. CONDITIONS FOR THE EXERCISE OF RIGHTS ON THE AWARDING OF INCENTIVES

Article 4

The conditions that the Investor must fulfil in order to exercise the right to be awarded incentives is to, for the purpose of producing an audiovisual work, allocate funds in the production budget for realization of the project in the Republic of Serbia, in an amount greater than the minimum funds for a specific format:

- 1) for a feature film and TV film: 300,000.00 EUR;
- 2) for a TV series: 300,000.00 EUR, per episode;

- 3) for an animated film, audio and/or visual post-production of an audiovisual work: 150,000.00 EUR;
- 4) for a special-purpose film: 300,000.00 EUR;
- 5) for a documentary film and documentary TV program: 50,000.00 EUR.

The right to incentives can be achieved for the production of:

- 1) a feature film, TV film, feature-length documentary film and feature-length animated film that last at least 70 minutes;
- 2) a TV series, under the condition that episode lasts at least 40 minutes;
- 3) a documentary TV program lasting at least 40 minutes.

In addition to the conditions referred to in paragraph 1, item 4) of this Article, for the acquiring of the right to incentives for the production of a special-purpose film, it is necessary that its production is financed by one Investor, as well as that the realization of a special-purpose film is defined as a project under Article 2 item 6) of this Regulation.

Article 5

The right to incentives referred to in Article 1 of this Regulation is unavailable to an Investor, i.e. Applicant:

- 1) against whom a previous bankruptcy proceeding, reorganization or liquidation has been initiated, in accordance with the regulations governing bankruptcy and liquidation;
- 2) who has matured and outstanding obligations on the basis of public revenues in the Republic of Serbia and other financial obligations towards the Republic of Serbia.

Article 6

Incentives can be awarded for an audiovisual work:

- 1) that does not have content contrary to the moral, public order and public interest of the Republic of Serbia, does not violate the reputation of the Republic of Serbia, does not promote violation of human rights and hate speech;
- 2) which is in the format of a feature film, TV film, TV series, feature animated film, audio and/or visual post-production of an audiovisual work, special-purpose film, feature-length documentary films and documentaries;
- 3) whose production has commenced or whose production continues during the budget year in which the request for incentives is submitted.

The production of an audiovisual work must take place in accordance with the production calendar and shooting plan, and the Applicant must notify the Committee for Awarding Incentives within seven days on any deviations from the submitted production

calendar and shooting plan. If there is a deviation of more than 30 days, the Agreement on Awarding Incentives is deemed to be terminated.

Article 7

The incentives are awarded on the basis of a continuously open public call for the awarding of incentives (hereinafter: Public Call), which is issued by the ministry in charge of economic affairs (hereinafter: the Ministry).

Article 8

Requests for the payment of incentives, submitted in accordance with this Regulation, for whose realization there are no funds available and planned for that purposes in Budget of Republic of Serbia for current year, shall be deemed to be requests for the following budget year.

III. COMPOSITION AND FORM OF THE COMMITTEE

Article 9

The Government establishes the Committee for Awarding Incentives (hereinafter: the Committee) consisting of the President of the Committee and four members, namely: a representative of the ministry responsible for economic affairs who is also the President of the Committee and one representative each of the ministry responsible for cultural affairs, the ministry responsible for financial affairs, the Serbian Chamber of Commerce – Cinematography Group, and Film Centre Serbia.

The mandate of the Committee is two years.

A member of the Committee may not be in conflict of interest, which implies the following:

1) must not participate in the reviewing and decision-making regarding the application for work of which he is the Investor or associate in production;

2) must not be in the ownership or management structure of the legal entity that submits the application or be employed by that legal entity.

A member of the Committee who is in conflict of interest in accordance with paragraph 3 of this Article, shall immediately inform the Committee thereof and be exempted from further consideration and decision-making regarding the application.

The manner of work and decision-making of the Committee is regulated by the Rules of Procedure.

Administrative and technical affairs for the needs of the Committee are performed by Film Centre Serbia.

Members of the Committee are not entitled to a financial compensation for work in the Committee.

IV. APPLICATION FOR AWARDING INCENTIVES

Article 10

The application for the awarding of incentives is submitted to the Committee, through Film Centre Serbia, on the basis of the Public Call and includes the submission of the following documentation:

- 1) filled out prescribed application form for the awarding of incentive funds to an investor who produces the audiovisual work in the Republic of Serbia;
- 2) synopsis and script of the audiovisual work, synopsis when it's a postproduction, or only project description for a special-purpose film
- 3) list of the important members of the team for the production of an audiovisual work (director, actors, etc.);
- 4) presentation of the production budget, showing the part of the budget for production in the Republic of Serbia expressed in dinars;
- 5) statement that the audiovisual work meets the requirements of Article 4 of this Regulation;
- 6) calendar of production of the audiovisual work in the Republic of Serbia;
- 7) shooting plan for the audiovisual work in the Republic of Serbia;
- 8) evidence that there are no grounds for refusal under Article 5 of this Regulation (Certificate of the Tax Administration, Business Registers Agency or any other competent register);
- 9) statement on the start of production of the audiovisual work in the Republic of Serbia;
- 10) statement as to whether *de minimis* aid has been received for the costs referred to in Article 2, item 3) of this Regulation, or for any other expenses in the current fiscal year and in the previous two fiscal years, or a statement whether the same project received any other state aid from any level of government and on what basis;
- 11) agreement based on which the audiovisual work is being produced in the Republic of Serbia in the name and on behalf of the Investor, or any other valid proof that the paid incentives will accrue to the Investor, provided that the Applicant is a domestic legal or natural person who produces the audiovisual work in the Republic of Serbia on behalf of the Investor;
- 12) certified statement that the data in the documents are accurate and true;
- 13) other data and documentation stipulated by the Public Call.

