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## **Production incentive for audiovisual industry**

### **1 Funding decision and its terms and conditions**

The funding decision will come into effect when the special terms and conditions have been fulfilled and the beneficiary has accepted the funding decision and its terms and conditions according to the instructions on Business Finland's website. In conjunction with acceptance, the bank account number into which the funding will be deposited shall be indicated. The person approving this decision must be authorized to sign for the organization.

These terms and conditions for funding are part of the funding decision, and compliance with them is the prerequisite for payment of the funding.

The funding granted under this funding decision is state aid authorised on the basis of the General Block Exemption Regulation (Commission Regulation (EU) No 651/014 declaring certain categories of aid compatible with the internal market in the application of Articles 107 and 108 of the Treaty; OJL187 26 June 2014, p. 1).

These funding terms and conditions are issued under section 11 (4) of the Act on Discretionary Government Transfers (688/2001).

### **2 Publicity of the funding decision**

The following information will be public: the beneficiary's name, business ID, size, sector, region, form of financing, granting date, the amount of funding granted and the amount paid.

When the beneficiary disseminates information about the production (hereinafter project) or its results, it must disclose that Business Finland has provided funding for the project. Instructions on how to credit Business Finland are available on the Business Finland's website.

The Ministry of Economic Affairs and Employment, Finnvera, Business Finland Oy, Innovation Funding Agency Business Finland, ELY Centres and TE Offices may exchange client information relating to the beneficiary.

The Funder may also require information from other authorities and funding bodies (such as the Tax Administration, municipalities, banks, capital investors, Sitra and the Finnish Film Foundation) for the purposes of payment and supervision of funding. The Funder may, notwithstanding confidentiality provisions relating to business secrets, contact these authorities and funding bodies in order to obtain or provide information associated with the beneficiary and this project. By accepting the funding decision, the beneficiary agrees to the exchange of information referred to above.

A beneficiary with operations in Finland must submit their annual statements, including appendices, for publication in the Finnish Patent and Registration Office, as laid down by law.

In accordance with the Copyright Act, an unencrypted DCP or original material in the best other available form and copies of a film's advertising and other information material must be stored in the National Audiovisual Institute within three months of completion of the film.

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### **3 Accountable project leader**

The beneficiary appoints an accountable project leader who is in an employment relationship with the beneficiary or holds a responsible position in the company. The task of the accountable leader is to supervise the implementation of the production specified in the Funder's funding decision. The accountable project leader must ensure that the project is implemented according to plan. The accountable leader is responsible for ensuring that:

- the funding decision has been accepted
- project accounting has been arranged in accordance with these funding terms and conditions
- working time monitoring has been arranged in accordance with the terms and conditions, where required
- the decision and its terms and conditions are reviewed with financial management/an accounting firm and that the decision and terms and conditions have been sent to the auditor for information
- the persons that have been chosen to manage the project's issues in the online service have access rights to the project (this does not apply to foreign beneficiaries.)

### **4 Production coordinator**

If the beneficiary is a foreign company, the Funder requires that the beneficiary concludes a written service contract with a production coordinator who has a Finnish business ID. The contract must include a clause that obliges the production coordinator to keep a record of the production costs for project accounting purposes (cost breakdown in a specific format) and to prepare an auditor's report of the actual costs. In the contract, the foreign company must agree that the Funder will disclose all documentation related to the funding decision to the production coordinator as well.

The production coordinator hires employees, acquires services for the beneficiary, and pays wages and salaries and the invoices of service providers. The coordinator charges the beneficiary for the paid salaries, invoices and the coordinator's own fee. The coordinator prepares and maintains a cost specification, as instructed by the Funder. The beneficiary and the production coordinator agree on the terms of payment and payment schedules. The Funder will not provide the funding if the cost breakdown and auditor's report are not submitted to the Funder within the specified time frame.

### **5 Reporting**

#### Beneficiaries in Finland

The beneficiary's accountable project leader reports on the project's progress using the Business Finland's online service. The costs allocated to the project are also declared online. A cost breakdown in a specific format and an auditor's report must be appended to the cost statement submitted online.

