

Subsidy Guidelines

C. Production of Theatrical and Other Kinds of Films (Excluding Television Productions)



in accordance with the December 16, 2008 resolution of the FILM FUND's oversight committee
(on the basis of the June 24, 2008 Guidelines)

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1. Applicability of These Guidelines and Subsidy Criteria

Section C of the Subsidy Guidelines applies to subsidies for development of theatrical and all other kinds of films, excluding television productions.

Films for theatrical release must be at least 59 minutes in length, and all others must be at least 70 minutes in length. Exceptions are possible, especially when a guarantee has been provided by a distributor.

Films intended for exploitation in other media can be shorter in length.

The FILM FUND subsidizes the production of films that conform to Items 1. to 3. of the General Section of the Subsidy Guidelines with subsidies that must be repaid after success of up to EUR 700,000.

The director and producer should be careful to ensure appropriate budgeting for debut films in particular.

The following productions will receive priority among all projects that meet the criteria specified in Items 3.1. and 3.2. of the General Section of the Subsidy Guidelines:

- films set in Vienna or in which Vienna plays an important role;
- artistically outstanding projects and difficult films with a low budget;
- films by young directors and workshop projects produced in accordance with the collective agreements applying to the film sector;
- children's films and films for a target group of ages 14 and over;
- projects that will have an above-average effect on Vienna's film sector; the average effect determined by the FILM FUND for the previous calendar year is published on the FILM FUND's Web site;
- projects for which an application for less than 30 percent of the production costs recognized by the FILM FUND is made;
- the crew members employed during production work in Vienna regularly;
- foreign sources of funding are available to the applicant, and these moneys will be spent in Vienna;
- this is a co-financed project based on a reciprocal agreement or, in the case of at least two projects, reciprocity of regional effects is ensured;
- the applicant is engaged in additional film sector-specific activities in Vienna in addition to the project named in the application.

2. Eligibility to Apply

The producer of the planned film is eligible to apply as specified in Item 4.1. of the General Section of the Subsidy Guidelines and produced a comparable film within three years before applying.

If the applicant does not satisfy this criterion, he or she will be eligible to apply for joint productions with another producer who fulfills this prerequisite.

3. Special Requirements

3.1. Holdback Periods

The observation of legal holdback periods, particularly to the extent that they are applicable to the project in question in light of the stipulations of other sources of subsidies, shall be guaranteed in the subsidy agreement. Holdback periods must be determined concretely after presentation of the rough cut and the existence of a concrete exploitation concept at the latest, and must take into consideration developments in the media sector and serve the best possible exploitation of the subsidized project.

In the event of theatrical release:

- at least 24 months should pass between the first commercial public screening in Austria (theatrical release) and wireless or wired free television broadcast in a German-speaking territory (theatrical holdback period);
- the holdback period for free television can be reduced to a minimum of six months if the film is exploited through television broadcasters or on-demand services that were not involved in financing the project as a result;
- a minimum holdback period for exploitation on pay TV of at least six months should apply.

3.2. Guarantees

The applicant hereby agrees to ensure completion of the film in the subsidy agreement (completion guarantee).

If the total production costs exceed three million euros, obtaining a completion bond can be made obligatory unless all sources of financing involved obtain some other type of guarantee and provide proof thereof. The costs accruing for this purpose will be considered part of the production costs.

Presentation of an irrevocable bank guarantee for the benefit of the FILM FUND in the amount of funds that will be provided by the FILM FUND by the completion of shooting will be considered sufficient.

Public exploitation which is proceed-oriented must also be guaranteed, and the applicant must provide proof that he or she has made an effort to arrange a premiere of the subsidized film in Vienna.

3.3. Recognized Production Costs

3.3.1. Demonstrable project development costs are considered preliminary costs when they are part of the net production costs excluding the turnover tax prescribed by law. Other expenditures incurred by the applicant before submission of the first written application that are not directly related to project development are not eligible for subsidization.

The preliminary costs include the costs of developing the screenplay, location scouting, casting, screen tests, preliminary negotiations and all other costs that are recognized for project-development subsidies.

3.3.2. If this calculation includes cost estimates for natural or legal persons who are identical to or involved in a close business relationship with the applicant, a co-producer, a partner or the managing director of a (co-)producer in the form of a legal person, these estimates must be indicated clearly at the customary market prices, minus 20 percent, and they can be added to the private investment.