The application and accompanying documents are submitted in the Serbian language or in a foreign language with a certified translation into the Serbian language.

The Applicant is obliged to prove that, on the day of submitting the application, at least 30% of the funds envisaged for the cost of production of the audiovisual work in the Republic of Serbia are provided.

At the request of the Committee, the Applicant is obliged to submit other information and documentation of relevance for the awarding of incentives.

Article 11

The Committee evaluates each entered application for the awarding of incentives and determines whether the Investor and the audiovisual work fulfil the qualifying conditions for the awarding of incentives, i.e. whether the requirements of Articles 4-6. of this Regulation have been fulfilled, as well as whether all the documents prescribed in Article 10 of this Regulation have been submitted.

If, along with the application from paragraph 1 of this Article, all necessary documents provided for in Article 10 of this Regulation have not been submitted, the Committee shall act in accordance with the provisions of the law regulating general administrative procedure, which refers to the handling of incomplete applications.

Article 12

After the Committee determines that the requirements of Articles 4-6. of this Regulation have been fulfilled, i.e. that all the documentation provided for in Article 10 of this Regulation has been submitted, the Committee shall issue the decision determining the fulfilment of the qualifying conditions and shall propose to the Ministry the conclusion of an agreement on the awarding of incentives.

The decision referred to in paragraph 1 of this Article shall be final.

V. AGREEMENT ON AWARDING INCENTIVES

Article 13

The Ministry signs the Agreement on Awarding Incentives (hereinafter: the Agreement) with the Applicant, within the scope of funds planned for these purposes by the Budget Law of the Republic of Serbia for the current budget year and in accordance with the provisions of the Law on the Budget System ("Official gazette of the Republic of Serbia", no. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 - correction, 108/13, 142/14, 68/15 - other law, 103/15 , 99/16, 113/17, 98/18, 31/19 and 72/19), in the part governing the responsibility for taking over obligations.

The Agreement specifies the deadlines, rights and obligations of the parties.

The documentation attached to the application, in accordance with Articles 10 and 16 of this Regulation is considered as an integral part of the Agreement.

The Agreement shall be deemed terminated in the following cases:

- if there has been a deviation from the submitted shooting plan and calendar for more than 30 days or any other significant deviation in the realization of the audiovisual work;
- if the Committee, during the procedure of reviewing the application for payment of incentives, determines that all the prescribed conditions have not been met;
- if provided for by written agreement of the parties before expiration of the agreed deadline;
- due to an objective inability to execute contractual obligations (force majeure, administrative measures, etc.) occurring on the side of one or both parties;
- if bankruptcy, liquidation or reorganization procedures are initiated against the Investor or the Applicant.

Article 14

The Ministry shall pay the approved amount of incentives if all the obligations provided for by this Regulation and the Agreement have been fulfilled.

VI. APPLICATION FOR PAYMENT OF INCENTIVES

Article 15

The application for payment of incentives shall be submitted to the Committee within 45 days after completion of the production of the audiovisual work in the territory of the Republic of Serbia.

In the event that production of the audiovisual work in the territory of the Republic of Serbia was finished before execution of the Agreement on awarding incentives from Article 13 of this Regulation, 45 days deadline, for application for payment of incentives, counts from the day of execution of that Agreement.

Article 16

The application for payment of incentives shall be submitted to the Committee through Film Centre Serbia, in the prescribed form, accompanied by the following documentation:

1) an extract from the register maintained by the Business Registers Agency or any other competent register;

2) an independent auditor's report on the cost of production of the audiovisual work in the Republic of Serbia and the operations of the Investor, made for the purpose of submitting the application for payment of incentives in accordance with this Regulation and the Rulebook, and which is compiled on the basis of the complete record of production costs and total funds spent on the territory of the Republic of Serbia, as well as the evidence confirming these costs (invoices, contracts, bank statements from commercial banks with indication of payment made, etc.). The audit report is prepared on the basis of verification of all eligible costs and cannot be based on the sampling method, i.e. review only of certain documents;

3) number of special purpose account with the Treasury Department to which payment of incentives is to be made;

4) a certified statement that the production of the audiovisual work in the Republic of Serbia has been completed, and that the conditions prescribed by Article 20 of this Regulation have been fulfilled;

5) a certified statement that the data in the documents is correct and true.

The independent auditor's report referred to in paragraph 1 item 2) of this Article shall determine the amount of costs that qualify for the incentive.