#### Foreign beneficiaries

If the beneficiary is a foreign company, the production coordinator submits a cost breakdown and an auditor's report to the beneficiary. The beneficiary reports to the Funder in accordance with the instructions.

Upon request, the Funder must be provided with additional information if required for project monitoring. Additional information may include copies of receipts, invoice itemisations and the selection criteria for purchased services.

The beneficiary must declare all project costs at the latest in the final cost statement. If it is necessary to make changes between the cost categories in the cost estimate, the beneficiary must apply to change the cost estimate in the Online Service. No new project costs can be presented after the approval of the final report.

## **6 Auditor's report**

As part of each cost statement, the beneficiary must submit an auditor's report on all the production costs incurred in Finland, prepared by an independent Finnish auditor. The auditor does not need to audit the content of other costs referred to in section Other costs, nor take a stand on eligible other costs.

If the beneficiary is a foreign company, the auditor prepares an auditor's report on the costs paid by the production coordinator and the payments made to the coordinator by the beneficiary. The production coordinator submits the auditor's report to the beneficiary, who then delivers it, appended to the cost statement, to the Funder.

A report template in a specific format is available on the Business Finland's website.

Reasonable costs arising from the auditor's report prepared by the project auditor can be accepted as direct project costs. If the billed and paid costs incurred by the audit are not included in the project costs confirmed by the auditor, copies of the invoice of the audit costs and receipt/bank statement must be submitted to the Funder.

The Funder has the right to deliver the auditor's report to other authorities for the purposes supervising funding.

## **7 Payment of funding**

The Funder will provide the funding on the basis of approved reports and cost statements.

A minimum of 10 per cent of the funding granted for the project will only be paid after the approval of the final report. The final instalment will be paid if the project has accumulated an adequate amount of eligible costs.

Entitlement to the granted funding or part of it will lapse if the beneficiary does not submit the requested reports or further information by the due date specified in the funding decision or separately notified by the Funder. Innovation Funding Agency Business Finland may order any funding already provided to be repaid immediately, with interest.

Funding will not be provided if the production does not meet the minimum requirements of the funding decision. The minimum requirements are stated on Business Finland's website, too.

Minimum spend in Finland:

- a) A long drama film: 150.000 e,
- b) A documentary film: 150.000 e,
- c) Serial fiction and animation: 250.000 e

Minimum total budget for the production:

- a) A long drama film: 2.500.000 e,
- b) A documentary film: 325.000 e,
- c) Serial fiction and animation: 9.500 e/minute

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## **8 Monitoring of costs and project accounting**

The beneficiary, and the production coordinator, if any, must arrange accounting so that the costs arising from the production can be itemized and their connection with the accounting and the cost statement can be verified.

If the beneficiary simultaneously has underway a Business Finland-funded project whose funding terms and conditions require working time monitoring, all those persons working in both projects must keep records on their working time on an hourly basis. For more information, see Section 12 Working time monitoring.

The costs must be based on the corresponding expenditure payment records. This does not apply to computational costs allocated to the project. The expenses must be fully paid in money by the beneficiary when they are reported to the Funder. Procurements may not be paid by loans issued by the recipient of the payment. Invoice for work performed during the project may be paid after the project end date but before the costs are reported to the Funder.

Costs incurred from the auditor's report may be incurred and may be paid after the project has ended.

Project documents and other materials necessary for the supervision and auditing (including personal working time records with verifications, where required) must be kept for a minimum of ten years after the payment of the last project funding instalment.

## **9 Eligibility of costs**

Eligible costs include costs directly incurred from the production of an audiovisual work, including pre- and post-production, in Finland. Costs incurred in Finland from actions taken to make the work more accessible to disabled persons are also eligible.

Costs that are not directly related to the production, such as marketing and distribution costs, financing costs and the cost of legal services, are not eligible costs.

A production incentive can only be granted for activities that are implemented after submitting a funding application. The costs must be

- fully paid for before the auditor checks them and they are declared to the Funder
- incurred from the production in Finland during the duration of the production
- entered in the accounts of the beneficiary or the production coordinator
- in the net amount and exclusive of VAT.

