

## NEW YORK STATE FILM TAX CREDIT PROGRAM

### APPENDIX A TO PROGRAM GUIDELINES

#### Glossary of Key Terms and Definitions

The Film Tax Credit Program contains many key terms and definitions that are used in the Guidelines, statute, regulations and documents that comprise the application. These terms and definitions are organized alphabetically for reference purposes:

**Above the Line** refers generally to expenditures such as rights to the script (and source material), compensation for the screenwriter, producer, director, principal actors and other line items such as casting. Above-the-line employees on a film project generally refers to the individuals who guide and control the creative direction and process of a film and their related expenditures. Above the line employees and costs are generally not qualified for the NYS Film Tax Credit. See the **SCHEDULE OF EXPENDITURES** for a detailed listing of costs that are qualified and non-qualified.

**Above the Line – Qualified NY Employees** refers to the number of Above the Line NY Production Employees, whether resident or not, whose wages or salaries qualify for the credit.

**Additional Photography, or Reshoot**, refers to camera roll days that occur after the main contiguous schedule of principal and ongoing photography. This additional photography or reshoot could be considered part of Principal Photography and Ongoing Photography if certain conditions are met and, in such instances, would be included in calculations affecting the Location Days threshold.

**Additional Principal Photography / Second Unit Start Date** is the first date on which either Second (2<sup>nd</sup>) Unit (or other additional photography that does not include the main actors) begins; or when the lead actors are reconvened for Principal Photography 'reshoots' or additional scenes that were not part of the initial phase of principal and ongoing photography.

**Allocation Year** means the pool of funds by tax year from which the tax credits are allocated pursuant to subdivision *e* of section 24 of the tax law and is determined based upon receipt of a complete final application.

**Applicant** is the corporation, partnership, limited partnership, or other entity or individual that is principally engaged in the production of the film or television program and that controls the film or television program during pre-production, production and post-production. The applicant is the entity that, upon approval of the final application, will receive the tax credit certificate. The applicant must be the entity that incurs and pays direct expenditures related to the physical production process and is signatory to contracts with a payroll company, facility operators, vendors, etc. during the production.

**Application** refers to the group of documents which all applicants for the Film Production Credit and Post-Production Credit must complete. The Project Summary Form can be completed and submitted online. All other documents must be submitted through the secure file transfer system. Forms are located on the Film Tax Credit Program website <http://esd.ny.gov/BusinessPrograms/filmCredit.html>

**Armory** refers to facilities (formerly used for weapon storage) that are owned by NYS or NYC. If located in NYC, an armory is considered a Level 1 qualified production facility (QPF) and may be used by any Qualified Independent Film Production Company (with a production budget less than \$15 million) to meet the Facility Threshold requirements. Outside of NYC, an armory is considered a QPF and any Qualified Film Production Company may use an armory to meet the Facility Threshold requirements. In NYC, an armory is not considered a Level 2 QPF suitable for meeting the Facility Threshold requirements unless certified by the **Governor's Office for Motion Picture and Television Development (MP/TV)**. An applicant (which is not an independent film production company and/or with a production budget more than \$15 million) must petition the MP/TV Office requesting an armory be authorized as a QPF and demonstrate that no QPF in NYC has stage space available that is appropriate for shooting the applicant's film. Such petition shall be submitted no later than ninety days prior to the start of principal photography for the qualified film and the MP/TV Office shall have ten days to certify or reject the petition. A stage will be deemed unavailable if consideration has been paid for its use, or, such stage is currently under an agreement with an option for use and, such period of use includes the applicant's estimated start date of principal photography.

**Background actors** refer to extras (non-speaking performers, usually in the background) employed during the production of the film.

**Below the Line** refers generally to expenditures for employees who provide craft and technical services for a film or TV production, (such as camera operators, make-up artists, and boom operators), and differentiates these employees from the above-the-line people who are charged with the creation of the production (such as directors, producers, and writers). Costs associated with such items as equipment rental, set construction materials and props would be below-the-line costs. Below the line wages and production costs are generally qualified for the NYS Film Tax Credit if incurred in NYS. See the SCHEDULE OF EXPENDITURES for a detailed listing of costs that are qualified and non-qualified.