3.3.3. Fees and salaries of Austrian film-sector workers employed for the project that are included in these calculations may not be below the applicable collective-agreement rates nor more than 30 percent above these rates. Other upper limits can be approved on the basis of an application which includes a justification.

3.3.4. Costs of materials that will be employed for the film's exploitation and that were produced during production can be included in the calculation of production costs.

3.3.5. For net production costs of up to one million euros, production overhead expenses will be accepted as 7.5 percent of the Austrian share of the total production costs, and in the case of net production costs of more than one million euros, as an additional EUR 2,500.00 of production overhead expenses for each EUR 50,000.00, to a maximum of EUR 250,000.00. A different percentage can be employed after submission of an application which includes a justification. The costs recorded as lump-sum production overhead expenses may not be included in the calculation as separate production cost items.

Included in the production overhead expenses are general expenditures, i.e. expenditures that are not specifically for the production in question:

- the applicant's aliquot share for maintenance of the customary place of business;
- office supplies;
- postage and telephone expenses;
- personnel expenses (administration);
- insurance;
- audits for accounting periods;
- interest and banking expenses for general loans;
- public relations;
- travel expenses, meetings, negotiations, inspections, etc.

3.3.6 A producer's fee of up to 2.5 percent of the net production costs can be recognized in addition to a flat fee for the line producer which is customary for the sector.

3.3.7. Financing costs relating to the project will be recognized in the actual amounts incurred.

3.3.8. A contingency of a maximum of 8 percent of the net production costs will be recognized unless a completion bond demands a higher figure.

3.3.9. If the net production costs rise above the recognized contingency due to circumstances that are demonstrably unforeseen and not the result of negligence, the FILM FUND might accept this increase in the private investment on the basis of an informal though detailed and written request by the applicant. However, an increase in the FILM FUND's subsidy will not be possible unless the funding recipient is able to employ reference funding for this purpose.

3.4. Exploitation Costs

Costs in connection with the planned exploitation of a film that arise during its production can be recognized as a portion of the production costs, particularly when such costs are for

- teasers, trailers, DVD and digital-distribution masters, release prints;
- accompanying marketing measures (including advertising materials and Web site);
- preliminary distribution costs that are eligible for subsidies as specified in Section F of the Subsidy Guidelines.

4. JOINT PRODUCTIONS (Additional Stipulations)

4.1. Co-productions

Joint productions (co-productions) are productions with financial, technical and/or artistic contributions from various producers. One of the production partners must be eligible to apply for a subsidy as specified in Items 2. and 4.1. of the General Section of the Subsidy Guidelines. Production partners' artistic and technical contributions should correspond to their financial contribution. Subsidies can be granted for activities relating to distribution in proportion to the Austrian subsidy recipient's financial contribution and in relation to the expected shares of net proceeds (see Section F of the Subsidy Guidelines).

Each production partner will be a co-owner of the original negative.

The proceeds from all types of exploitation will be divided up among the production partners in proportion to their financial contribution. In the event that certain types of exploitation or areas are excluded, the film's fair market value and size of the market must be considered. The production partners shall arrange matters relating to world sales by mutual agreement.

4.1.2. Application Materials

The applicant must inform the FILM FUND in full concerning all circumstances that affect any or all co-production agreements. All supplementary agreements or alterations must be submitted to the FILM FUND, who will examine them for contradictions to its Guidelines and if necessary, give written acknowledgement.

4.1.3. Private Investment

The applicant's private investment as defined under Item 2.1. of the General Section of the Subsidy Guidelines will be calculated on the basis of his or her share of the production costs.

4.1.4. Guarantees

When the subsidy agreement is drawn up, the funding recipient, in the event that he or she is the majority co-producer, must produce a completion guarantee (see Item 3.2.) for which he or she will be responsible to the extent that a completion bond has not been obtained.

If the funding recipient is the minority co-producer, the co-production agreement must include a completion bond for which the majority co-producer is responsible.

If the funding recipient is the minority co-producer, proof must be provided of his or her efforts to arrange a premiere in Europe or at least its German-language premiere in Vienna.

4.1.5. Record of Usage

Before payment of the final installment, a hard-copy preliminary final statement of accounts (final cost report, actual financing) which is signed by all co-producers with their companies' official signature must be presented. This statement of accounts must include the funding recipient's complete final statement of accounts.