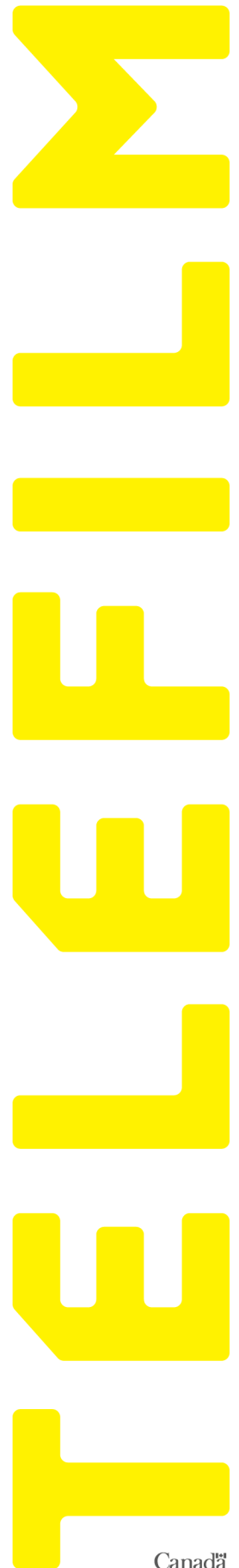


CANADA FEATURE FILM FUND

PRODUCTION PROGRAM FOR
ENGLISH AND FRENCH-LANGUAGE PRODUCTIONS

GUIDELINES

APPLICABLE AS OF MARCH 13, 2018



1. CANADA FEATURE FILM FUND

1.1. Program intent and objectives

These guidelines are for the Canada Feature Film Fund (CFFF) Production Program (the Program). The Program reflects Telefilm Canada's intent to maintain and strengthen its essential role as a funder of film production, with the overall objective to propel the Canadian audiovisual industry to new levels of success through effective and efficient financing and active promotion of Canadian content and talent, at home and abroad.

The CFFF seeks to improve the performance of a greater number of feature films, thereby ensuring the long-term viability and success of the Canadian audiovisual industry. The Program contributes to the achievement of this goal by prioritizing funding support to production companies with a track record of success at the commercial (box office results and other sales), cultural (nominations and awards), and industrial (private sector and international contribution) levels, as measured by the companies' track record.

Telefilm will aim to support a balanced portfolio of projects reflecting the diversity of voices in the Canadian audiovisual industry. The Program is also designed to leverage opportunities offered by digital distribution and multiple viewing platforms, expanding the reach of Canadian productions both nationally and internationally.

Resources within the CFFF are allocated on a linguistic basis which maintains approximately one-third of funding for French-language projects.

2. ELIGIBLE APPLICANTS¹

2.1. Basic eligibility criteria

An applicant must meet all of 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 a feature film production company; and,
- be financially stable (with appropriate exceptions for new production companies without established parent companies).

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](#).

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

Eligible production companies must demonstrate to Telefilm's satisfaction a commitment to producing Canadian feature films and must possess the experience and level of expertise necessary to complete the production. Telefilm's specific requirements will vary depending on the nature and scope of the project.

2.2. Broadcaster-affiliated companies²

Broadcaster-affiliated production companies that meet the basic eligibility criteria are eligible to apply with English-language projects only.

3. ELIGIBLE PROJECTS ³

Telefilm aims to support the production of feature films that are owned and controlled by eligible applicants and which contain significant Canadian creative elements. While Telefilm does not intend to restrict filmmakers in their choices of stories, or their natural settings, it will, wherever possible, give priority to projects that present a distinctly Canadian point of view.

3.1. Basic project eligibility criteria

To be eligible, a project⁴ must:

- be a feature length (at least 75 minutes long) fictional film to be produced or completed in French, English or an Aboriginal language;
- be aimed primarily at the Canadian theatrical market while maximizing distribution on alternate platforms;
- be under the ownership of the Canadian applicant(s);
- have its copyright owned by Canadians;
- be under the financial, creative and distribution control of the eligible applicant(s); as well, all of the 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 8 out of 10 points under the provisions of the [Income Tax Act](#) (Canada); **or**
 - recognized as a treaty coproduction by the Minister of Canadian Heritage (refer to Telefilm's guidelines on [Audiovisual Coproductions](#));
- be written by a Canadian screenwriter. Exceptions to the requirement that the screenwriter be Canadian may be made in co-writing situations, upon Telefilm's consideration of indicators including the degree of involvement of the Canadian screenwriter (which must be meaningful and

² 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 In the case of audiovisual treaty coproductions, the determination of eligible applicants and eligible projects will be adapted to reflect the treaties and to ensure that the spirit and intent of these production guidelines are met.