**Below the Line -- Qualified NYS Employees** refers to the number of Below the Line NYS Production Employees, (excluding post-production Qualified NYS Employees), engaged in the pre-production and production (shooting) process who are qualified, whether resident or not. If an employee performs more than one production and/or post production job, list all wages but include in the headcount only once, in production.

**Budget Cost Qualifier** is the MS Excel Template designed to assist applicants in determining costs that are qualified and eligible to be applied to the appropriate eligibility thresholds. There are separate BUDGET COST QUALIFIER templates specific to the film production credit and to the

post production credit (one for live action post, including vfx/animation, and one for fully animated production/post-production). THE BUDGET COST QUALIFIER is included in the initial/final application template book as part of the application and must be submitted through the **Secure File Transfer System**.

**Certificate of Conditional Eligibility (CCE)** is a form issued by the Department which states that a project is eligible to receive a tax credit if the applicant meets all of the program requirements and files a complete final application.

**Certificate of Tax Credit** is a form issued by the Department that indicates the amount of the film tax credit for which an applicant has qualified. Such certificate may include, but not be limited to, the following information: name and address of the approved applicant, name of the qualified film, completion date of the project, amount of the tax credit to be received by the approved applicant, allocation year of the tax credit earned.

Certificate of Tax Credit will be issued and sent to the Applicant listed on the Project Summary form. To receive the credit, an **Applicant** must submit the Certificate of Tax Credit with the Applicant's NYS income tax return. The NYS return will either be a Corporate (Form CT-248 for production credits, or Form CT 261 for post-production credits) or Individual for S Corp/LLC members (Form IT-248 for production credits, or Form IT 261 for post-production credits) income tax return. Each member of an S Corp or LLC must file a return for their share of the credit.

For project applying to the Production Program, the film tax credit may be claimed for the tax year in which the project was completed, or the year after the allocation year, whichever is later. For projects applying to the Post-Production Program, the film tax credit should always be claimed for the year in which the project was completed. The tax credit will be issued from the NYS Department of Taxation and Finance, either as a credit towards tax liability, or, if there is no liability, as a refund for the full dollar value of the credit. For a credit from the Film Production program, the refund is issued in one payment if less than \$1 million; 2 payments between \$1 and \$5 million; 3 payments if more than \$5 million. If applicable, a return must be filed over 2 or 3 successive years to receive 100 percent of the credit. For a credit from the Film Post-Production program, the refund is issued in two payments if less than \$5 million; 3 payments if more than \$5 million. If applicable, a return must be filed over 2 or 3 successive years to receive 100 percent of the credit.

**Complete application** means that all required information is provided in the form and manner prescribed by the Department. The Department will not determine that an applicant is eligible to participate in the **Program**, assign an allocation year, nor determine that a final application is ready for audit unless it is first deemed to be a complete application.

**Designated Contact** is the person, such as the preparer of the application, whom the primary contact has authorized to provide information to the Department about the application on his/ her behalf. If the designated contact is a consultant, accountant, or other third party

representative of the applicant, then the primary contact must provide a letter authorizing the representative to release and/or exchange information to/with the Department

**Development Process (“in development”)** refers to costs or activities related to acquiring the rights to a script, creating a story, selecting the actors or director, or negotiating the basic terms of an agreement for financing a project.

**Employment Practices Form** is a form which gathers data about whether a code of conduct is in place that applies to the production, crew and talent, and highlights certain best practices for such code of conduct. It is a required form which is part of the Initial Application.

**End Credit Requirements** for participants in the Film Production Credit Program are the inclusion in the end credits of a qualified film the statement: “Filmed with the Support of the **New York State Governor’s Office of Motion Picture and Television Development**” and a logo provided by the Governor’s Office of Motion Picture and Television Development (or to include in each qualified film distributed by DVD, or other media for the secondary market, a New York promotional video approved by the Governor’s Office of Motion Picture and Television Development.)

Compliance with the End Credit requirements is mandatory per NYS law governing the film production credit. A frame grab must be provided with the End Credit Requirement form, submitted as part of the final application. The Department may require additional substantiation if the frame grab does not constitute proof of performance.

**End Credit Requirements** for participants in the Post-Production Credit Program include the statement: “This Film Participated in the New York State Post Production Tax Credit Program” And a logo provided by the Governor’s Office of MPTV Development. A frame grab verifying the statement and logo in the end credits is required to be submitted with the End Credit Requirement form.

