

On the basis of Article 123 of the Constitution of the Republic of Serbia, Article 8 of the Law on Budget of the Republic of Serbia for the year 2023 (“Official gazette of RS” no. 138/22) and Article 42 paragraph 1 of the Law on Government (“Official gazette of RS” no. 55/05, 71/05 – correction, 101/07, 65/08, 16/11, 68/12 – US, 72/12, 7/14 – CC, 44/14, and 30/18 – other law)

the Government renders the following

REGULATION
ON INVESTOR INCENTIVES FOR THE PRODUCTION OF AUDIOVISUAL WORKS IN THE REPUBLIC OF
SERBIA

(“Official Gazette RS, no. 2/2023)

I INTRODUCTORY PROVISIONS

Article 1

This Regulation prescribes the manner and conditions of awarding incentive funds to the investor producing an audiovisual work in the Republic of Serbia, in order to encourage creativity in the field of audiovisual production, encourage cultural and economic activities and increase employment related to audiovisual production in the Republic of Serbia, as well as the promotion of Serbia’s potential in this field, e.g. its infrastructure, production and service related activities.

Article 2

For purpose of this Regulation, certain terms have the following meaning:

- 1) an investor is a legal entity or entrepreneur for whose account and whose funds are used to finance or co-finance the production of an audiovisual work (hereinafter: the Investor);
- 2) the production budget is the total amount of funds intended for the production of an audiovisual work, from preparation for shooting to the moment when answer print is ready i.e. when digital copy is ready for distribution, broadcasting and presentation to the general public and which does not include distribution and marketing costs;
- 3) qualified or eligible costs are expenses spent on the territory of the Republic of Serbia which are recognized as costs spent for the production of an audiovisual work in the territory of the Republic of Serbia, based on the report of a certified auditing company;

4) an applicant for the awarding and payment of incentive funds (hereinafter: the Applicant) is an Investor or a domestic legal entity or entrepreneur who produces an audiovisual work on behalf of the Investor in the Republic of Serbia;

5) completion of the production of an audiovisual work, pursuant to this Regulation, is the day when the answer print or digital copy of the audiovisual work is ready for distribution, i.e. the day when all the activities on the realization of the project on the territory of the Republic of Serbia have been completed, including procurement of all evidence confirming total funds spent for the production of an audiovisual work (invoices, contracts and bank statements from a commercial bank with indication of executed payment, etc.), i.e. when all payments are made according to the issued invoices;

6) a project, for the purposes of this Regulation, is a unique process composed of a series of activities defined by a beginning and end, resulting in an audiovisual work, the uniqueness of which is reflected in the same program basis and in the same period of realization, regardless of whether it occurs as a whole or in separate segments.

Article 3

Incentive funds, pursuant to Regulation herein, are awarded to the Investor as non-refundable, in manner of recovering part of the eligible costs incurred in the Republic of Serbia.

Incentive funds are awarded in the amount of 25% of eligible costs, all in accordance with the independent auditor's report on the production costs of the audiovisual work in the Republic of Serbia.

Notwithstanding regulations provided under Paragraph 2 of this Article and under condition that for realization of an audiovisual work, funds for the project implementation in Republic of Serbia are allocated in the amount higher than EUR 5.000.000 in the production budget, incentive funds are awarded in the amount of 30% of eligible costs, all in accordance with the independent auditor's report on the production costs of the audiovisual work in the Republic of Serbia.

Pursuant to the Regulation hereof, bodies and organizations of the Republic of Serbia, autonomous regions, i.e. bodies and services of local governments, publicly owned companies, funds and directorates, institutions and legal entities established by the Republic of Serbia, by autonomous regions or by local authorities shall not have the right to be awarded with incentive funds in accordance with this Regulation. Same applies for legal entities that are, in terms of the law governing the budget system, users of public funds thereto.

Notwithstanding regulations provided under Paragraph 4 of this Article, legal entities established by the Republic of Serbia, autonomous regions and local authorities, i.e. legal entities that are users of public

funds, may exercise the right to receive incentive funds in accordance with this Regulation, provided that the audiovisual work is financed from own revenues only, i.e. that it is not financed by funds which, in the sense of the law regulating the budget system, represent public funds.