The estimate of costs in Finland appended to the funding decision determines the production's maximum amount of individual eligible costs. The Funder has the right not to accept costs presented by the beneficiary if their relevance to the production is not clearly substantiated.

The costs are finally accepted for a project only in conjunction with the final accounting statement.

In order to ensure the effectiveness of funding, principally only procurements and work ordered after the funding application was submitted may be approved for the project. However, if a procurement included in the project has been ordered before submitting the funding application, the relevant order or agreement must include a cancellation clause whereby the realization of the order or agreement is made contingent on the funding application being accepted. If there is no such cancellation clause, then such a procurement will not constitute an acceptable cost.

## **10 Procurement procedures**

When the beneficiary is a public procurement unit or the funding provided by the Funder or other public funding covers more than 50 per cent of the project costs, the beneficiary must observe the provisions of the Act on Public Contracts. When the total value of the procurement is at least 60,000 euros, the procurement must be tendered as a public procurement.

The Act on Public Procurement is not applied to procurements for the audiovisual industry in the case of purchasing, development, production or co-production procurements of programme material made by providers of the services.

If a public procurement unit has made a procurement in violation of the procurement provisions, the procurement price will not constitute an eligible project cost.

The beneficiary must prove that competitive bidding has taken place by attaching a copy of the contract notice published in HILMA ([hankintailmoitukset.fi](http://hankintailmoitukset.fi)) to the cost statement, or by providing justification for applying the direct award procedure.

## **11 Salaries, declared salaries**

The salaries paid to employees paying taxes to Finland for work done in Finland are subject to approval by the Funder. These include the salaries subject to withholding tax for persons who participated in the production, without holiday pay, sick pay and holiday bonus. Payroll costs for which a pay subsidy has been received cannot be approved as eligible costs.

If the remuneration paid is classified as trade income and not as salary, the beneficiary must declare it under "Purchased services" in the cost statement. Utilisation rights (compensation for presentation rights) are declared as they are accounted for, either as salaries or purchased services.

With regard to an owner, salary costs or the work of the purchase of interests in artistically responsible work (director, scriptwriter, composer, photographer, audio engineer) to a maximum amount of EUR 100,000 per production may be accepted on a case-by-case basis. A person who alone or with a related party owns more than 20 per cent of a company is regarded as an owner. The maximum amount of EUR 100,000 may also include the owner-producer's salaries.

## **12 Working time monitoring**

If the beneficiary simultaneously has underway a Business Finland-funded project whose funding terms and conditions require working time monitoring, all those persons working in both projects must keep records on their working time on an hourly basis. Hours worked must be reported monthly for the days when the work was performed. Summary information on the working time monitoring must be submitted with the salary specification (Y4). The salary specification is entered on the row reserved for it in the online service. Due to the confidentiality of salary information, the salary specification cannot be downloaded for viewing from the service like the other documents.

Persons to whom the Working Hours Act does not apply or who do not have specified working hours must keep records both of hours worked on the project and of total working hours.

The accountable project leader or the supervisor of each employee must confirm the working hours at least on a monthly basis. Entry of confirmation must be saved in the monitoring system.

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The Funder has the right to refuse approval of the salaries in whole or in part if the working time monitoring has not been in compliance with the above terms and conditions or cannot be regarded as reliable.

The material related to working time monitoring, hourly monitoring reports and verified monthly summaries must be kept for a period of ten years after the payment of the last project funding instalment.

### **13 Indirect personnel costs**

A percentage of the salaries paid for effective working hours and approved for the project that is laid out in the project cost estimate (max. 50%) can be accepted as indirect personnel costs. If a person is not paid holiday pay, the indirect personnel cost may be a maximum of 30 per cent. Indirect personnel costs include

- midweek holidays, holiday pay, sick pay and holiday bonus
- social security costs
- other employment costs, including normal staff training, fringe benefits and protective clothing.

### **14 Purchased services**

Services purchased from third parties can be accepted in accordance with the project plan and invoicing.