At the request of the Committee, the Applicant is obliged to submit other data and documentation relevant to the payment of incentives.

Article 17

The Committee, after execution of Agreement, evaluates each entered application for payment of incentives and determines whether all the prescribed conditions for the payment of incentives have been met.

If, together with the application referred to in paragraph 1 of this Article, all the necessary documents provided for in Article 16 of this Regulation have not been submitted, the Committee shall act in accordance with the provisions of the law governing general administrative procedure which relate to the handling of incomplete requests.

If all the requirements of paragraph 1 of this Article are fulfilled, the Committee shall render the decision determining the fulfilment of conditions, propose to the Ministry to render the appropriate decision as the basis for payment of incentives and adopt a report on the fulfilment of the conditions for payment.

The decision referred to in paragraph 3 of this Article is final.

Article 18

The incentives are paid to the account of the Applicant – a special dedicated account with the Treasury Department.

The incentives shall be paid within 60 days from the date of the final decision of the Ministry referred to in Article 17 paragraph 3 of this Regulation.

If the incentives are paid to the account of the Applicant who is a domestic legal or natural person who, in the name and on behalf of the Investor, produces the audiovisual work in the Republic of Serbia, the Applicant is obliged to, within 10 days from the date of payment of incentives in the sense of paragraph 1 of this Article, transfer the amount of funds paid to the Investor and furnish the Ministry proof thereof.

In the event of failure to fulfill the obligation from paragraph 3 of this Article, the Applicant is obliged to refund the paid incentives to the budget of the Republic of Serbia with statutory default interest calculated from the date of payment of incentives to the account of the Applicant until the date of refund of the amounts of paid funds.

VII. ELIGIBLE COSTS

Article 19

The following are recognized as qualified (eligible) costs:

1) costs related to the production of the audiovisual work that have been incurred and paid to legal or natural persons in the territory of the Republic of Serbia in connection with the goods procured and services provided, use of locations, payment of fees to members of the team who are citizens of the Republic of Serbia or foreigners who have a stay of at least one year in the territory of the Republic of Serbia, in accordance with the regulations of the Republic of Serbia;

2) costs incurred in connection with the use of goods or the renting of movable and immovable property can only be recognized if the goods or movable and immovable property are owned by legal or natural persons from the territory of the Republic of Serbia.

Costs that are specifically not recognized as eligible costs incurred in connection with the production of audiovisual works are: marketing costs, costs related to the purchase of real estate, distribution costs and costs of value added tax.

The types and contents of the explanation of eligible, as well as non-eligible costs and forms of the application for awarding and payment of incentives, are specified in more detail by the Minister in charge of economic affairs.

VIII. INFORMATION THAT THE REPUBLIC OF SERBIA SUPPORTED THE PRODUCTION OF THE AUDIOVISUAL WORK AND SUPERVISION OVER THE PRODUCTION OF THE AUDIOVISUAL WORK

Article 20

The audiovisual work for whose production incentives have been acquired in accordance with this Regulation must contain information that the Republic of Serbia has financially supported the production of the subject audiovisual work in the appropriate visible place, in all versions, copies and when presented in different markets, as well as logo Serbia Creates Film, i.e. information on the financial support of the Republic of Serbia, and logo Serbia Creates Film shall be prominently displayed in all marketing activities related to the promotion of the audiovisual work.

Investor is obliged, upon request of the Committee, enables supervision over production of audiovisual work for whose production incentives have been acquired in accordance with this Regulation, as well as to, upon request of the Committee and competent bodies and representatives of Republic of Serbia, enables insight into the realization process of audiovisual work in the territory of Republic of Serbia.

IX. TRANSITIONAL AND FINAL PROVISIONS

Article 21

Those procedures for the awarding and payment of incentives which have commenced but have not been completed until the date of entry into force of this Regulation, shall be enforced in accordance with the Regulation on Incentives to the Investor to Produce an

Audiovisual Work in the Republic of Serbia (“Official gazette of the Republic of Serbia” No. 55/19).

Article 22

By entry into force of this Regulation, the Regulation on Incentives to the Investor to produce an Audiovisual work in the Republic of Serbia (“Official gazette of the Republic of Serbia” No. 55/19) is no longer valid, except provision of Article 4, para. 1 point 2) and 4) and para 2. point 2), of that Regulation, that shall remain in force until January 31st 2020.

The Rulebook on the Types and Contents of the explanation of eligible and non-eligible costs and the form of the application for payment of incentives to the Investor who is producing an audiovisual work in the Republic of Serbia (“Official gazette of the Republic of Serbia” No. 39/18) shall remain in force until the adoption of the bylaw referred to in Article 19 paragraph 3 of this Regulation.

Article 23

This Regulation shall enter into force on the eighth day after its publication in the “Official gazette of the Republic of Serbia”, except provision of Article 4, para. 1 point 2) and 4) and para. 2 point 2), of this Regulation, that will be applicable starting from January 1st 2020.

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In Belgrade, 26. December 2019

G O V E R N M E N T

PRESIDENT

Ana Brnabic