

Prince Edward Island Film Production Fund Guidelines

The Prince Edward Island Film Production Fund (“Fund”) supports the development and growth of the private-sector film and television industry in Prince Edward Island. The Fund provides a financial incentive to make Prince Edward Island a competitive location for productions, and encourages the development, training and hiring of Prince Edward Island film personnel.

Prince Edward Island’s objective is to increase the volume of service and local productions to:

- Increase the visibility of Prince Edward Island (“PEI”) on screens;
- Grow the skilled labour pool and support the development of PEI creative industries and workers;
- Build the capacity of the domestic PEI film and television production industry; and
- Provide PEI producers with an opportunity to be more competitive in attracting financing and co-production opportunities.

The Fund provides this support via a rebate of 32-35% of eligible PEI expenditures for work completed in PEI.

Applications must be submitted prior to the beginning of production.

The Fund will be available beginning April 1, 2021, until March 31, 2024, at which time it will be evaluated.

The Fund provides a base rebate of 32% of eligible costs for work completed in PEI. An increase to the rate is available through the following bonuses:

PEI Production Bonus:	1 percentage point for productions by PEI producers, or co-productions where the PEI producer has at least 25% control;
Series Production Bonus:	2 percentage points for series productions

Administration and Process

The Fund is administered by Innovation PEI on behalf of the Province of PEI. There is no administration fee charged to applicant production companies.

If Innovation PEI (“IPEI”) approves funding for the production, it will issue a Fund Letter of Offer (contract) detailing the terms, conditions, obligations, and requirements for payment to be issued.

Applicant Eligibility

Applications will be accepted from companies that:

- have as their principal business the production of film and television
- demonstrate that their main activity is the creation of productions available for public viewing
- are incorporated in Canada, either federally or provincially
- applicants, shareholders and related companies must be in good standing with IPEI (must not have overdue reporting) and the Province of PEI (does not appear in the Central Default Registry)
- Applicants in arrears with any PEI government department or crown corporation will be disqualified.

Distributors, broadcasters or other issuers of commercial license agreements, or those not operating at arm’s-length from the same, are not eligible to apply.

The PEI Film Production Fund may be used for co-productions. For treaty co-productions, the Fund is applicable to the Canadian only portions as per the guidelines set out in Canada's existing treaty co-production agreements.

Production Eligibility

Productions must be new productions; repackaging or re-versioning of previously completed productions will not be accepted.

The amount of money spent in PEI for the production must be at least \$25,000 before HST.

IPEI expects all projects to be finished and made available for audiences. To be eligible for the Fund, the producer must provide written evidence of a Commercial License Agreement for the production.

A Commercial License Agreement is defined as an agreement issued by a third-party entity whose primary business is broadcasting, distributing, or disseminating film or television to the public, and who is able to demonstrate a track record of such enterprise. A commercial license agreement may or may not include a license fee. An agreement in which airtime for the broadcast has been purchased by the producer (or on behalf of the producer) is not eligible.

Ineligible Productions include the following genres and platforms that are not eligible for funding:

- News, current events or public affairs programming, or a program that includes weather or market reports;
- Talk shows / magazine formats
- Production in respect of a game or contest
- Sporting events or activities
- Gala presentations or award shows
- Production that solicits funds
- Reality television
- Pornography
- Advertising
- Music videos
- Production produced primarily for industrial, corporate, or institutional purposes
- Production, other than documentary, that consists of all or substantially all stock footage
- Console or online video games
- Software/programming applications
- Any film or production that contravenes any civil or criminal law
- Productions that, in the opinion of IPEI, may be contrary to the public interest to approval for funding
- Such other genres or productions that may be added to this list by publishing updated guidelines

Projects that are eligible and approved for other forms of financial assistance from any other department or agency of the PEI Provincial Government may not be eligible for the Fund. The total value of PEI Provincial Government financial support will be considered, and IPEI retains sole discretion to deem a project ineligible.

