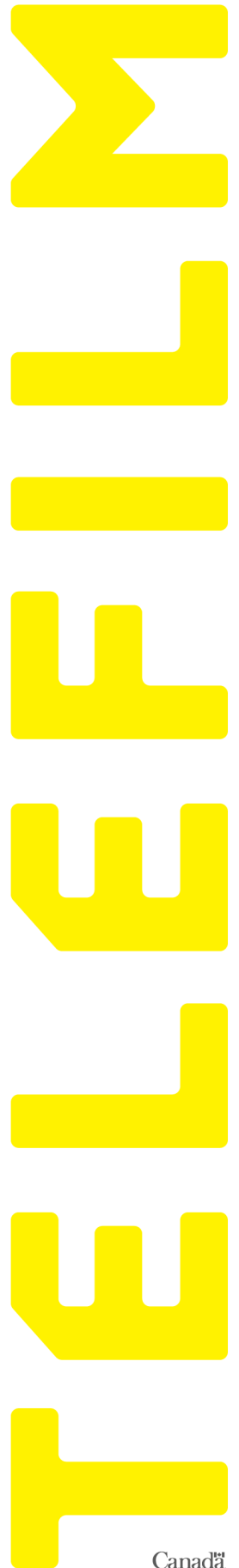


# **THEATRICAL DOCUMENTARY PROGRAM**

PRODUCTION AND POST-PRODUCTION  
STAGES

GUIDELINES APPLICABLE AS OF DECEMBER 15, 2020

UPDATED ON FEBRUARY 4, 2021



## 1. PROGRAM INTENT AND OBJECTIVES

The Theatrical Documentary Program (the “**Program**”) of the Canadian Feature Film Fund (“**CFFF**”) provides funding for feature-length documentary projects aimed primarily at theatrical audiences. The primary goal of this Program is to increase audiences for Canadian documentary films.

The intent of this Program is to finance projects identified as having a strong potential to meet key audience-building objectives including box office earnings, international awards, and prominent festival selections.

Telefilm Canada (“**Telefilm**”) may fund projects at either the production or the post-production stages. However, this Program does not offer funding at the development stage. Telefilm will aim to support a balanced portfolio of projects reflecting the diversity of voices and gender parity in the Canadian audiovisual industry.

## 2. ELIGIBLE APPLICANTS<sup>1</sup>

### 2.1. Basic Criteria

An applicant must meet all the following eligibility criteria:

- Be a Canadian-controlled corporation, as determined under sections 26 to 28 of the [Investment Canada Act](#);
- Have its head office in Canada and carry out its activities in Canada;
- Operate as an audiovisual production company.

Broadcaster-affiliated production companies<sup>2</sup> that meet the basic eligibility criteria in this section are eligible to apply with projects outside of Quebec only.

Furthermore, individual producers and other key production personnel exercising creative and financial control over the project submitted to Telefilm must be Canadian citizens, within the definition of the [Citizenship Act](#), or permanent residents within the definition of the [Immigration and Refugee Protection Act](#).

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<sup>1</sup> In the case of international treaty coproductions, the determination of eligible applicants and eligible projects will be adapted to reflect international treaties and to ensure that the spirit and intent of these guidelines are respected.

<sup>2</sup> A company is considered to be broadcaster-affiliated if it, or a corporate group of which it is a member, receives more revenue from CRTC-regulated operations (including without limitation, broadcasting, cable, satellite) than from combined production and distribution operations. For the purposes of the above, **corporate group** means two or more affiliated corporations. Telefilm will use the definition of **affiliate** set out in the [Canada Business Corporations Act](#).

### 3. ELIGIBLE PROJECTS<sup>3</sup>

#### 3.1. Basic Criteria

To be eligible, a project must:

- Be a feature length (at least 75 minutes long) documentary film to be produced or completed primarily in English, French or an Indigenous language;
- Be aimed primarily at the Canadian theatrical market while maximizing distribution on alternative platforms<sup>4</sup>;
- Be budgeted at no less than \$400,000 (except post-production applications which have no minimum budget requirement);
- Be under the ownership of the Canadian applicant;
- Have its copyright owned by Canadians;
- Be under the financial, creative and distribution control of the eligible applicant(s); as well, all rights and options necessary for the full and complete exploitation of the project must be held by the eligible applicant(s);
- With respect to Canadian content certification, upon completion be **either**:
  - Certified by the Canadian Audio-visual Certification Office (CAVCO) as a “Canadian film or video production” with a minimum of eight out of ten points or the prorated equivalent (i.e. a minimum of 80% of available CAVCO points) under the provisions of the [Income Tax Act](#); **or**
  - Recognized as a treaty coproduction by the Minister of Canadian Heritage (refer to Telefilm’s guidelines on [Audiovisual Treaty Coproductions](#));
- Be directed by a Canadian citizen, within the definition of the *Citizenship Act*, or by a permanent resident, within the definition of the *Immigration and Refugee Protection Act* (Canada);<sup>5</sup>
- have a **firm commitment<sup>6</sup> from an eligible Canadian distribution company<sup>7</sup>** for theatrical release the project within one year of completion and delivery supported by a marketing plan. On a case-by-case basis, Telefilm reserves the right to accept a firm written commitment from a non-eligible Canadian distribution company for projects submitted under the Indigenous Stream;