In the event the Republic of Serbia, autonomous region and unit of local governments, through the competent authorities, and the legal entity that manages and/or disposes of public funds, has granted state aid for the production of an audiovisual work in any form, the total amount of state aid and incentive funds awarded under this Regulation may not exceed 50% of total amount of funds intended for the production of an audiovisual work in the Republic of Serbia.

Incentive funds allocated for a special-purpose film are awarded in the amount of 20% of eligible costs, provided that the total amount of approved funds awarded over three consecutive fiscal years does not exceed the prescribed maximum amount of state aid of small value (*de minimis state aid*) pursuant to the regulations governing the rules for granting state aid.

II CONDITIONS FOR THE EXERCISE OF RIGHTS ON THE AWARDING OF INCENTIVE FUNDS

Article 4

The condition that the Investor has to fulfill in order to exercise the right to be awarded with incentive funds is to, for the purpose of producing an audiovisual work, allocate funds in the production budget for realization of the project in the Republic of Serbia, in an amount greater than the minimum funds for a specific format:

- 1) for a feature film and TV film: 300,000.00 EUR;
- 2) for a TV series: 150,000.00 EUR, per episode;
- 3) for an animated series: 150,000.00 EUR, per episode;
- 4) for an animated film, audio and/or visual post-production of an audiovisual work: 150,000.00 EUR;
- 5) for a special-purpose film: 150,000.00 EUR;
- 6) for a documentary film and documentary TV program: 50,000.00 EUR.

The entitlement to incentive funds can be achieved for the production of:

- 1) a feature film, TV film, feature-length documentary film that last at least 70 minutes and an animated film intended for broadcasting which lasts at least 5 minutes;
- 2) a TV series comprised of at least three episodes, under condition that each episode lasts at least 40 minutes;
- 3) animated series comprising of at least 10 episodes lasting at least 40 minutes in total;
- 4) a documentary TV program lasting at least 40 minutes.

Apart from the conditions provided under Paragraph 1, item 5) of this Article, for acquiring of the right to incentive funds for the production of a special-purpose film, it is required that its production is financed by one Investor, as well as that the realization of a special-purpose film is defined as a project under Article 2 item 6) of this Regulation.

Article 5

The right to incentive funds referred to in Article 1 of the Regulation herein is unavailable to an Investor, i.e. Applicant:

- 1) against whom a previous bankruptcy proceeding, reorganization or liquidation has been initiated, pursuant to regulations governing bankruptcy and liquidation thereto;
- 2) who has due and outstanding obligations on the grounds of public revenues in the Republic of Serbia and other financial obligations towards the Republic of Serbia.

Article 6

Incentive funds can be awarded for an audiovisual work:

- 1) that does not have content contrary to the moral, public order and public interest of the Republic of Serbia, does not violate the reputation of the Republic of Serbia, does not promote violation of human rights and hate speech;
- 2) which is in the format of a feature film, TV film, TV series, animated film and animated series, audio and/or visual post-production of an audiovisual work, special-purpose film, feature-length documentary film and TV program documentaries;

- 3) whose production has been commenced or whose production continues during the budget year in which the request for incentive funds is submitted.
- 4) whose production is realized in whole or in part in the Republic of Serbia, whereas an audiovisual work of special artistic and/or cultural value for film art, contributes to cultural diversity and pluralism of artistic expression in the field of cinematography.

The production of an audiovisual work must take place in accordance with the production calendar and shooting plan, and the Applicant shall notify the Committee for Awarding Incentive funds on any deviations from the submitted production calendar and shooting plan within seven days counting from the start of any such deviation thereto.

Applicant is obliged to produce audiovisual work in accordance with the application, as well as to inform Commission on any deviation related to production of audiovisual work, within seven days from the day that such deviation occurred.

Article 7

The incentive funds are awarded on the basis of a continuously open public invitation for the awarding of incentive funds (hereinafter: Public Call), issued by the Ministry in charge of culture (hereinafter: the Ministry).

Article 8

Requests for the payment of incentive funds, submitted in accordance with this Regulation, for whose realization there are no funds available and planned for that purposes with budget law regulations of Republic of Serbia for current year, shall be deemed as requests for the following budget year.

III COMPOSITION AND FORM OF THE COMMITTEE

Article 9

The Government establishes the Committee for Awarding Incentive funds (hereinafter: the Committee) consisting of the President of the Committee and four members, and in particular: a representative of the Ministry in charge of culture who is also the President of the Committee and one representative each of the Ministry responsible for economical affairs, the Ministry responsible for financial affairs, the Serbian Chamber of Commerce – Cinematography Group, and Film Centre Serbia.