Applicants who are in default on any financial or reporting obligation to IPEI or any PEI Government department or agency, may not submit new projects pending a resolution of the problem.

Financing and Related Requirements

The production company must provide a financing structure and budget in industry-standard format, and demonstrate that the production is fully financed.

The applicant production company must demonstrate to the satisfaction of IPEI that all necessary insurance and performance bonds (where required) are in place to protect any investment in the project.

Inquiries

Inquiries concerning the Fund should be directed to the Cultural Development Division of IPEI. This division will provide published documentation and assist producers in determining the eligibility of the production and the production company, and the amount to be claimed for the rebate.

Application

A production company applying for the Fund will submit the required application and documentation simultaneously. IPEI will analyze the submission and work with the applicant to ensure all requirements are met.

Claiming Payment from the Fund

When an approved project has completed production and delivery, and final cost and labour reports have been prepared as required, the applicant will submit the required Fund rebate application and documentation to IPEI, including the actual listing of eligible items that total to the PEI Spend.

Once IPEI has determined that all required documentation has been received, and validated the final value of the rebate available from the Fund, it will issue payment to the production company via cheque or EFT.

Eligible PEI Costs

Eligible costs must result from work performed in PEI.

Eligible costs include all expenditures where the good or service is purchased from a PEI-based supplier with a permanent physical establishment within PEI, and is leased, used, provided, or consumed in PEI.

Wages paid to PEI residents are eligible. Each PEI resident employed on the production must complete and sign a PEI Film Production Fund Statutory Declaration, included as Schedule IV of the PEI Film Production Fund letter of offer (available electronically on request).

A Deeming Provision is provided within the Fund. Where a qualified PEI resident is not available to fill a technical position, the salary of a qualifying non-resident may be deemed eligible provided the production company fulfills all related requirements. Deemed salaries will be capped at 30% of total eligible PEI resident wages. Further details are provided in the next section, Deemed Labour Allowance.

A list of eligible expense items will be available on the Eligible PEI Costs Worksheet. If an applicant has expenses not explicitly identified as eligible on the worksheet, they should apply to the IPEI for an advanced ruling. Only those expenses identified in the list of eligible expense items, or that have been approved in an advanced ruling, will be considered in funding calculations. Insurance costs will be prorated to the number of PEI production days.

Except when approved in advance, producers may claim no more than one Head of Department/Performer position in addition to being a producer. In these approved instances, total fees eligible for inclusion as an eligible PEI cost for Head of Department/Performer services payable to producers also employed in Head of Department positions will be no greater than applicable industry standard or 20 per cent of the budget, whichever is lower.

The value of in-kind contribution is not considered an eligible PEI expense.

Capital items are not considered an eligible PEI expense.

Fees for goods or services subcontracted by PEI companies to out-of-province individuals and organizations are not considered eligible PEI expenses. The good or service must be supplied, received or performed in PEI.

Deemed Labour Allowance

Given current skill shortages and the difficulty in filling some technical positions with a willing, available and qualified PEI resident, the PEI Film Production Fund may allow the salary of a qualifying non-resident to be treated as an eligible PEI expenditure provided that the individual supervises the training of at least one PEI resident within the same department. The goal of deemed labour is to encourage training of PEI residents to reduce local skills shortages for future PEI productions.

Request for Deeming

The production company should identify any position(s) requiring a non-PEI Resident during the pre-production phase; any requests for deeming must be completed prior to the start of principal photography.

A request for deeming may be made as part of the initial application to the PEI Film Production Fund, or during the pre-production phase when labour issues are identified. A request for deeming will not be considered if it is received after the start of Principal Photography.

Complete the Allowance for Deemed Labour Request form to identify the positions to be deemed and reasons why PEI residents are not being employed in these positions. For each non-PEI resident person included in the request for deeming allowance, a CV must be attached. For each PEI resident person included as a trainee, a CV must be attached. The production company must be prepared to evidence how it determined positions required non-PEI residents. The unavailability or unsuitability of PEI residents may be verified by IPEI.