**Facility Costs** refers to costs incurred at a film production facility that are used in the calculation to determine if the facility threshold requirement is met. The Facility Cost information must be included in the appropriate columns of the **BUDGET COST QUALIFIER** (i.e. NYC QPF, NYS (outside NYC) QPF, Outside NYS Facility). Expenditures at the facility(s) could include but are not limited to:

- *Facility lease/licensing cost* refers to the cost of the License or Operating agreement with the qualified production facility (QPF). If the agreement includes bundled costs directly related to use of the stage itself, (as opposed to set operations), such as power, HVAC, waste removal, etc, such costs should be included.
- *Construction and Wrap:* refers to days spent in the processes of construction and wrap of sets at any facility. This would include all costs incurred for activity at the facility, including the cost of materials for set construction, salaries of crew working at the

facility, meals at the facility, transportation related to the facility activity, services at the facility, etc.

- *Camera Roll Days*: refers to the days when filming at a facility and includes all costs related to production activity at the facility, including set operations, crew salaries, meals, camera and equipment rentals, transportation, set dressing, wardrobe, props, etc.
- *Other Facility Expenditures*: refers to all costs that are incurred at any facilities that do not relate specifically to days prepping, shooting or wrapping on a stage, including, for example, production office rental if at the facility, (including office equipment and staff salaries), telephone charges, etc

**Facility Threshold** refers to the minimum requirements that must be met regarding use of a **Qualified Production Facility (QPF)** in order to participate in the Program. The requirements for meeting this threshold differ for **Level One** and **Level Two** productions. There is also a **Pilot Exemption**. An applicant must secure a signed license or operating agreement with a QPF in order to qualify for the Program. (A complete list of all **Qualified Production Facilities** in NYS can be found at [nylovesfilm.com/sound-stages](http://nylovesfilm.com/sound-stages)).

**Feature-Length Film** means a production intended for commercial distribution to a motion picture theater or directly to the home video or DVD market that has a running time of at least seventy-five (75) minutes in length.

**Film Production Facility** means a building and/or complex of buildings and their improvements and associated back-lot facilities in which films are or are intended to be regularly produced and which contain at least one sound stage. (See above definition of Armory in re usage as Qualified Production Facility.)

**Final Application** means information concerning actual expenditures regarding a qualified film that could make it eligible for the film tax credit provided in a form and manner as prescribed by the Department and submitted by an approved applicant after it has completed production and post-production of a qualified film. Such application may include, but not be limited to: actual data with regard to the qualified film's total budget, the total production costs at film production facilities in and outside of New York, the total number of shooting days in and outside of New York and any other information the Department determines is necessary. **See Application** referenced earlier for details about how to submit a final application.

**Freedom of Information Law ("FOIL")** refers to the law governing public access to the records of government agencies (see Public Officers Law sections 84 through 90). Applicants should be aware that some information submitted to the Department as part of any application to the Program becomes subject to legislatively mandated reports that will be made public. Additionally, the Department will respond to requests for information about the Program including but not limited to the:

- i. name of the project which has been issued a certificate of tax credit;
- ii. counties in NYS where the project was filmed;
- iii. qualified costs for the project;
- iv. total expenditures on goods and services in NYS for the project
- v. number of employees associated with the project;
- vi. credit-eligible man hours for the project;
- vii. total wages for such credit-eligible man hours for the project;
- viii. name of each taxpayer\* issued a certificate of tax credit for each project and the county of residence or incorporation of such taxpayer or, if the taxpayer does not reside or is not incorporated in New York, then the state of residence or incorporation; and
- ix. the amount of tax credit issued to each taxpayer\*; *\*provided however, if the taxpayer claims a tax credit because the taxpayer is a member of a limited liability company, a partner in a partnership or a shareholder in a subchapter S corporation, the name of each limited liability company, partnership or subchapter S corporation earning any of those tax credits instead of information about the taxpayer claiming the tax credit*

Applicants may request that certain information be excepted from public disclosure, pursuant to section 87(2)(a-d) on the grounds that the information constitutes trade secrets, proprietary information or that the information, if disclosed, would cause substantial injury to the competitive position of the Applicant. Such a request must be in made in writing to the Department, specify the information to be withheld and state the reasons for the requested exception. The Department reserves the right to determine whether the information submitted by the Applicant will be withheld from disclosure. The Department will notify the Applicant of any requests for disclosure of Applicants' information and notify the Applicant as to whether the information will be disclosed. Applicants may submit their request for non-disclosure of information with the application submitted to the Department.