The mandate term of the Committee is one year.

A member of the Committee cannot be in conflict of interest, which implies the following:

- 1) must not participate in the reviewing and decision-making regarding the application for work of which he is the Investor or associate in production;
- 2) must not be a part of ownership or management structure of the legal entity that submits the application nor be employed by that legal entity.

A member of the Committee who is in conflict of interest pursuant to Paragraph 3 of this Article, shall immediately inform the Committee thereof and be exempted from further consideration and decision-making regarding the application.

The manner of work and decision-making of the Committee is regulated by the Rules of Procedure.

Administrative works and technical related works for the needs of the Committee are performed by Film Centre Serbia.

Members of the Committee are not entitled to a financial compensation for work in the Committee.

IV APPLICATION FOR AWARDING INCENTIVE FUNDS

Article 10

The application for the awarding of incentive funds is submitted to the Committee, through Film Centre Serbia, on the basis of the Public Invitation and includes the submission of the following documentation:

- 1) filled out prescribed application form for the awarding of incentive funds to an Investor who produces the audiovisual work in the Republic of Serbia;
- 2) synopsis and script of the audiovisual work, synopsis when it's a postproduction, or project description for a special-purpose film;
- 3) list of the important members of the team for the production of an audiovisual work (director, actors, etc.);

- 4) presentation of the production budget, showing the part of the budget for production in the Republic of Serbia expressed in dinars;
- 5) statement that the audiovisual work meets the requirements provided under Article 4 of this Regulation;
- 6) calendar of production of the audiovisual work in the Republic of Serbia;
- 7) shooting plan for the audiovisual work in the Republic of Serbia;
- 8) evidence that there are no grounds for refusal under Article 5 of this Regulation (Certificate of the Tax Administration, i.e. self-government unit, Business Registers Agency or any other competent register thereto);
- 9) statement on the start of production of the audiovisual work in the Republic of Serbia;
- 10) statement as to whether de minimis aid has been received for the costs referred to in Article 2, Item 3) of this Regulation, or for any other expenses in the current fiscal year and in the previous two fiscal years, or a statement whether the same project received any other state aid from any level of government and on what basis;
- 11) agreement based on which the audiovisual work is being produced in the Republic of Serbia in the name and on behalf of the Investor, or any other valid proof that the paid incentives will accrue to the Investor, provided that the Applicant is a domestic legal entity or entrepreneur who produces the audiovisual work in the Republic of Serbia on behalf of the Investor;
- 12) certified statement that the data in the documents are accurate and true;
- 13) other data and documentation stipulated under Public Invitation.

The application and accompanying documents are submitted in the Serbian language or in a foreign language with a certified translation into the Serbian language.

The Applicant is obliged to prove that, on the day of submitting the application, at least 20% of the funds envisaged for the cost of production of the audiovisual work in the Republic of Serbia has been provided.

At the request of the Committee, the Applicant is obliged to submit other information and documentation of importance for the awarding of incentive funds.

Article 11

The Committee evaluates each entered application for the awarding of incentive funds and determines whether the Investor and the audiovisual work fulfil the qualifying conditions for the awarding of incentive funds, i.e. whether the requirements provided under Articles 4-6. of this Regulation have been met, as well as whether all the documents prescribed under Article 10 of this Regulation have been submitted duly.

If, along with the application from Paragraph 1 of this Article, all documents required under Article 10 of this Regulation have not been submitted, the Committee shall act in accordance with the provisions of the law regulating general administrative procedure, which refers to the handling of incomplete applications thereto.

Article 12

After the Committee determines the requirements of Articles 4-6. of this Regulation have been fulfilled, i.e. that all the documentation required under Article 10 of this Regulation has been submitted, the Committee shall render the decision determining the fulfilment of the qualifying conditions thereof and shall propose the Ministry to execute an agreement on awarding incentive funds.

The decision referred to in Paragraph 1 of this Article shall be final.