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<sup>3</sup> In the case of international treaty co-productions, the determination of eligible applicants and eligible projects will be adapted to reflect international treaties and to ensure that the spirit and intent of these guidelines are respected.

<sup>4</sup> Projects intended primarily for the video or television market are not eligible.

<sup>5</sup> Unless the project is a treaty coproduction.

<sup>6</sup> The firm commitment must be in a written agreement stating the amount of the distributor’s P&A budget for the project and confirming that this amount will not be revised downward without the prior approval of the producer and Telefilm.

<sup>7</sup> The eligibility criteria for a Canadian distribution company are described in the [Canada Feature Film Fund Marketing Program](#) and the Theatrical Documentary program [Essential Information Guide](#).

- Conform to the Canadian Association of Broadcasters (“CAB”) [Code of Ethics](#) and to all other programming standards endorsed by the CAB or the Canadian Radio-television and Telecommunications Commission (CRTC), and not contain any element that is an offence under the [Criminal Code](#), is libellous or in any other way unlawful.

All projects financed by Telefilm under this Program must be made available on digital platforms no later than two years after their theatrical exploitation<sup>8</sup>.

Encoding costs must be included in the project’s budget.

**Note:** a project may not be submitted more than twice to the Program (including previous applications that were refused by Telefilm or abandoned or withdrawn by the applicant) unless:

- The project has had significant changes; **and**
- The project is submitted by a new applicant who is not a related party to the company who originally submitted it to Telefilm.

In which case, the project is considered as a “new project” for the purposes of this requirement.

Furthermore, post-production applications and incomplete applications are not considered as additional production applications.

## 4. EVALUATION PROCESS

### 4.1 Process

Given the high number of applications and the limited resources available, many projects may not obtain funding.

### 4.2 Evaluation Criteria

All projects will be initially assessed against the Program’s goal to build larger audiences for Canadian feature-length documentaries in theatres thus helping to achieve the objectives of the CFFF. Eligible projects will also be evaluated on their overall creative merit, relevance and accessibility to theatrical audiences, as well as the potential of the project to succeed at the box-office.

In addition to the above, projects will be evaluated on the following criteria:

#### 4.2.1 Creative Elements

For production applications, Telefilm will evaluate all the creative elements including the originality, quality and production-readiness of the script, the creative plan and the director’s vision for the film.

For post-production applications, the artistic quality and potential of the film to reach audiences will be evaluated based on the creative completion plan and the footage submitted, which must be submitted following rough assembly and prior to picture lock<sup>9</sup>.

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<sup>8</sup> Unless otherwise agreed by Telefilm.

#### 4.2.2 Track Record of the Production Company(ies)

Telefilm will evaluate the production company's (ies') track record based on past and current successes including experience, level of expertise vis a vis the nature and scope of the project.

#### 4.2.3 Track Record of the Key Creative Personnel

Telefilm will consider the track record of the creative team, primarily the producer, director, and screenwriter. In addition, Telefilm will also consider any relevant complementary expertise of the creative team.

#### 4.2.4 Project Viability

The viability<sup>10</sup> of a project will be taken into account in the evaluation of the project. This includes an assessment of the production readiness of the project, the overall financial viability of the project, confirmed financing, and date of start of principal photography.

#### 4.2.5 Theatrical Potential, Promotion Strategy and Audience Reach Potential

Telefilm will consider the track record/experience of the attached distribution, the promotion and marketing plan and the project's potential to appeal to audiences and garner critical acclaim in Canada and abroad.

#### 4.2.6 Portfolio balance

Decision making will take into account Telefilm's objective to foster a diversity of voices in the industry, ensuring Telefilm funds a balanced portfolio of productions reflecting a variety of genres, budget and company sizes, regions across the country, and different viewpoints. To that effect, Telefilm may notably prioritize projects whose key creatives (director and/or screenwriter and/or producer) self-identify as Racialized Persons (including, but not limited to, Black and People of Colour), Indigenous, Women, and Members of an Official Language Minority Community<sup>11</sup>.