**General Travel & Living Costs** are costs related to travel into or out of NYS, such as airfare, hotels, travel related per diem, extra meals, etc. paid to individuals who are brought into NYS to work on the qualified film. General Travel costs are not qualified costs in New York City, with the exception of one round trip airport pickup/drop-off. However, travel and living costs incurred while shooting on **Distant Location** in NYS are qualified costs, e.g., travel within NYS to/from set, hotels at the rate paid for the average crew member, and per diem paid at either average crew rate or union mandated rate.

**Level One Production** is a qualified production that:

- (a) Has a production budget of no more than \$15 million, AND
- (b) Is being produced by a company in which no more than five percent of the beneficial ownership is owned, directly or indirectly, by a publicly traded entity.

If there is any change of budget or ownership structure of the applicant at any time after the filing of the Initial Application that would affect the designation of the production as a Level One Production, the Applicant must notify the Department. The determination of whether an applicant has met the appropriate **Level One** Production or **Level Two** Production requirements

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will be based on the budget and ownership structure of the Applicant upon submission of the Final Application.

**Level Two Production** is a qualified production that:

- (a) has a production budget over \$15 million, OR
- (b) is being produced by a company in which more than five percent of the beneficial ownership is owned, directly or indirectly, by a publicly traded entity.

**Location Threshold** refers to the requirement relating to the eligibility for on-location filming, pre or post-production, or any other costs for work done in NYS outside the **Qualified Production Facility (QPF)**. There are two possible ways to meet the Location/Other Threshold:

- 1) If less than \$3,000,000 is spent on facility-related work, then at least 75% of the location principal photography shoot days must be in NYS, OR
- 2) If \$3,000,000 or more is spent on facility-related work, then there is no required percentage of location days that must be in NYS.

It is possible to meet the Facility Threshold but not the Location Threshold. For example, a film may use a **QPF** within NYS, but only shoot 50% of its location days in NYS; the other 50% is shot outside the State. If less than \$3 million is spent at the **QPF**, all qualified costs related to the work at the facility would be eligible for the credit. However, the location costs, post production costs, or other non-facility costs, would not be eligible, because the location threshold was not met.

If more than \$3 million is spent at the **QPF**, the Location Threshold is not applicable, and any location days or other qualified non-stage costs, including post production costs, in the State would be eligible for credit.

**Location/Other NYC** – is a category of qualified costs in the **BUDGET COST QUALIFIER** that refers to all qualified costs incurred anywhere within NYC other than at a **Film Production Facility**.

**Location/Other NYS** – is a category of qualified costs in the **BUDGET COST QUALIFIER** that refers to all qualified location and other costs incurred in NYS but OUTSIDE NYC. Do not include the Location/Other NYC costs in the Location/Other NYS column.

**MP/TV Office** refers to the Governor’s Office For Motion Picture and Television Development. For further information about the MP/TV Office visit the website at <http://www.nylovesfilm.com> or call (212) 803-2330

**NY Production Employees** are ALL employees assigned to work on the film in New York City or New York State (regardless of their residence).

**NY Wages** are ALL wages and compensation paid to all **NY Production Employees** (regardless of their residence) for work performed in NYS or NYC.

**NYS Distant Location Travel & Living** refers to travel costs incurred for travel within NYS to and from both qualified production facilities and locations outside the NYC studio zone. Costs for NYS Distant Location Travel & Living, including transportation to the distant location from a point of origin within NYS, hotels, meals and travel-related per diems, are qualified for all production personnel (both ATL and BTL). The maximum dollar amount qualified for each type of travel-related expense, (e.g. transportation, hotel, meals, per diem, etc. cannot exceed the amount for an average crew member or union mandated minimums.

**NON- Qualified NY Employees** – refers to the number of **NY Production Employees** whose wages or salaries are NOT Qualified (e.g., director, producers, actors, etc.), whether resident or not.

**NON-Qualified in NYS** refers to costs that are NOT considered qualified (*indicated as "NO" on the SCHEDULE OF QUALIFIED EXPENDITURES*) even though the costs are incurred within NYC or NYS, such as **General Travel & Living Costs**, costs for a story, script or scenario, wages or salaries for writers, directors, producers, actors and performers other than extras, license fees, etc.