⁴ The term **eligible project** is used interchangeably with **film** or **project** throughout the guidelines.

collaborative), whether the underlying property and story are Canadian, and the degree to which the story is told from a distinctly Canadian point of view⁵;

- be directed by a Canadian director;
- have a Canadian performer in the lead role. Telefilm will continue to allow for flexibility in assessment of the Canadian performer in a lead role in co-protagonist and ensemble situations, as well as where the non-Canadian actor is integral to the market potential of the film (that is, marquee cast)⁶;
- be budgeted at no less than \$250,000;
- if budgeted at \$2.5 million or more, have a firm⁷ commitment from an eligible Canadian distribution company⁸ for theatrical release in Canada within one year of delivery;
- if budgeted at less than \$2.5 million, not have been submitted more than twice to the Program (including previous applications that have been abandoned or withdrawn by the applicant). For the purposes of this requirement, post-production applications are not considered as additional production applications;
- conform to the Canadian Association of Broadcasters (CAB) Code of Ethics and to all other programming standards endorsed by the CAB or the CRTC, and not contain any element that is an offence under the [Criminal Code](#), is libellous or in any other way unlawful.

The following non-exhaustive list provides examples of the types of projects that are not eligible under the Program:

- projects done on contract for, or produced by, a government agency;
- projects produced primarily for industrial, corporate or institutional purposes;
- advertising;
- student projects;
- projects using film as a tool to record or document existing artworks;
- documentary or non-drama projects;
- conventional forms of television entertainment, such as pilots, movies-of-the-week, news reports; and,
- projects deemed to be direct-to-video movies.

3.2. Audiovisual treaty coproductions

Please note that projects that are recognized as treaty coproductions are eligible to apply to this Program but are not guaranteed funding.

⁵ Applicants should be aware that in the event that Telefilm approves of a non-Canadian co-screenwriter, the project may in such cases lose both CAVCO points for the position of screenwriter.

⁶ Telefilm will continue to consider exceptions to these criteria on a case by case basis, particularly where the level of financial request to the CFFF is low, and there are significant Canadian creative elements (including a distinctly Canadian point of view).

⁷ A firm commitment is a written agreement describing the financial resources the distributor will commit to the project, and includes the assurance that the proposed P&A budget will not be revised downward without the producer's and Telefilm's approval.

⁸ The criteria for an eligible distributor are outlined in the CFFF Marketing program [guidelines](#).

4. EVALUATION CRITERIA

Telefilm's decision-making will be based on quantitative and qualitative information in order to select the projects with the best potential for success. The following criteria will serve as a guide, and no specific weighting will be attributed to each of the components. The importance of each criterion will vary depending on the size of the budget and the amount requested from Telefilm.

In addition, 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. Telefilm will, for projects of equal quality, prioritize projects whose key creatives (director and/or writer and/or producer) reflect the diversity of the country in terms of gender, Indigenous communities or cultural diversity.⁹

4.1. Track record of the production company

Telefilm will evaluate the production company's track record based on past and current successes at the commercial (box office results and other sales) and cultural (nominations and awards) levels.

4.2. Track record of the creative team

Telefilm will evaluate the feature film 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.

4.3. Creative elements

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

For post-production applications, the quality of the footage submitted will be evaluated, which footage must be submitted prior to picture lock¹⁰.

4.4. Market interest

Telefilm will consider the level of Market Interest shown in connection with the projects submitted as one of the criteria in its decision-making process. The importance of this criterion will vary depending on the size of the budget and the amount requested from Telefilm.

"Market Interest" is defined as monies invested in the production funding of films by the following independent entities:

⁹ For more details, see [FAQs](#).