### 5. INDIGENOUS STREAM

**Note:** *this Stream is open at the same time as the Indigenous Stream of the [Production Program](#). Applicants who wish to submit their projects under this Stream **must** contact Telefilm prior to submitting their application through Dialogue.*

In the aim of increasing the diversity of the projects it supports, Telefilm will set aside funding for projects by Canadian filmmakers from Indigenous communities. These projects will be assessed by an external jury having Indigenous representation who will then submit its recommendations to Telefilm.

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<sup>9</sup> Any point in the post-production process that still involves picture cutting and/or editing. Once all picture editing is complete, the film's visual elements are considered locked (picture lock) and post-production can move to the next phase, the sound edit and mix.

<sup>10</sup> For more details, please see the [Essential Information Guide](#).

<sup>11</sup> Telefilm understands the importance of creating greater access for members of the LGBTQ2+ community and Persons with Disabilities. While Applicants may corporately identify as such, Telefilm does not currently collect such data on the Key Creative Personnel. In collaboration with the Industry and in alignment with its [Equity and Representation Action Plan](#), Telefilm is working on enhancing data collection as it relates to underrepresented identities, to be expanded in the 2021-2022 fiscal year.

In addition to the applicant and project eligibility criteria set out in sections 2 and 3 of these guidelines, applicant companies applying for funding under this Stream will have to show that they meet the following criteria:

- at least 51% of the project's copyright<sup>12</sup> is held by a production company majority owned and controlled by Indigenous<sup>13</sup> persons;
- the project shall be under the financial and creative control of Indigenous persons;
- two of the three key members of the creative team (producer, director or screenwriter) are Indigenous.

Projects submitted under this Stream will be assessed on the basis of the criteria set out in section 4, and the methods of funding set out in section 6 will be applied. Furthermore, an additional funding of up to \$50,000 could also be granted for projects with a budget of less than \$2.5 million that are shooting in a remote location or that allow for capacity-building<sup>14</sup>. However, the total Telefilm funding shall not exceed 49% of the eligible Canadian production costs.

Please note that applicants who qualify under the Indigenous Stream are not required to submit projects under this Stream and may choose to submit their projects under any other stream for which they are eligible.

## 6. TERMS OF FINANCIAL PARTICIPATION

### 6.1 Financing Amounts

Financing offered by Telefilm to successful applications will be as follows, subject to the availability of funds:

#### 6.1.1 Production Stage

- A maximum financial participation of the lesser of 49% of the eligible Canadian production costs or up to \$150,000. In exceptional cases, for projects with a budget greater than \$2 million, Telefilm may, in its discretion, consider a financial participation up to \$500,000.

#### 6.1.2 Post-production Stage

- A maximum financial participation of the lesser of 49% of the eligible Canadian costs or up to \$75,000.

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<sup>12</sup> Or 100% if there is only one applicant company.

<sup>13</sup> As defined in the 2006 Census (Statistics Canada), Aboriginal identity refers to those persons who reported identifying with at least one Aboriginal group, that is, North American Indian, Métis or Inuit, and/or those who reported being a Treaty Indian or a Registered Indian, as defined by the *Indian Act of Canada*, and/or those who reported they were members of an Indian band or First Nation.  
<http://www12.statcan.gc.ca/census-recensement/2006/ref/dict/pop001-eng.cfm>

<sup>14</sup> For more information on the additional funding, please refer to the [Essential Information Guide](#).

## **6.2 Method of Financing**

Telefilm's financial support will vary based on the total budget of the project and depending on the choice of the applicant.

- For projects having a total budget of **less than \$2.5 million**: Choice between a non-repayable contribution or an equity investment repayable over two years.
- For projects having a total budget of **\$2.5 million or more**: Choice between a repayable advance or a repayable equity investment.

If Telefilm's financial participation is in the form of an equity investment, Telefilm will acquire a proportionate share of the copyright in the project.

The applicant's choice as to the form of Telefilm's financing may affect the amount of federal or provincial tax credits that the applicant is eligible to receive in connection with the production or post-production of the project. Consequently, the applicant must determine, in consultation with its professional tax advisors, which form of Telefilm financing is optimal for the project.

Note that the choice of method of financing for Telefilm's funding must be clearly indicated at the time of application.

## **6.3 Eligible Costs**

Expenses incurred and/or paid prior to submission of the application may not be eligible. Budgets must identify all related-party transactions and all items concerning technical and publicity materials normally required by theatrical distributors and for HD broadcast.