V AGREEMENT ON AWARDING INCENTIVE FUNDS

Article 13

The Ministry executes and signs the Agreement on Awarding Incentive funds (hereinafter: the Agreement) with the Applicant, within the scope of funds planned for these purposes by the Budget Law of the Republic of Serbia for the current budget year and in accordance with the provisions of the Budget System Law ("Official gazette of the Republic of Serbia", no. 54/09, 73/10, 101/10, 101/11, 93/12, 62/13, 63/13 - correction, 108/13, 142/14, 68/15 -other law, 103/15 , 99/16, 113/17, 95/18, 31/19, 72/19 and 149/20, 118/21, 118/21 - other law and 138/22), under section regulating the responsibility for taking over obligations.

The Agreement regulates in more detailed manner the deadlines, rights, and obligations of the parties thereunder.

Pursuant to Article 10 and Article 16 of this Regulation, the documentation attached to the application is considered as an integral part of the Agreement.

The Agreement is executed under following termination conditions and shall be deemed terminated:

- if there has been a deviation from the submitted shooting plan and calendar for more than 30 days or any other significant deviation in the realization of the audiovisual work;
- if the Committee, during the procedure of reviewing the application for payment of incentive funds, determines that all the prescribed conditions have not been met;
- if bankruptcy, liquidation or reorganization procedures are initiated against the Investor or the Applicant.

Agreement may be terminated by written consent of parties thereunder before an expiration of the agreed deadline due to an objective inability to fulfill contractual obligations (e.g. force majeure, administrative measures, etc.) occurring on the side of one or both parties thereto, or in other case pursuant to provisions of the law regulating contracts and torts.

Article 14

The Ministry shall pay the approved amount of incentive funds if all the obligations provided under this Regulation and the Agreement have been fulfilled.

VI APPLICATION FOR PAYMENT OF INCENTIVES

Article 15

The application for payment of incentive funds shall be submitted to the Committee within 45 days after completion of the production of the audiovisual work in the territory of the Republic of Serbia.

In case the production of the audiovisual work in the territory of the Republic of Serbia was finished before execution of the Agreement on awarding incentive funds under Article 13 of this Regulation, 45 days deadline for application for payment of incentive funds, counts from the day of execution of that Agreement.

Article 16

The application for payment of incentive funds shall be submitted to the Committee through Film Centre Serbia, in the prescribed form, accompanied by the following documentation:

- 1) an excerpt from the register maintained by the Business Registers Agency or any other competent register;
- 2) an independent auditor's report on the cost of production of the audiovisual work in the Republic of Serbia and the operations of the Investor, made for the purpose of submitting the application for payment of incentives in accordance with this Regulation and the Rulebook, and which is compiled on the basis of the complete record of production costs and total funds spent on the territory of the Republic of Serbia, as well as the evidence confirming these costs (invoices, contracts, bank statements from commercial banks with indication of payment made, etc.). The audit report shall be prepared on the basis of verification of all eligible costs included and cannot be grounded on the sampling method, i.e. review only of certain documents;
- 3) number of special purpose account held with the Treasury Department to which payment of incentive funds is to be made;
- 4) a certified statement that the production of the audiovisual work in the Republic of Serbia has been completed, and that the conditions prescribed under Article 20 of this Regulation have been fulfilled;
- 5) a certified statement that the data in the documents is correct and true.

The independent auditor's report referred to in Paragraph 1 Item 2) of the Article hereof shall determine the amount of costs qualified for the incentive funds.

At the request of the Committee, the Applicant is obliged to submit other data and documentation relevant to the payment of incentive funds.

Article 17

After execution of the Agreement, the Committee evaluates each entered application for payment of incentive funds and determines whether all the prescribed conditions for the payment of incentive funds have been met.

If, together with the application referred to in Paragraph 1 of this Article, all documents required under Article 16 of this Regulation have not been submitted, the Committee shall act in accordance with the

provisions of the law governing general administrative procedure which relate to the handling of incomplete requests thereto.

If all the conditions under paragraph 1 hereof are met, the Committee shall render a decision by which it determines the fulfillment of the conditions, adopts a report on the fulfillment of the conditions for payment and proposes to the Ministry to render an appropriate decision as ground for the payment of incentive funds.

The decision referred to in Paragraph 3 of this Article is final.

Article 18

The incentive funds are paid to the account of the Applicant – a specially assigned account held with the Treasury Department.

The incentive fund shall be paid within 60 days counting from the day of finality of decision rendered by the Ministry as referred to in Article 17 Paragraph 3 of this Regulation.