¹⁰ 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.

- domestic and/or international distributors or sales agents recognized by Telefilm as having a track record in theatrical distribution;
- domestic and/or international broadcasters providing broadcast license fees;
- lenders recognized by Telefilm providing gap financing;
- private for-profit financiers; and/or
- sponsors.

Market Interest does not include producer investment, governmental agency funding, Canadian broadcaster investment (either directly or by way of an affiliated private fund), craft, service, or creative deferrals (whether or not by related parties), and any form of financial participation that is directly or indirectly supported by payments from the production budget, tax credits or tax benefits.

Projects with budgets under \$2.5 million are generally not expected to have Market Interest. Therefore, these projects qualify for up to \$500,000 in Telefilm funding.

To qualify for Telefilm financing greater than \$500,000, projects are expected to have greater Market Interest. For information purposes only, Telefilm makes available on its [website](#) recent Telefilm funding amounts based on different budget sizes and levels of Market Interest.

4.5. Financial viability

Telefilm will consider a project's overall financial viability.

4.6. Promotion strategy and audience reach potential

The applicant must provide Telefilm with the global promotional strategy that it intends to implement in order to make its film available to its target audience and to maximize audience reach. This strategy must include the following elements:

- The positioning statement for the film in different markets;
- The marketability of different elements of the film (e.g. renowned director and/or screenwriter, established movie franchise, confirmed performers, potential for success in a particular niche market, etc.);
- The target audience for each potential distribution platform and the expected results for each platform;
- The main elements of the Canadian and international marketing strategy on traditional and other platforms, if applicable; and,
- The steps that will be taken towards selection in national and international festivals, if applicable.

This global promotion strategy will be evaluated on the following elements:

- The coherence of the proposed strategy with regards to the movie and its target audience;
- The efforts shown to maximize the potential of the promotion and audience reach strategies;
- The innovative character of one or more elements of the promotion strategy.

5. TERMS OF FUNDING

5.1. Amount of Telefilm financing

Telefilm will use the criteria set out in section 4 as a guide in determining the amount of Telefilm's financial participation (subject to the overall availability of funds).

Generally, Telefilm's financing should account for some 30% of the eligible Canadian production costs and should not exceed 49% of these costs or the lesser of the following amounts¹¹:

- \$500,000, when the project budget is less than \$2.5 million (regardless of the project language);
- \$4 million, for English-language projects;
- \$3.5 million, for French-language projects.

5.2. Funding method

Telefilm's financial participation will vary based on the total project budget as well as the producer's choice¹² from among the following options:

- 1) For projects with budgets under \$2.5 million:
Choice between a **non-repayable contribution** or an **amount repayable over two years** from the starting date of the project's commercial exploitation¹³;
- 2) For projects with budgets of \$2.5 million and above:
Choice between a **repayable advance** or a **repayable equity investment**;
- 3) For projects funded under the Fast Track Stream for Second Feature Films:
Mandatory financial participation in the form of a **non-repayable contribution**.

Should Telefilm's financial participation be provided in the form of an equity investment, no matter the level of the project's budget, Telefilm will acquire a proportionate share of the copyright in the production.

Note: The producer's choice of the method of financing may affect the amount of federal or provincial tax credits that the producer is eligible to receive in connection with the production. Consequently, the producer must determine, in consultation with the producer's professional tax advisors, which form of Telefilm financing is optimal for the project. However, the producer must clearly indicate the choice of funding at the time of application.

¹¹ See section 7 for information about the maximum financial participation granted under the Fast Track stream for second feature films.

¹² Excluding the Fast Track stream for Second Feature Films, for which Telefilm's financial participation will take the form of a non-repayable contribution.

¹³ See section 9 for further information on Telefilm's recoupment.

5.3. Greenlight financing

5.3.1. Greenlight pre-production advances

A greenlight advance is only available at Telefilm's discretion for higher-budget projects that have already received a commitment letter from Telefilm for financing of at least \$1.5 million. Eligible costs for a greenlight advance include those associated with the final polish of the screenplay, closing agreements with financial participants, attaching cast and early pre-production; in other words, generally those costs associated with fulfilling the conditions outlined in the production commitment letter. Applications for a greenlight advance must have an eligible distributor¹⁴ attached.