IPEI will review the requested list of deemed labour. If approved, the value of the allowance for deemed labour expense will be included within the letter of offer, including details of approved deemed and trainee positions, applicable caps and any other limitations and requirements.

Limitations on Deemed Labour

Deemed salaries will be capped at 30% of total eligible PEI resident wages. The ratio of eligible non-resident to resident trainee is calculated based on the average for the production, not on an individual basis. The deeming provision does not apply to producers, directors, actors, or any above-the-line position.

Management of Training

Training is required by the deeming provision and is subject to monitoring by IPEI. Required training is flexible and may vary in experience level from entry-level to position upgrades or specific skill enhancements.

Once trainees have been identified and placed on a production, IPEI may monitor their progress through on-set personal interviews and final written reporting required from the production company. IPEI may request set visits to observe the production and verify that trainees are on-the-job and benefiting from skills enhancement.

Each deemed individual must supervise the training of at least one PEI resident within the same department. Departments are generally defined as follows:

Art Department:

Production Designer, Art Director, Draftsman/Graphic, Construction, Scenic Painter, Props, Set Decorator, Costume, Make-up, Hair, Special FX

Technical:

Camera Department (including D.O.P), Gaffer, Electrics, Genny Operator, Grip Department, Dolly Operator, Sound Mixer, Boom Operator

Production:

Accounting, Production Office, Assistant Director, Line Producer, Production Manager, Continuity, Locations, Craft Service, Catering, Stunt Coordinator

Post-Production:

Picture Edit, Sound Edit

Animation:

Animators, 3D Character/Prop Modellers, Programmers, 3D Set Models/Camera Operators; Facial Modellers/Animators; Network Technicians; Archivists; Motion Capture Performers

The proposed, deemed positions are approved contingent upon IPEI verifying that acceptable training opportunities are provided.

After Project Completion

After completion of the project and final reporting, the production company will submit the actual list of deemed labour with the actual breakdown of PEI expenditures and labour.

If any individuals change between submission of the Request for Deeming form and submission of the Actual Deemed Labour form, a CV must be attached for each new individual. Please contact IPEI on any changes to ensure the individual(s) meets the requirements to be deemed or employed as a trainee.

PEI Resident

For the purposes of eligibility to the Fund, a “PEI resident” means a lawful resident of Canada for the purposes of the Income Tax Act (Canada) who:

- has maintained a principal residence (physical address) in PEI for at least 6 consecutive months immediately prior to the date of application to a funding program; or
- files a PEI Income Tax Return as a resident of PEI and did so for the previous income tax year immediately preceding the one in which principal photography of the production commences

Applicants may request that individuals be considered PEI residents if they have filed a PEI Tax Return in any of the four prior taxation years or otherwise are considered to be qualified PEI residents, if an advance ruling has been received. Only those individuals approved in an advance ruling will be considered.

IPEI retains the right to determine PEI residency. This practice will be reviewed on an annual basis.

Additional Eligibility Requirements, Conditions, and Limitations

- Fund applications, including all supporting documentation, must be received prior to commencement of principal photography.
- Applications that are complete will be handled on a first-in, first-out basis for production funding.
- In addition to meeting eligibility requirements, the level of IPEI’s financial participation is based upon a number of factors:
 - Capacity of the production team to complete the project, on budget and within the time frame proposed by the applicant;
 - The economic impact of the project in PEI;
 - The creation of employment and training opportunities for PEI residents;
 - Leverage of funds from the private sector and from outside PEI;
 - Project size and scope;
 - Broadcast licenses and distribution agreements;
 - Available budget.

- In addition to other deliverables detailed in the Fund Letter of Offer, recipients will be required to submit:
 - financial statements for projects with budgets of \$200,000 to \$500,000,
 - with a Review Engagement Report and third-party audited financial statements for budgets over \$500,000; or
 - an uncertified Final Production Cost Report supported by a Statutory Declaration (available electronically on request) for projects with budgets under \$200,000.

Further details on required reporting are provided in the “Deliverables” section of Incentive Recipient Obligation below.