Eligible costs include any costs incurred in Finland from the purchase of goods and services, transport costs and accommodation costs, and the cost of facilities and equipment leased for production purposes, from companies paying taxes to Finland. Other leasing-related expenditure (administrative, funding and other comparable expenditure) is not considered eligible costs. If the abovementioned expenditure cannot be itemised, a maximum of 50 per cent of the total expenditure incurred to the project from a lease agreement can be accepted as project costs.

If the remuneration paid for the work takes the form of a fee rather than a salary, it should be specified in Purchased services. Remunerations referring to a license or the acquisition of options are not acceptable costs.

The acquisition cost of PCs, mobile phones and other equipment included in the overhead cannot be included in purchases. Imputed costs, for example, from the use of own equipment, are included in other costs.

The costs arising from auditing the project costs can be included in the purchased services.

Purchased services are itemised in an appendix in a specified format, available on the Business Finland's website.

### **15 Purchases from other companies in the same group and associated companies**

#### **15.1 Business Finland's definition of an associated company**

Companies (here referring to all legal persons) are each other's associated companies if another company or person exercises control over another company or can influence its choice of procurement sources.

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Companies are considered each other's associated companies if at least 20% of the other company's share capital or corresponding equity is directly or indirectly owned or controlled by the other company. Companies are considered each other's associated companies also if at least 20% of the other company's share capital or corresponding equity is directly or indirectly owned or controlled by the same individual.

The Funder also considers direct or indirect ownership to exist in the hands of the following parties and stakeholders:

- members or alternate members of a company's Board of Directors
- responsible persons within the company
- employees of the company
- creditors of the company
- family members: an applicant's spouse or a cohabiting partner, the applicant's or their spouse's/partner's children
- close relatives, such as a grandchildren, siblings, parents, grandparents, or corresponding half-relatives.

Group companies and associated companies must also observe these funding terms and conditions. The beneficiary must ensure that the group companies and associated companies arrange project accounting and working time monitoring in a manner that is in accordance with these terms and conditions.

The group companies and associated companies must provide the beneficiary with an invoice for the services purchased for the project. The Funder may accept costs incurred by the seller for providing the service and paid by the beneficiary. Group-internal administrative costs and items paid as administrative fees are not eligible project costs.

The Funder will accept the paid purchased services without profit. In order to demonstrate the non-profit nature of the services, the group companies and associated companies must also provide the Funder with a separate project cost statement of the costs arising from the project.

Costs are declared using the same cost breakdown for the audiovisual industry that the beneficiary uses for specifying costs. In addition to the cost breakdown, the group or associated company must submit an auditor's report on the costs of the group or associated company.

The beneficiary must submit the cost specification of the group companies and associated companies and, as part of each report, an auditor's report detailing the costs of the group company. The auditor's report must be prepared by an independent auditor. The report template is available on the Business Finland's website. The Funder may in exceptional circumstances accept purchased services without a separate cost breakdown even from associated or group companies.

In addition to direct project costs, indirect personnel costs and other overheads connected with salaries are also eligible costs. A maximum of 50 per cent of the salaries allocated to the project are accepted as indirect personnel costs. Other costs may be accepted, at the maximum, 20 per cent of the total of salaries and purchase services.

## **16 Other costs**

The maximum amount of other costs accepted by the Funder is 20 per cent of the eligible costs referred to in sections Salaries and Purchased services. Other costs include, for example, travel expenses (tickets, daily allowances, kilometer allowances and fuels), copyright royalties (Teosto), imputed costs and overheads. These costs need not be reported to the Funder, nor do they need to be included in the beneficiary's project accounting.



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## **17 Other public funding**

The combined total amount of public funding in audiovisual productions may not exceed 50 per cent of eligible costs. The combined total amount of funding that the project receives from the Funder and other providers of public funding may not exceed the project's maximum limit for public funding. If necessary, the Funder will reduce its own contribution to the same eligible costs to ensure that the maximum amount is not exceeded.

Details of all other public funding (from the state, municipalities and other public organizations or foundations) must be provided when reporting of the project. Funding granted by the European Union must also be reported.

If any changes has been made to the financing plan during the cost period, an updated plan must be submitted at the time of the statement.

## **18 Monitoring of funding impact**

The Funder monitors the impact of funding. Upon request, the Funder must be provided with a report on services relating to the use of the disbursement for three years after the completion of the project.