Applicants should be aware that greenlight advance financing is not in addition to Telefilm's offer of production financing. If an applicant receives a greenlight advance, the amount will be included as part of Telefilm's total financial commitment to a production, as outlined in a commitment letter from Telefilm.

5.3.2. Greenlight financial participation and repayment

Telefilm's greenlight financial participation will generally not exceed 80% of eligible costs, up to a maximum of \$150,000 and will be provided as an advance against Telefilm's production financing.

Should the project proceed into production with financial support from Telefilm, this greenlight advance, part of Telefilm's total funding, will take the same form as Telefilm's total funding and will be included in this funding.

Should the project proceed into production without financial support from Telefilm or does not proceed into production by a defined date, the greenlight advance will be treated as a non-equity repayable advance similar to a development advance. In this case, the advance will be repayable according to the contract that Telefilm and the producer enter into, generally on the earlier of: the first day of principal photography (or any other use of the script) or the sale, assignment or other disposition of the rights to the project.

5.4. Enhancements and breakage

Telefilm's financing may provide support for enhancements for projects already supported by the CFFF during the production stage. Enhancements are not overages to the production, but rather extraordinary costs outside the production budget directly related to increasing the potential for the project (for example, soundtrack, special effects, and additional shooting).

In assessing applications for financing support for enhancements, Telefilm will evaluate the following:

- the expected increase in the market potential of the project, as evidenced by the distributor's revised box office projections and the projections for increased exploitation on alternate platforms;
- the revised marketing plan; and,
- the revised P&A commitment.

¹⁴ The criteria for an eligible distributor are outlined in the [Marketing Program guidelines](#).

Telefilm will favour those requests for enhancements where the projects have had market test screenings.

Telefilm may also provide support for breakage for projects for which marquee cast is a key condition of Telefilm's commitment.

Telefilm requires that any additional financial participation for enhancements and breakage recoup preferentially.

5.5. Test screenings

Telefilm may require that projects with budgets of \$2.5 million and more supported at the production stage have a professional test screening prior to picture lock, the cost of which must be included in the production budget. This test screening must be executed by a Telefilm-approved entity. There continues to be the expectation of test screenings upon delivery to the distributor of the films under the [CFFF marketing program](#).

5.6. Encoding and availability in both official languages

All projects funded by Telefilm must be made available on digital platforms no later than two years after their theatrical exploitation¹⁵ or in the year following their completion if a theatrical release is not required.

Furthermore, all projects must be available in both official languages, in either subtitled or dubbed versions. Please note that encoding and subtitling or dubbing costs must be included in production budgets and will therefore not be eligible for funding under the CFFF's Marketing Program.

6. FAST TRACK STREAM

Telefilm wishes to encourage production companies that have demonstrated an ability to produce feature films that have achieved a very high level of success on a regular basis. Telefilm will allocate an amount from CFFF production funds for these companies that will benefit from an accelerated evaluation. The amount allocated under the Fast Track Stream¹⁶ will be an amount commensurate with the historical access achieved by such highly successful companies.

This Fast Track Stream will allow eligible applicants to have access to funds reserved for a smaller number of applicants and will give these applicants greater independence in their decision making as compared with companies whose projects are evaluated through the regular stream.

¹⁵ Unless otherwise agreed by Telefilm.

¹⁶ The amount allocated will vary based on the availability of funding sources for each language market.

6.1. Eligibility

To qualify for the Fast Track Stream, in addition to the basic eligibility criteria set out in section 2, a production company must meet the following criteria:

- Have produced, as the lead production company,¹⁷ a minimum of three feature films theatrically released in Canada over the past five years;
- Qualify amongst the group of best performing production companies¹⁸ in each language market that have obtained the highest track record score.¹⁹

In the event of changes in management or ownership of a company having access to the Fast Track Stream (such as a sale, merger, change in management, etc.), Telefilm will assess, at its sole discretion, whether the involvement of the persons who contributed to the company's track record remains the same, and whether this company still merits the increased autonomy and flexibility afforded by the Fast Track Stream. Should Telefilm conclude in the negative, the newly restructured company will be required to submit its applications for evaluation through the regular stream.