## **6.4 Screen Credits**

The Program must be mentioned along with the logo of Telefilm in the project's credits and print materials, in a size and manner to be approved in advance by Telefilm.

## **6.5 Versioning**

All projects financed by Telefilm must be made available in both official languages, through subtitling (unless a dubbed version has already been included in the project's budget). All such work must be carried out in Canada by Canadian artists and technicians (subject to applicable treaties in the case of international coproductions).

Note that if the project receives funding from Telefilm's Talent Fund, it must be available in described video in addition to being close-captioned.

All applicable versioning costs must be included in the project's budget submitted to Telefilm.

## 7. RECOUPMENT

This section applies only if Telefilm's financial participation takes the form of a repayable advance or equity investment, regardless of the stream under which the project is submitted.

### 7.1. Projects with budgets under \$2.5 million

For projects with budgets of less than \$2.5 million, and for which Telefilm's financial participation is provided as a repayable equity investment, a simplified form of Telefilm recoupment will be applied. Telefilm will recoup 10% of the applicant's entitlement to the production revenues received at any time during a period ending 24 months after the start of the project's commercial exploitation.

### 7.2. Projects with budgets of \$2.5 million and more

Telefilm will recoup its financing according to the contract it enters into with the applicant. The calculation of Telefilm's entitlement to recoupment will not be affected by the form of Telefilm's financial participation.

#### 7.2.1. Recoupment practices

Telefilm will recoup 10% of the applicant's entitlement to production revenues received at any time if:

- its financial participation does not exceed \$250,000 and is provided for postproduction only; **Or**
- its financial participation does not exceed \$250,000 and the project is an audiovisual treaty coproduction in which the Canadian financing does not exceed 20% of the total financial structure.

For all other projects with budgets over \$2.5 million, Telefilm will recoup its financial participation no less favourably than *pro rata* and *pari passu*<sup>15</sup> with all other financial contributions<sup>16</sup> (except as noted below for Priority Financing and private investors), including: producer investments, broadcasters and other CRTC licensees, funds established as a requirement of the CRTC, provincial agency financing, craft and creative deferrals (whether or not by related parties), any form of distributor-related financial participation which is directly or indirectly supported by payments from the budget and any form of producer-related financial participation which is directly or indirectly supported by producer fees, corporate overhead or federal or provincial tax credits.

For projects where the financing structures include distribution advances/minimum guarantees, pre-sales for non-Canadian territories or other similar forms of participation including gap financing, Telefilm is to receive a deal that will not limit Telefilm's ability to recoup its financial participation.

Although a producer may sell worldwide distribution rights to approved entities in return for a

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<sup>15</sup> Please note that if another financial participant is granted a premium, Telefilm will require an equivalent premium.

<sup>16</sup> Telefilm acknowledges that public agencies in certain provinces/territories have recoupment policies that may differ from Telefilm's practices and, in such instances, may in its own discretion grant more favorable terms than *pro rata* and *pari passu*.



distribution advance/minimum guarantee to be included in the project's financial structure, or arrange a gap loan for unsold territories ("**Priority Financing**"), the Priority Financing may not be recouped from worldwide revenues 100% ahead of Telefilm's financial participation (except as noted below). Telefilm shall have on its own a corridor of up to 5% of worldwide revenues, recouped *pro rata* and *pari passu* with the Priority Financing ("**Telefilm's Corridor Percentage**"), calculated as follows:

- **If Telefilm's financial participation exceeds \$1.5 million, up to \$2.5 million:** Telefilm's Corridor Percentage will be based on 25% of Telefilm's proportionate share of total financing.
- **If Telefilm's financial participation exceeds \$2.5 million:** Telefilm's Corridor Percentage will be based on 35% of Telefilm's proportionate share of total financing.

Telefilm will allow other financiers (including producer investment/deferrals) to recoup *pro rata* and *pari passu* with the Priority Financing, but only to the extent that the Priority Financing's recoupment position on first tier is not lowered to less than 80% of the first tier.

Telefilm does not accept open territories in lieu of a corridor on first revenues or catch-up tiers.

The Priority Financing may be recouped from worldwide revenues 100% ahead of Telefilm's financial participation if:

- Telefilm's financial participation is \$1.5M or less; or
- The Priority Financing is the lesser of \$100,000 or 5% of the budget.

In all circumstances, the fees, expenses, and premiums of the Priority Financing shall be reasonable. Telefilm may impose caps or limitations on deductible distribution and gap lending fees and expenses. Any amounts allocated to distributors or sales agents in excess of their Priority Financing amount shall be paid from the applicant's share of recoupment; Telefilm's share of recoupment shall be calculated on receipts prior to the deduction of any additional amounts.

