

The amended loan program is now available and accepting submissions.

Policies & Requirements:

Please review the Film Investments Policy document: www.sic.state.nm.us/film.htm

- Loan amounts:** Minimum: \$500K. Maximum: \$15M. Loan shall not exceed 100% of the production budget. Marketing and distribution costs will **not** be considered part of the production budget.
- Interest rate:** Fixed interest rate: National Prime Rate (as published daily in the *Wall Street Journal*) plus 150 basis points (1.5%) based on the date of SIC approval. Backend participation has been eliminated.
- Payback terms:** Not to exceed two (2) years. Term begins at closing of loan.
- Guarantor:** Full, unconditional and irrevocable Letter of Credit from a U.S. incorporated bank with at least an "A" credit rating from a nationally recognized rating agency required **or** cash escrow account. Amount guaranteed must be principal plus accrued interest. Guarantor shall not expire earlier than sixty (60) days after maturity.
- Documentation:** Standardized for each loan. No negotiation of the terms of the loan will be allowed.
- Distribution:** A distribution contract must be "in place with a reputable distribution company," meaning a **signed contract**. A letter of intent, deal memo, or sales agent would not be accepted. A distribution agreement covers not only theatrical distribution but other avenues of distribution such as direct-to-video, cable and TV, etc. This is a statutory requirement and there are no exceptions.
- Crew:** At least seventy-five percent (75%) of the BTL crew (body count) **and** payroll must be allocated to New Mexico residents. Crew members will be approved upfront through Taxation & Revenue, and only crew members filing a New Mexico tax return as a Resident or First-Year Resident will be considered a New Mexico resident for this purpose.
- Shooting Days:** At least eighty-five percent (85%) of the film must be shot in New Mexico, and this is based on principal *and* second unit.
- Script:** The Film Division will determine eligibility based upon the script's content. Scripts containing excessive or gratuitous violence, sexual content or language, culturally sensitive material (glorification of drugs, suicide, irresponsibility with racial or religious subject matter, etc...) or a combination of the above, would most likely be ineligible.
- Default:** A default rate of interest equal to the National Prime Rate plus 650 basis points (6.5%) will be charged from the day of default until payment of the loan principal and interest.

STEP ONE:

Email the Film Office the following five (5) items and use the subject line: **Film Loan Step One:**

Send to: info@nmfilm.com

- 1) Title of project AND synopsis
- 2) Type of project (feature film, television series...)
- 3) Projected shooting dates or months
- 4) Amount (\$) requesting
- 5) Your name and contact information

No other information is required at this time, so please do not submit business plans, scripts, etc...

STEP TWO:

Email Greg Kulka of the State Investment Council (SIC) the name of your guarantor (including address and contact information) and **provide a letter** (essentially a letter of intent) **from that entity on their letterhead** stating that they have reviewed the project and underlying collateral and are prepared to issue the requisite guarantee (letter of credit) to the State of New Mexico pending SIC approval. The guarantee must be one of the following and is callable upon the first to occur of default or maturity:

- (i) Full, unconditional and irrevocable Letter of Credit from a U.S. incorporated bank with at least an "A" credit rating from a nationally recognized rating agency;
- (ii) A cash escrow account

The New Mexico State Investment Council reserves the right to perform additional due diligence on the financial strength of any guarantor and can accept or reject the guarantor even though a proposed guarantor may currently have an acceptable rating from a national rating agency.

Greg Kulka, State Investment Council: greg.kulka@state.nm.us

After Greg has approved your guarantor, you may proceed to Step Three.

STEP THREE:

Email the Film Office the following four (4) items AND attach Greg Kulka's approval of your guarantor from Step Two. Send to: info@nmfilm.com

- 1) SCRIPT
- 2) BUDGET
- 3) SCHEDULE [and confirmation that each shooting day is an eight (8) hour day minimum]
- 4) DISTRIBUTION CONTRACT(S)*

*A distribution contract must be "in place with a reputable distribution company," meaning a signed contract. A letter of intent, deal memo, or sales agent would not be accepted. A distribution agreement covers not only theatrical distribution but other avenues of distribution such as direct-to-video, cable and TV, etc. This is a statutory requirement and there are no exceptions.

STEP FOUR:

After the Film Office has approved your 1) Script 2) Budget 3) Schedule and 4) Distribution, please submit the CREW SPREADSHEET & DECLARATION OF RESIDENCY FORMS (DORs). Send to: info@nmfilm.com

CREW SPREADSHEET:

A BTL spreadsheet, including rates and total salary for each BTL crew member, both residents and nonresidents, (do not include Extras) for the run of the production is required. New Mexico hires, including their full names, must be clearly indicated.

Total number of BTL Crew members (body count):

Total number of BTL New Mexico Crew members (body count):

Total number of BTL Distant Hire Crew members (body count):

Total Percentage BTL New Mexico Crew members (body count): %

Total Percentage BTL Distant Hire Crew members (body count): %

Total BTL Payroll: \$

Total BTL New Mexico Crew Payroll: \$

Total BTL Distant Hire Payroll: \$

Total Percentage BTL New Mexico Crew Payroll: %

Total Percentage BTL Distant Hire Payroll: %

DECLARATION OF RESIDENCY FORMS:

For every New Mexico resident, you must include a signed Declaration of Residency form (DOR). The Film Office will verify residency upfront through Taxation & Revenue (TRD).

Only crew members who are filing New Mexico tax returns as a **Resident** or **First-Year Resident** are considered residents. Anyone filing as a Part-Year Resident or Non-Resident is not considered a resident. If the crew member is not found in TRD's system, they will not be considered a resident for the purpose of this program.

→ *We will also require a spreadsheet, DORs, and crew count information **after wrap** to ensure compliance with the 75% BTL requirement.*

WHAT'S NEXT?

Upon completion of the Film Office and State Investment Council (SIC) staff reviews, the SIC will determine if the project meets the requirements. If **yes**, a recommendation will be prepared by the SIC staff. If **no**, the applicant will be notified, and resubmission of the project will be permitted at the discretion of the SIC staff.

Once the SIC staff has issued a recommendation, they will determine when your project will be presented. Your project must be approved by both the Private Equity Investment Advisory Committee (PEIAC), which meets approximately five (5) times per year, and the State Investment Council (SIC), which meets every month. Your presence is required at both hearings.

The PEIAC does not have a fixed monthly schedule; however, when they do meet, it will always be scheduled on the afternoon preceding the SIC, which meets the fourth Tuesday of each month.

Check with the SIC 505 476 9500 for the next scheduled PEIAC meeting.

The First Hearing:

Private Equity Investment Advisory Committee (PEIAC)

Location: State Investment Council, Santa Fe, NM

Meets approximately six (6) times per calendar year and hearings are generally held on Mondays at 2:00pm MST on the afternoon preceding the SIC.

The Second Hearing:

State Investment Council (SIC)

Location: Governor's Cabinet Room, State Capitol Building, Santa Fe, NM

Meets every month and hearings are held the fourth Tuesday of each month at 9:00am MST.

Note: These are public hearings and members of the press likely will be present.

Council Members will vote in your presence as to the approval/disapproval of the loan. If your loan is approved at the PEIAC hearing, you will attend the SIC hearing the next day and the process will be the same.

If approved by the SIC, preparation of final loan documentation will commence and should be finalized within five (5) business days after approval of the SIC hearing. The loan will usually fund within two to three days of closing. Subject to the closing, the loan may be funded up to two (2) weeks prior to the commencement of principal photography.

QUESTIONS?

Greg Kulka, State Investment Council: greg.kulka@state.nm.us or 505 476 9500

New Mexico Film Office: 505 476 5600