## **19 Changes to the project**

The beneficiary must obtain the Funder's consent for project changes. Consent must be sought from the Funder in writing in advance / before the change if the project's progress deviates from the plan:

- significant changes to the plan
- changes to the financing plan
- changes to the schedule
- changes to the cost categories
- significant changes to the division of rights
- changing the reporting date
- changing the accountable project leader.

The beneficiary must immediately notify the Funder of other significant changes to the project, for example if there are changes to key personnel resources.

The Funder cannot process the application for a change if the beneficiary has neglected its registration, notification or payment obligations related to taxes or other regulatory obligations.

Changes of bank account are to be reported using form Y1 available on the website.

## **20 Reassignment and approval of corporate reorganization**

As a rule, a funding decision may not be transferred to a third party.

The beneficiary must notify the Funder in advance if it undertakes significant business changes or reorganization activities (such as a sale of a share majority, merger, division and significant personnel cutbacks directed at operations funded by the Funder).



## **21 Beneficiary's disclosure obligation**

The beneficiary must provide the Funder with accurate and sufficient information for the payment of funding and for monitoring the compliance with the terms and conditions.

The beneficiary must inform the Funder without delay of any change affecting the realization of the intended use of the funding or of any other change affecting the use of the funding.

## **22 Right of inspection**

Innovation Funding Agency Business Finland, the National Audit Office, the European Commission and the European Court of Auditors have the right to audit the finances and operations of the beneficiary as required for the payment of the funding and supervision of its use.

The audits can be performed by other authorities or auditors authorized by the Funder to carry out the task. An external expert may, at the Funder's request, assist in the performance of the audit.

Right of inspection will remain in effect for a period of ten years from the payment of the last project instalment. Project documents and other materials necessary for project monitoring and auditing must be stored for at least the same period of time.

The beneficiary should assist with the inspection and provide the needed information for the inspector without compensation.

The auditor has the right to seize any material subject to audit, if auditing so requires. A written record must be drawn up of any seizure of materials during an audit. The record must state the purpose of seizing the material and what has been seized. The seized material must be returned without delay when it is no longer needed for the audit.

The auditor has, to the extent required by the audit, the right to enter the premises managed or used by the beneficiary. This applies to the business, storage and other similar premises used for practicing a profession or a business, as well as other areas relevant to the granting of the funding and the supervision of its use. Audits may not be carried out in premises covered by domestic peace.

In foreign productions, the audit concerns the production coordinator.

## **23 Discontinuation of payment**

Innovation Funding Agency Business Finland may order the temporary discontinuation of the payment of the funding on following grounds:

1. The Funder has reasons to suspect that the beneficiary does not provide the Funder with correct or adequate information or uses the funding in a manner that is in violation of the funding decision.
2. The grounds on which the funding was granted have essentially changed. Such changes include situations where
  - a) the beneficiary deviates from the project plan without a written authorization granted by the Funder
  - b) there is a substantial deterioration in the beneficiary's financial position in relation to the anticipated trend
  - c) the beneficiary loses its equity in full
  - d) the beneficiary initiates reorganization proceedings

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- e) the beneficiary neglects its registration, notification, or payment obligations related to taxes or other regulatory obligations
  - f) the beneficiary has failed to adhere to the repayment obligations concerning the loans granted by Business Finland.
3. the payment of funding must be discontinued under European Union legislation.

If the grounds for the discontinuation are not corrected within the time specified in the decision to interrupt funding, Innovation Funding Agency Business Finland has the right to discontinue payment of the funding and to claw back the funding already paid in whole or in part.

## **24 Repayment of funding**

The beneficiary must, without delay, repay any funding or part thereof received through error, in excess or manifestly without cause.

Grants of less than 100 euros need not be repaid.

The beneficiary must contact the Funder before the repayment of funding.

## **25 Clawback of funding**

Innovation Funding Agency Business Finland may claw back any funding already paid if the beneficiary violates against these terms and conditions.