Incentive Recipient Obligations

Recipients of funding are required to fulfill the specific requirements detailed in the Letter of Offer, which supersede obligation information provided in these guidelines. Recipients are advised to review their Letter of Offer carefully prior to signing.

1. Credit and Promotion

The applicant will use best efforts to include the following in its credits:

Onscreen and advertising and promotional material credit

“Produced with the assistance of the Government of Prince Edward Island, P.E.I. Film Production Fund” with the Province of PEI logo (to be provided) and in a position, size, and prominence that is proportionate to the Fund’s financial contribution to the production and in relation to other financing participants,

and

“Shot on location in Prince Edward Island, Canada” in the tail credits of the production (where applicable).

Where the production is a series, the above credits are required for each episode.

2. Insurance

The applicant will provide evidence of a certificate of industry standard insurance prior to the first day of principal photography.

3. Deliverables

Upon completion of the production, the applicant shall provide the following deliverables:

- A copy of the completed production in a format requested by IPEI.
- The final list of head and tail credits as they actually appear on the completed production.
- Subject to current statutory and existing contractual obligations to, and approval rights of, third parties, if available and requested by the Administrator, a full electronic press kit including, but not limited to, a minimum of two cast shots and two behind-the-scenes production shots, submitted in a format required by the Administrator, as well as any additional publicity/promotional materials available (e.g., posters).
- Such other documentation listed in the incentive agreement or that the Fund Administrator advises the applicant may be required.
- Where the final cost of the production exceeds \$500,000, an audited Production Cost Statement prepared by a certified accountant with a CGA, CA, CMA or CPA designation.

The audit requires schedules detailing the total production cost, total PEI cost, balance sheet, detailed listing of accounts payable remaining unpaid, audit report stating the audit opinion, and a list of PEI resident positions including the amount they were paid. All schedules must be audited in accordance with the terms noted in the signed contract and production guidelines.

- Where the final cost of the production is greater than \$200,000 up to \$500,000, a Production Costs Statement with a Review Engagement Report shall be submitted.

- Where the final cost of the production is equal to or less than \$200,000 an uncertified Final Cost Report supported by a Statutory Declaration (available electronically on request).
- PEI residency must be verified by a Statutory Declaration, sworn to and signed by the Producer (attached to Letter of Offer and available electronically on request).
- The Administrator of the Fund has the right to audit the books and records of any company that receives a payment from the Fund. These records may include, but are not limited to, the following: invoices, bank statements, cancelled cheques, audited financials, agreements, contracts with individuals and companies, and proof of PEI residency for any personnel.
- Retention of records is required for a period of seven years.
- Innovation PEI reserves the right to require that an audit be performed regardless of the final cost.

Production Funding Process

- A complete application, consisting of a completed Application Form (please contact IPEI) and all required accompanying documentation, must be received by IPEI before a project will be considered for funding.
- Upon receipt of a complete application, it will be reviewed for eligibility.
- Applicant notification of funding decision.
- Execution of Letter of Offer, including detailed obligations of the recipient regarding project deliverables and reporting requirements.
- Receipt of all project deliverables including production costs financial reports.
- Release of Fund rebate as per Letter of Offer.
- All cost overruns are at the sole risk of the applicant and IPEI assumes no obligation with respect to any costs that exceed the project budget.

Note: Assignment and direction of rebate funds may only be granted to a recognized financial or lending institution, and only with the advance approval of IPEI.

Freedom of Information and Protection of Privacy

Information contained in, and collected in relation to, successful applications to the Fund is subject to, and will be treated in accordance with, the Prince Edward Island Freedom of Information and Protection of Privacy Act R.S.P.E.I. 1988, Cap. F-15.01. The amount of the rebate provided through the Fund, a description of the project and the name of the company may be disclosed at the discretion of IPEI in accordance with the Act.

For additional information visit: <https://www.princeedwardisland.ca/en/information/justice-and-public-safety/foipp-frequently-asked-questions>

Who do I contact with questions?

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