If the incentive funds are paid to the account of the Applicant who is a domestic legal entity or entrepreneur who, in the name and on behalf of the Investor, produces the audiovisual work in the Republic of Serbia, the Applicant is obliged to, within 10 working days from the day of payment of incentive funds pursuant to Paragraph 1 of this Article, transfer the amount of funds paid to the Investor and furnish the Ministry with a proof thereof.

In the event of failure to fulfill the obligation from Paragraph 3 of this Article, the Applicant is obliged to refund the paid incentive funds to the budget of the Republic of Serbia with default interest calculated from the day of payment of incentive funds to the account of the Applicant until the day of refund of the amounts thereto.

VII ELIGIBLE COSTS

Article 19

The following are recognized as qualified (eligible) costs:

- 1) costs related to the production of the audiovisual work that have been incurred and paid to legal or natural persons in the territory of the Republic of Serbia in connection with the procured goods and provided services, use of locations, payment of fees to members of the team who are citizens of the

Republic of Serbia or foreigners who have a stay of at least one year in the territory of the Republic of Serbia, in accordance with the regulations of the Republic of Serbia;

- 2) costs incurred in connection with the use of goods or the renting of movable and immovable property can only be recognized if the goods or movable and immovable property are owned by legal or natural persons from the territory of the Republic of Serbia.

Costs that are specifically not recognized as eligible costs incurred in connection with the production of audiovisual works are: marketing costs, costs related to the purchase of a real estate, distribution costs and costs of value added tax.

The types and contents of the explanation of eligible, as well as non-eligible costs and forms of the application for awarding and payment of incentive funds, are regulated in more detail by the Minister in charge of cultural affairs.

VIII INFORMATION THAT THE REPUBLIC OF SERBIA SUPPORTED THE PRODUCTION OF THE AUDIOVISUAL WORK

Article 20

Credits of the audiovisual work for whose production incentive funds have been acquired pursuant to this Regulation must contain information that the Republic of Serbia has financially supported the production of the subject audiovisual work.

In case of a special-purpose film or other format of an audiovisual work that cannot contain the information as provided under Paragraph 1 of this Article, the financial support of the Republic of Serbia must be prominently displayed in all marketing activities related to the promotion of the audiovisual work thereto.

IX TRANSITIONAL AND FINAL PROVISIONS

Article 21

Procedures for awarding and payment of incentive funds which have been commenced until the day of entry into force of the Regulation on investor incentives for the production of audiovisual works in the Republic of Serbia ("Official Gazette RS, no. 3/2021), shall be resolved with acts rendered by the Ministry and with participation of Committee as set forth herein, pursuant to conditions and according to the rules provided under Regulation on Incentives to the Investor to Produce an Audiovisual Work in the Republic of Serbia ("Official Gazette of RS", No. 94/19, 8/20, 63/20, 84/20 and 111/20).

Procedures for awarding and payment of incentive funds which have been commenced in accordance with the Regulation on investor incentives for the production of audiovisual works in the Republic of Serbia ("Official Gazette RS, no. 3/2021), shall be resolved with acts rendered by the Ministry and with participation of Committee as set forth herein, pursuant to conditions and according to the rules provided under Regulation on Incentives to the Investor to Produce an Audiovisual Work in the Republic of Serbia ("Official Gazette of RS", No. 3/21).

Procedures for awarding and payment of incentive funds, which have been commenced in accordance with the Regulation on investor incentives for the production of audiovisual works in the Republic of Serbia ("Official Gazette of the RS", no. 132/21 and 57/22), shall be resolved with acts rendered by the Ministry and with participation of Committee as set forth herein, pursuant to conditions and according to the rules provided under Regulation on Incentives to the Investor to Produce an Audiovisual Work in the Republic of Serbia ("Official Gazette of RS", no. 132/21 and 57/22).

Article 22

By entry into force of Regulation hereof, the Regulation on Incentives to the Investor to produce an Audiovisual work in the Republic of Serbia ("Official Gazette of RS", No. 132/21 and 57/22) ceases to be valid.

Article 23

This Regulation enters into force on the next day following the day of its publishing in "Official Gazette of Republic of Serbia".

05 no. 110-56/2023

In Belgrade, January 12, 2023

Government

President of Government,

Ana Brnabić, s.r.