### **25.1 Statutory clawback**

Innovation Funding Agency Business Finland will order the discontinuation of the payment of funding and the clawback of funding already paid if the beneficiary has

1. failed to return funding or part thereof that must be repaid under section Repayment of funding
2. used the funding for a purpose essentially different from that for which it was granted
3. provided false or misleading information about a matter that has been essential to the granting of the funding, its amount or terms and conditions
4. otherwise essentially violated the provisions concerning the use of the funding or these terms and conditions in a manner comparable to paragraphs 1-3.

### **25.2 Discretionary clawback**

Innovation Funding Agency Business Finland has the right to order the discontinuation of the payment of funding and the clawback of funding or part thereof already paid if

- false or misleading information has been provided for the purpose of payment of funding or supervision thereof, information has been concealed, the provision of information has been refused or the information requested by Innovation Funding Agency has not been provided by the specified date
- the beneficiary has not complied with the terms and conditions for funding
- the beneficiary has not informed the Funder without delay of any change affecting the realization of the intended use of the funding or of any other change affecting the use of the funding
- the funding has not been used in compliance with the funding decision
- the beneficiary has refused to assist in the project audit

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- the beneficiary has terminated the project for which the funding was granted, reduced or altered it substantially or transferred it to another party
- the beneficiary has been subjected to recovery proceedings, placed into liquidation or bankruptcy, or made subject to restructuring proceedings
- the beneficiary or its representative has been convicted of an offence or ordered to pay penalties, in accordance with section 22 of the Act amending the Act on Discretionary Government Transfers
- the clawback of funding is required under European Union legislation
- the beneficiary otherwise acts in a manner comparable to the matters in this section.

### **25.3 Interest**

The beneficiary must pay interest on the amount to be repaid or clawed back. The interest is applied from the date on which the funding was paid. It is calculated as an annual interest to which three percentage points are added. The annual interest is determined in accordance with section 3(2) of the Interest Act (633/1982).

### **25.4 Penalty interest**

If the beneficiary has not paid the amount to be repaid by the due date set by the Funder, an annual penalty interest must be paid on the outstanding balance of the loan. For the period after the due date, the penalty interest is in accordance with the interest rate referred to in section 4(1) of the Interest Act (633/1982).

### **25.5 Moderation of grant clawback**

Innovation Funding Agency Business Finland may decide that a part of the sum to be repaid or clawed back, and any interest or penalty interest on it, will not be clawed back if repayment full is unreasonable in light of the financial standing and circumstances of the beneficiary or in relation to the type of property acquired with the grant or in relation to the procedure on which the clawback is based or because of a change in circumstances. For an extremely weighty reason, Innovation Funding Agency may decide to totally waive the sum to be repaid or clawed back, or the interest or penalty interest on it.

### **25.6 Clawback time limit**

The grant and interest or penalty interest on it will not be clawed back if ten years have elapsed from the remission of the final instalment of funding for the project.

## **26 Funder's right of offsetting**

The funding to be repaid or clawed back and the interest on it may be deducted from the other funding provided to the beneficiary.

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## **27 Misuse**

If, during the course of the project, there is reason to suspect that the beneficiary or a person acting on the beneficiary's behalf has committed a criminal offence under the Criminal Code (19 December 1889), with the Funder as the injured party, the Funder will take the required action in the matter.

## **28 Order of application**

In the event of a conflict between the funding decision and appendices to it, the following order of application will apply:

1. Funding decision and any special terms and conditions thereof
2. Funding terms and conditions
3. Cost estimate
4. Production plan
5. Funding application and the appendices to it
6. Any other documents relevant to the funding decision

## **29 Scope of application and legal basis**

- Annual state budget
- Act on Discretionary Government Transfers (688/2001)
- Act amending the Act on Discretionary Government Transfers (1113/2018)
- Act on General Conditions for Aid Granted to Economic Activities (429/2016)
- Government Decree on Incentive for Audiovisual Productions (1138/2020)
- Copyright Act (404/1961), section 16 (821/2005)
- Act on the Client Information System of Enterprise Services (293/2017)
- Act on the Provision of Digital Services (306/2019)
- Act Amending the Act on Electronic Services and Communication in the Public Sector (307/2019)