**NON- Qualified Outside NYS** refers to costs that are NOT considered qualified (*indicated as "NO" on SCHEDULE OF QUALIFIED EXPENDITURES*) and that are incurred outside NYS, such as General Travel, directors fees, actors' salaries, license fees, etc.

**NON-Qualified Production Facility** means a facility, within or outside NYS, that does not meet the criteria for a **Qualified Film Production Facility**. All facilities outside NYS are, de facto, Non-Qualified.

**Pilot Exemption** refers to the fact that Pilots are exempted from the Facility Threshold criteria regarding 10% of principal photography days at the **Qualified Production Facility (QPF)**. One shoot day fulfills the QPF requirement. However, at least 75% of the total of all expenses related to work, (excluding post-production), done at all facilities anywhere utilized by the Pilot must be related to work done at the **QPF**.

**Post-Production Costs** means production of original content for a qualified film employing traditional, emerging and new work flow techniques used in post-production for picture, sound and music editorial, rerecording and mixing, visual effects, graphic design, musical composition, original scoring, and animation; but shall not include the editing of previously produced content for a qualified film or the salary of music composers. Post production costs shall not include (i) costs for a story, script or scenario to be used for a qualified film; (ii) licensing or rights associated with the production of a qualified film; and (iii) wages or salaries or other compensation for writers, directors, including music directors, producers, and performers (other than background actors with no scripted lines). Post production costs on a fully animated production shall mean the process and operations in the animation workflow which are conducted after completion of animation (key frame and/or stop motion animation,

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motion capture data acquisition and solving), including but not limited to final scene integration, fx animation, lighting, compositing, rendering, color timing/ correction, music recording and editing.

**Post-Production Facility** means any company located in NYS and engaged in providing post-production services to film and television.

**Post-production, Qualified NYS Employees** refers to the number of NYS Production Employees engaged only in the post-production process who are qualified, whether resident or not.

**Post-Production End Date** means the date post production on the qualified film has been completed and the project is ready for delivery to a distributor. Post production can continue beyond a festival screening. Post production does NOT include activities related to marketing, promotion or distribution. In the case of a film with a planned theatrical release or a television project with a broadcast or cable release, post production does NOT include any activity specifically related to DVD or home video distribution. In the case of a Television Series, the production season will be considered complete when post production on the final episode of the season is completed and the entire season is ready for delivery.

**Pre-production** means the process of preparation for actual physical production and is considered to begin with the establishment of a dedicated production office, the hiring of key crew members such as a Line Producer and/or Unit Production Manager, and includes, but is not limited to, activities such as location scouting, hiring of crew, construction of sets, etc. Pre-production does NOT include the development process.

**Primary Contact** refers to the responsible officer of the applicant and should be a person of authority such as a corporate officer, general partner, managing member, or sole proprietor and will ultimately be responsible for supervising the preparation of the application and all future communication or correspondence with the Department. A Primary contact can designate another person to be the **Designated Contact**.

**Principal and Ongoing Photography** means the filming of major and significant portions of a qualified film that involves the principal actors and director. Additional criteria for determining if a camera roll day is a major and significant portion of the film include the presence of members of the first unit production team, (e.g., DP, first assistant director, etc.); or scenes in which lines of dialogue are spoken. For questions regarding whether or not a given shoot day can be considered a part of Principal and Ongoing Photography and counted towards the facility and location thresholds, call the Film Tax Credit Program office at (212) 803-2328.

**Principally engaged** in the production of a qualified film and controls the qualified film during production” means that the legal entity is responsible for payment of the direct production expenses, (including pre- and post-production), and is a signatory to the qualified film’s contracts with its payroll company and facility operators.

**Principal Photography End Date** means the date Principal and Ongoing Photography is concluded.

**Principal Photography Start Date** means the first date of Principal and Ongoing Photography filming of major and significant portions of a qualified film that involves the main actors.

**Project Summary** is the initial/final online application document. This document contains personnel, budget, QPF and location shoot day information, etc. This document must be signed by an authorized corporate representative of the Applicant entity.

