

**EMPIRE STATE ENTERTAINMENT DIVERSITY JOB TRAINING
DEVELOPMENT FUND REGULATIONS**

5 NYCRR Part 171

Statutory Authority

Section 97-ff of the State Finance Law
Chapter 39 of the Laws of 2019

Historical Note

Part 171

EMPIRE STATE ENTERTAINMENT DIVERSITY JOB TRAINING DEVELOPMENT FUND

Section 171.1 Purpose and General Description

Chapter 39 of the Laws of 2019 created the empire state entertainment diversity job training development fund. Monies in the fund shall be expended for job creation and training programs approved by the commissioner of economic development that support efforts to recruit, hire, promote, retain, develop and train a diverse and inclusive workforce as production company employees in the motion picture and television industry within the state of New York including, but not limited to, those programs that promote development in economically distressed areas of the state.

Section 171.2 Definitions

For the purposes of this section, the terms below shall have the following meaning:

- (a) “Diverse workers” shall include women and workers who can demonstrate membership in any one of the following groups:
 - (1) Black persons having origins in any of the Black African racial groups;
 - (2) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
 - (3) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
 - (4) Asian and Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

- (b) “Economically distressed areas of the State” shall mean locations within New York City that are characterized by a poverty rate greater than 20% or locations outside of New York City with a poverty rate greater than the statewide average poverty rate.

- (c) “Eligible applicant” shall mean a not for profit organization or corporation, guild or labor union who applies for funding under this program.

- (d) “Eligible training program” means a training program designed to recruit, hire, promote, retain, develop and train a diverse and inclusive workforce as production company employees in the motion picture and television industry within the state of New York including, but not limited to, programs that promote development in economically distressed areas of the state.
- (e) “Commissioner” shall mean the Commissioner of the Department of Economic Development.
- (f) “Department” shall mean the New York State Department of Economic Development.
- (g) “Evaluation Criteria” shall mean the criteria set forth in section 171.8 herein.
- (h) “Match,” “Matching Share,” or “Matching Funds” shall mean that portion of the total cost of a program that the grantee must provide, pursuant to paragraph (a) of section 171.4 herein.
- (i) “Scoring Committee” shall mean a group of ESD employees and members of the motion picture and television industry who score applications pursuant to the criteria set forth in section 171.8 of this Part.

Section 171.3 Available Assistance

- (a) The Fund makes available financial assistance in the form of grants for job creation and training programs approved by the commissioner of economic development that support efforts to recruit, hire, promote, retain, develop and train a diverse and inclusive workforce as production company employees in the motion picture and television Production and Post-Production industries within the state of New York including, but not limited to, those programs that promote development in economically distressed areas of the state.
- (b) The grant assistance provided in connection with this Part shall be taken from the empire state entertainment diversity job training development fund pursuant to section 24(e) and 31(f) of the tax law.

Section 171.4 Eligibility/Matching Funds

- (a) Eligible applicants may apply for matching funds if they are operating an Eligible Training Program. To qualify for a matching grant, the Department requires a 2:1 matching requirement of dollars coming from an eligible applicant to support its program for training diverse workers or those located in economically distressed areas of the State. Funds eligible for matching are those contributed by the eligible applicant to be used only for the eligible program. Funds deriving from state or federal grants are not eligible to be calculated for the 2:1 matching requirement.

- (b) All Matching Funds must be expended during the grant term and where practicable on a pro rata basis with grant funding.
- (c) All items identified as Matching Funds will be reviewed by the Department, which will approve such Matching Funds as the Department may determine, in its sole discretion, to be reasonable as to amount and relation to the program.
- (d) Grant funds will be disbursed on a quarterly reimbursement basis. Grantees shall submit invoices quarterly with supporting documentation satisfactory to the Department, as work is performed and costs incurred.
- (e) Grants are intended to reimburse eligible applicants for training provided directly by such applicants to its workforce, or future workforce, and shall not be contracted out to a third party for the purpose of obtaining these grant funds.
- (f) Grant funds and matching funds may not be utilized to cover qualified costs pursuant to section 24 or 31 of the tax law.