When a distribution advance/guarantee/gap is provided by a company related to or affiliated with the applicant, Telefilm may require a recoupment position for the advance/guarantee/gap that is more consistent with that of other financial contributions (i.e. *pro rata* and *pari passu*).

Unless agreed to in writing by Telefilm in advance, all gap/bridge/interest/other loan financing costs are to be included in the production budget.

Unless they operate as bridge financiers and have a track record as such, any investor, distributor, producer or coproducer, gap financier and similar financial participant in a project shall not also be accepted as a bridge financier or similar high-risk lender/financier on that same project, nor shall any of those companies' related parties be accepted in such a manner.

Any entity that previously held ownership/copyright in a project may not be accepted as a third-party financier and said entity and any of its related parties shall be assessed consistently with the treatment of a producer financing source as noted above.

Approved budget over-runs may be recouped only after Telefilm has recouped.

For productions where Telefilm deems certain budget items to be excessive (including producer's fees and corporate overhead, finders' fees, financing fees, and third-party cast, crew, or service deferrals), Telefilm may require a recoupment position for such costs that ensures that such items do not negatively affect Telefilm's recoupment.

Applicants are expected to ensure that international agreements will not limit the Canadian share of production revenue (example: a premium granted by a foreign coproducer may only apply to the foreign producer's share of production revenue).

### **7.2.2. Profit participation**

If Telefilm's financial participation in the project exceeds \$250,000, Telefilm shall receive, once all financial contributions (including financing of Telefilm-approved overages, if any), have been recouped a share of production revenues equal to 50% of its proportionate share of total equity, in perpetuity.

### **7.2.3. Incentive to encourage private financing**

In order to encourage producers seeking non-traditional sources of private financing for their projects, Telefilm will offer the following incentive to productions benefiting from such funding:

- Until full recoupment of eligible private financial participations, on recoupment tiers on which there is no advance/guarantee/gap recouping as referenced above, eligible private participants may receive up to 50% of revenues on said tiers. The other 50% will be shared *pro rata* and *pari passu* between Telefilm and the remaining equity/repayable advances;

On recoupment tiers on which there is an advance/guarantee/gap, eligible private financial participants may receive a corridor of up to 15% *pro rata* and *pari passu* with the Priority Financing and Telefilm, but only to the extent that the Priority Financing's recoupment percentage on first tier does not become less than 80%. Telefilm's Corridor Percentage on the first tier will be maintained.

Such a preferred position will not apply to: producers, production companies, affiliates or related parties of the applicant, suppliers deferring payments, broadcasters and other CRTC licensees, funds established as a requirement of the CRTC, and Canadian participants eligible to receive accompanying benefit from their participation, such as distribution or licensing rights, payment for services provided to the production or the fulfillment of regulatory requirements, or entities receiving a producer credit, nor to any related party to any of the aforementioned entities. Furthermore, any portion of such private participation that is directly or indirectly supported by remuneration from the budget may not recoup more favourably than Telefilm's participation.

Applicants wishing to take advantage of this incentive are strongly advised to contact the [Canada Revenue Agency](#) for details on how third-party loans, investments and other financings may affect qualification for tax credits.

## 8. APPLICATION PROCESS

### 8.1. Deadline

***Applications must be received by Telefilm prior to the first day of shooting for production applications and before the rough-cut stage for post-production applications.***

Please refer to the Telefilm [website](#) for information about the deadline. Telefilm may, at its sole discretion, choose to conduct a second deadline subject to availability of funds after the initial deadline.

### 8.2. How to Apply

All applicants must apply online using [Dialogue](#) and including all required documents, as listed on Telefilm's website.

Please note that applicants who wish to submit a project to the Indigenous Stream are advised to contact Telefilm **prior** to submitting their application through Dialogue.

## 9. GENERAL INFORMATION

While compliance with the guidelines is a prerequisite to eligibility for funding, compliance does not guarantee entitlement to Telefilm funds. Telefilm may make adjustments to its guidelines and application forms from time to time as required. Telefilm has full discretion in the application and interpretation of these guidelines to ensure that its funding is provided to those projects that meet its spirit and intent. In all questions of interpretation of either these guidelines, or the spirit and intent of this program, Telefilm's interpretation shall prevail.

Any information, in any form, provided, obtained, created, or communicated in connection with an application or project is subject to the [Access to Information Act](#) and the [Privacy Act](#).

All Telefilm programs are subject to the availability of funding from government and other sources.