**Privacy Act Notification** refers to the fact that individuals must provide their social security numbers pursuant to Tax Law § 658(b) or New York City Administrative Code § 11-102.1 and 42 USCS § 405(c)(2)(C)(i). Social security numbers will be used in administering the NYS Film Production Tax Credit Programs as well as to establish and maintain a uniform system for identifying taxpayers entitled to claim the credits on their State tax returns, and for any other lawful purpose.

**Production Costs** means any costs for tangible property used and services performed directly and predominantly, (including pre-production and post-production), in the production of a qualified film. Production costs shall not include (1) costs for a story, script or scenario to be used for a qualified film; (2) licensing or rights associated with the production of a qualified film; or (3) wages or salaries or other compensation for writers, directors, including music directors, producers, including, but not limited to, line producers and performers (other than extras). Production costs generally include technical and crew production costs, such as expenditures for film production facilities, or any part thereof, props, makeup, wardrobe, camera, sound recording, set construction, lighting, shooting and meals.

**Projected Release/Air Date.** Refers to the date the production will be ready for release or broadcast if there is no distribution agreement in place, and no tentative projected release or air date.

**Qualified Facility NYC on Budget Cost Qualifier:** all qualified costs related to all activity/days at a NYC **Qualified Production Facility (QPF)** are indicated in column under this heading.

**Qualified Facility NYS –on Budget Cost Qualifier:** all qualified costs related to all activity/days at a **Qualified Production Facility (QPF)** in NYS but OUTSIDE NYC are indicated in column under this heading. Do not include NYC costs in the Qualified Facility NYS column of the Budget Cost Qualifier because doing so would result in double counting of the facility costs.

**Qualified Film** means a feature-length film, television film, relocated television production, television pilot and/or series, regardless of the medium by means of which the film, pilot or episode is created or conveyed. Qualified film shall not include:

(1) a documentary film, (including the filming of a live theatrical performance), news or current affairs program interview or talk program (unless such talk program meets the requirements of paragraph (ah) of this section, “how-to” (i.e., instructional) film or program, film or program consisting primarily of stock footage, sporting event or sporting program, game show, award ceremony, film or program intended primarily for industrial, corporate or institutional end-users, fund-raising film or program, daytime drama (i.e., daytime soap opera), commercials, music videos or “reality” program; or

(2) a production for which records are required under section 2257 of title 18, United States Code, to be maintained with respect to any performer in such production (reporting of books, films, etc. with respect to sexually explicit conduct). Title 18, United States Code, is available for public inspection and copying at the following address: New York State Department of Economic Development, 625 Broadway, 8th floor, Albany, NY 12245; or

(3) other than a relocated television production, a television series commonly known as variety entertainment, variety sketch and variety talk, i.e., a program with components of improvisational or scripted content (monologues, sketches, interviews), either exclusively or in combination with other entertainment elements such as musical performances, dancing, cooking, crafts, pranks, stunts.

(4) A compilation of short films or webisodes aggregated to meet either the definition of television film or television series under these regulations.

**Qualified Film Production Company** means a corporation, partnership, limited partnership, or other entity or individual which or who is principally engaged in the production of a qualified film and controls the qualified film during production.

**Qualified Independent Film Production Company** means a corporation, partnership, limited partnership, or other entity or individual, that or who (1) is principally engaged in the production of a qualified film with a maximum budget of fifteen million, and (2) controls the qualified film during production, and (3) either is not a publicly traded entity, or no more than five percent of the beneficial ownership of which is owned, directly or indirectly, by a publicly traded entity.

**Qualified Post-Production Facility** means a post- production facility located in the state, engaged in providing post-production services, e.g., compositing, recording, mixing, which contribute to the finishing of a qualified film.

**Qualified Film Production Facility** means a film production facility in NYS, which contains at least one sound stage having a minimum of 7,000 square feet of contiguous production space, provided, however, that except with respect to a qualified film production facility being used by a **qualified independent film production company**:

(i) a film production facility in NYC must contain at least one sound stage having a minimum of seven thousand square feet of contiguous production space that is sound proof with a Noise Criteria ("NC") of 30 or better, has sufficient heating and air conditioning for shooting without the need for supplemental units, incorporates a permanent grid and sufficient built-in electric service for shooting without the need for generators, and is column-free with a clear height of at least sixteen feet under the permanent grid;

and (ii) an **armory** owned by NYC or NYC the state or city of New York located in NYC that does not satisfy the criteria of subparagraph (i) of this paragraph shall be treated as a qualified film production facility upon certification by the governor's office of motion picture and television development of a petition submitted to that office by a qualified film production company establishing that no qualified film production facility is available in the city of New York that has stage space available for shooting such company's film. Such petition shall be submitted no later than ninety days prior to the start of principal photography for the qualified film and the governor's office of motion picture and television development shall have ten days to certify or reject the petition. A stage will be deemed unavailable if consideration has been paid for its use or such stage is currently under an agreement with an option for use and, in either circumstance, such period of use includes the petitioner's estimated start date of principal photography.