6.2. Operation

Companies eligible for the Fast Track Stream have access solely to the funds reserved for this stream. Therefore, these companies may not submit applications for evaluation under the regular stream.²⁰

It should be noted that a company's track record score is established by linguistic market. For example, if a company qualifies for the Fast Track Stream for the French-language market, it may only submit an application under this system for a French-language project. However, the same company may submit its English-language projects to the regular stream.

No amounts are reserved for specific companies out of the funds in the Fast Track Stream. The applications submitted by the eligible applicants will be assessed according to the criteria set out in section 4. Telefilm will, however, exercise greater flexibility in evaluating the creative elements of these projects.

In addition, subject to the evaluation of the projects submitted, Telefilm will aim to fund at least one project per eligible company over a two-year period to the extent that Telefilm's financial participation is less than the cap set out in section 5.1 and that it is less than or equal to 30% of the eligible Canadian budget for the project.

¹⁷ The film's lead producer is either the company that owns all the copyright in the film or, if there is more than one production company, is determined in accordance with the companies' coproduction agreement.

¹⁸ The number of companies comprising the group of best performing companies will be determined by the availability of funds in each language market.

¹⁹ The score of the production company's track record is determined by calculating the weighted average of the scores obtained by the production company's projects over the past five years, calculated on an annual basis. Please refer to the FAQs for more details on calculating the score of a production company's track record.

²⁰ Any type of coproduction involving a Fast Track company will be considered a Fast Track project, with any Telefilm funding being allocated from the Fast Track Stream.

Subject to the availability of funds and the evaluation of the projects submitted, Telefilm may consider funding more than one project per company and/or funding at a level higher than 30% of the eligible Canadian budget.

6.3. Financing of development projects

Please note that no amounts are allocated in the Fast Track Stream for the financing of development projects. Companies eligible for this system must submit their development applications in accordance with the terms and conditions set out in the [Development program guidelines](#).

7. FAST TRACK STREAM FOR SECOND FEATURE FILMS

7.1. Eligibility

In order to foster the development of new talent, Telefilm will set aside funding under this Program to support the production of a second feature film by an emerging director whose first narrative or documentary feature²¹ was selected after January 1, 2017, at one of the major film festivals and in one of the categories listed in Appendix A.

Applications must be submitted within the **two calendar years** following the selection, by a production company that meets the requirements set out in section 2 of these guidelines. Note that the production company submitting an application under this Stream does not necessarily have to be the same as the company which produced the debut feature film granting access to this Stream. Nevertheless, the applicant company must demonstrate, to Telefilm's satisfaction, that it has the necessary experience and expertise to produce the project that it wishes to submit.

In all cases, the project must be directed by the same director as the project giving access to this Stream.

Furthermore, the budget for the submitted project may not exceed \$2.5 million.

7.2. Evaluation

Projects submitted under this Fast Track Stream must meet the eligibility criteria set out in section 3 and will be assessed on the basis of the criteria set out in section 4. However, Telefilm will show greater flexibility when assessing the projects' creative elements.

7.3. Terms of funding

Telefilm funding will be provided as a non-repayable contribution up to the maximum following amounts:

²¹ Note that this first feature film must have been certified by CAVCO as a "Canadian film or video production" with a minimum of 8 out of 10 points under the provisions of the [Income Tax Act](#) (Canada).

- \$500,000 for a fictional feature;
- \$125,000 for a documentary feature. Please note that applications for documentary feature films must be submitted under the [Theatrical Documentary Program](#).

For fictional feature films, Telefilm's contribution could exceed 49% of eligible Canadian costs and must be used to cover expenses directly related to the production, post-production, distribution and promotion of the project, including costs for dubbing or subtitling and encoding.

8. INDIGENOUS STREAM

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.

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 copyright²² is held by a production company whose majority shareholder²³ is Indigenous²⁴;
- 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 5 will be applied in the same way as for projects submitted under other streams of this Program.

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.

9. REPAYMENT

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.

9.1. 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

²² Or 100% if there is only one applicant company.