Section 171.5 Utilization of Grant Funds

- (a) Grant funds may be used by an eligible applicant for the following purposes:
 - (1) Instructor salaries and equipment;
 - (2) Training and certification programs designed to promote diverse workers and and/or those workers located in economically distressed areas of the state including, but not limited to:
 - i. grip related training programs;
 - ii. carpentry related training programs;
 - iii. electrical related training programs;
 - iv. editor related training programs;
 - v. production assistant related training programs;
 - vi. showrunner related training programs;
 - vii. writer related training programs; and
 - viii. other training programs as directed by the Commissioner
- (b) Grant funds may not be used by an applicant for the following purposes:
 - (1) training programs for corporate (studio or production company) employees; and
 - (2) producer related training programs
- (c) The minimum grant amount for any Eligible Training Program is \$25,000. The maximum grant amount for any Eligible Training Program is \$500,000.

Section 171.6 Application Process

- (a) Applications from eligible applicants will be accepted on a monthly basis, with a submission deadline of the 20th of the month (except if the deadline falls on a weekend, it shall be extended to the next business day). Eligible applicants requesting assistance shall provide information about the program and the applicant, as applicable, in a form provided by the Department including, without limitation, the following:
- (1) a description of the program, including information indicating how the proposed program will create jobs creation and training programs that support efforts to recruit, hire, promote, retain, develop and train a diverse and inclusive workforce as production company employees in the motion picture and television industry within the state of New York;
 - (2) the number and amount of other funding, including federal, that the applicant has applied for, is eligible for or has received for the same initiative;
 - (3) the number of individuals being trained as a result of the proposed project or activity;
 - (4) applicant's history; ownership structure; size; and services rendered;
 - (5) information about the proposed program including, but not limited to, total project cost, total program assistance requested, a budget breakdown of the sources and proposed uses of all funding, a description of the need for the requested program funding and justification for the amount requested;
 - (6) a description of how the program will be implemented, including the readiness of the project with a specific timeline, outlining the milestones from the project start to its completion;
 - (7) the region or regions that will be impacted by this project. Identify all of the regional partners that you will be working with to deliver on this project;
 - (8) the project partners, including the project leader and others involved in the implementation of or supporting the employment of individuals completing the project. Please be specific about the role of each partner and whether participation is assured; and
 - (9) anticipated program results.
- (b) Upon receipt of the application, the Department shall review the application for eligibility, completeness, and conformance with the applicable requirements of these guidelines. Questions regarding this process may be submitted to the Department via email at nyfilm@esd.ny.gov.

- (c) The Department may issue a request for proposals for contracts for services in lieu of an application where it deems it appropriate. Such request for proposals will set forth eligibility guidelines which may differ from those contained herein.

Section 171.7 Evaluation of Grant Applications

Grant applications shall be initially evaluated by a Scoring Committee. The Scoring Committee shall then forward their recommendation to the Commissioner for his/her approval.

Section 171.8 Evaluation Criteria

- (a) The Scoring Committee shall evaluate applications in accordance with the following criteria:

The ability of the program to:

- (1) address a demonstrated need across the film and television production and post-production industries, specifically is there currently or is there an anticipated in the future need for additional workforce in this job function in these industries;
- (2) create a pathway to jobs and connections with employment and/or union partnerships;
- (3) further diversify the employment in the industry from a socio-economic, regional, and diversity perspective;
- (4) target residents in economically distressed areas of the State;
- (5) be completed in a timely fashion.

Section 171.9 Selection Criteria/Scoring

- (a) Applications will be evaluated on the criteria detailed in paragraph a of section 171.8 of these regulations on a scale of one to five, where:

“1” = does not meet qualification expectation

“2” = meets some but not all qualification expectations; and

“3” = meets qualification expectations; and

“4” = exceeds qualification expectations; and

“5” = highly exceeds qualification expectations.

(b) Selection criteria will be weighted as follows:

Criteria Category	Weight
1. Demonstrated need in the industry for additional hires in this program area	20%
2. Pathway to job placement and relationship with employers	20%
3. Targeting of Diverse Workers and/or workers from Economically distressed areas of the State	20%
4. Overall budget, project's return on investment for program participants and funding dollars	20%
5. Feasibility of implementation and timeline of project	10%
6. Uniqueness & competitiveness of proposed program	10%

(c) The Department intends to make grant awards through a competitive grant solicitation to qualifying Applicants, until all grant funds are fully committed. The Department reserves the right to update/amend the above selection criteria as needed.

Section 171.10 Reporting requirements

(a) Participants shall submit quarterly reports during the pendency of the training program satisfactory to the Department on the operation and accomplishments of the program including, without limitation, a description of the program undertaken, the number of participants in the training program, the number of hours both in classroom and on the job training and the number of trainees who went on to jobs in the motion picture and television industry.

(b) After completing their training program, participants must submit biannual reports to the Department for a period of five years thereafter detailing the placement and job status of training graduates from their program.