**Qualified Production Costs** means production costs only to the extent such costs are attributable to the use of tangible personal property or the performance of services within NYS directly and predominantly in the production, (including pre-production and post-production) of a qualified film. Generally Qualified Production Costs includes most 'below the line' expenditures, such as costs for technical and crew production, use of film production facilities, props, makeup, wardrobe, extras, camera, sound recording, set construction, lighting, and meals. Certain types of costs are specifically excluded, e.g. Qualified Production Costs shall NOT include:

- (i) costs for a story or script to be used for a qualified film and wages or salaries or other compensation for writers, directors, music composers and supervisors, producers(including but not limited to line producers), actors and performers (other than extras). Please note the comments provided on the Schedule of Qualified Expenditures, and contact the Department for further clarification, if necessary.

**Qualified Production Facility (QPF)** means a **Qualified Film Production Facility** certified by the MP/TV Office and listed on website ([nylovesfilm.com](http://nylovesfilm.com))

**Relocated Television Production** refers to a television production that is a talk or variety program that filmed at least five seasons outside NYS prior to its first relocated season in NYS; the episodes are filmed before a studio audience of two hundred or more, and the production incurs at least:

- (i) 30 million dollars in annual production costs in NYS, or

- (ii) 10 million dollars in capital expenditures at a QPF in NYS.

**Secure File Transfer System** is the method for submitting support documentation for the Film Production and Post-Production Tax Credit Program after the online application has been submitted.

**Schedule of Qualified Expenditures** is a form which indicates, line by line, whether a particular budget line item is considered a qualified production cost that can be used in the calculation of the facility and location thresholds and eligibility for the tax credit. Applicants must refer to the Schedule to determine if a particular cost can be considered a qualified production cost when filling out the Budget Cost Qualifier.

**Second (2<sup>nd</sup>) Unit Photography**” includes action sequences and shots generally without principal performers and dialogue, filmed by a crew different from 1st unit crew and directed by a 2nd unit director. Second Unit shooting would typically include inserts, , action sequences and establishing shots, etc. Second Unit Days are not included in threshold calculations for Principal Photography.

**Other Days** refers to shooting not included in Principal Photography threshold calculations. Makeup and costume tests, camera tests, etc., would also be considered Other Days and are not be included in any threshold calculation.

**Sound Stage** means a large interior space which provides a controlled environment in which filming takes place on sets built or assembled specifically for the production.

**Supplier and Subcontractor Report** is a form which gathers data about diversity of vendors to production and production costs. It is a voluntary submission which is part of the final application to the Film Tax Credit Program.

**Television Film**, also known as “made for television movie” means a production intended for broadcast on television, whether free or via a subscription-based service, which has a running time of at least ninety (90) minutes (inclusive of commercial advertisement and interstitial programming).

**Television Pilot** means the initial episode produced for a proposed television series which has a running time of at least thirty (30) minutes (inclusive of commercial advertisement and interstitial programming).

**Television Series**, also referred to as “episodic television series,” means a regularly occurring production intended in its initial run for weekly broadcast on television, whether free or via subscription- based service, that has a running time of at least thirty (30) minutes (inclusive of

commercial advertisement and interstitial programming). Television Series/episodic programs should apply per production season and indicate the number of episodes included in the application. The production season is considered complete when post production on the final episode of the season is completed.

**Vendor List** is a list (in excel) of all vendors utilized by production/post production and paid through Accounts Payable. Names and mailing addresses including City, State and Zip Code, and NYS Sales Tax ID (if applicable) are required.

**Workforce Utilization Report** is a form which gathers data about diversity (race and gender) of production crew and talent. It is a voluntary submission which is part of the final application to the Film Tax Credit Program.