²³ A majority shareholder is a shareholder who owns 51% or more of voting shares.

²⁴ 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>

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.

9.2. Projects with budgets over \$2.5 million

Telefilm's recoupment policies for projects with budget of \$2.5 million and above are under review. Therefore, until changes are announced, the recoupment practices and policies set out in the CFFF production guidelines for 2012-2013 will continue to apply, with necessary adjustments. These policies are attached in Appendixes B and C.

10. APPLICATION PROCESS

10.1. How to apply

All applicants must apply online using [Dialogue](#). Applicants must submit the appropriate application form, duly completed and signed, together with all required documentation, via Dialogue. A list of all documents required at the time an application is submitted is available on the Program website. All subsequent documentation must be submitted on-line through Dialogue. If required, please consult the [Client Service Charter](#) available on Telefilm's website.

10.2. When to apply

Please refer to Telefilm's [website](#) for the opening date for applications. Telefilm recommends that applications for production financing be submitted well in advance of the commencement of principal photography. Applications for completion funding must be submitted prior to picture lock.

Please note that applicants who wish to submit a project under the Fast Track Stream for Second Feature Films must contact Telefilm **prior** to submitting their application through Dialogue.

11. 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.

APPENDIX A

LIST OF ELIGIBLE FESTIVALS AND CATEGORIES FOR THE FAST TRACK STREAM FOR SECOND FEATURE FILMS

1. Berlin International Film Festival

Official selection to one of the following categories:

- Official competition
- Panorama
- Forum
- Berlinale Special
- Generation
- NATIVE

2. Cannes Film Festival

Official selection to one of the following categories:

- Official Selection/Competition
- Un Certain Regard
- Out of competition
- Cannes Special Screenings
- Director's Fortnight
- International Critics Week

3. Sundance Film Festival

Official selection to one of the following categories:

- World Cinema Dramatic Competition
- Premieres
- Spotlight
- Next
- Midnight
- Sundance Special Events
- Documentary Premieres
- Kids

4. Venice International Film Festival

Official selection to one of the following categories:

- Official Selection
- Orizzonti Section
- Out of Competition
- Cinema Nel Giardino

5. American Indian Film Festival

Films that have won a prize or prizes at the **American Indian Film Festival** in any of the following categories: **Best Film, Best Director, Best Documentary**. Note that the director of the project that has won one of these prizes must be Indigenous, as defined in the guidelines.

APPENDIX B

COPY OF THE RECOUPMENT POLICY IN THE 2012-2013 PRODUCTION PROGRAM GUIDELINES FOR FRENCH-LANGUAGE PRODUCTIONS, AS PUBLISHED ON FEBRUARY 21, 2012

7. REPAYMENT

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

7.1. Minimum recoupment practices for production financial participations

Telefilm will recoup its financial participation no less favourably than *pro rata* and *pari passu* with all other financial contributions (except as noted below), including:

- producer investment, private fund and provincial agency financing, broadcaster investment, craft and creative deferrals (whether or not by related parties) 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 whose financing structures include distribution advances/minimum guarantees, pre-sales for non-Canadian territories or other similar forms of participation including gap financing, the producer must offer Telefilm a deal that will not unfairly limit Telefilm's ability to recoup its financial participation, and that will permit a reasonable expectation of recoupment.

Although a producer may sell worldwide distribution rights in return for an advance/minimum guarantee to be included in the project's financial structure, or arrange gap financing of unsold territories, the advance/guarantee/gap may not recoup from worldwide revenues ahead of Telefilm's participation. The following are the two most typical kinds of recoupment arrangements that can satisfy the requirement:

Open territory	A major territory or territories is or are excluded from the recoupment of the advance/guarantee/gap to allow for Telefilm's financial participation to recoup in first position (shared with other participants entitled to recoup in the same position as Telefilm) from net revenue generated from these territories, without being subject to prior recoupment of the advance/guarantee/gap. The open territory must be a territory or territories that represent reasonable revenue potential to Telefilm. An open territory arrangement does not mean that the provider (usually a distributor) of the advance/guarantee/gap cannot be granted the right to sell in the open territory simply that the advance/guarantee/gap does not recoup from the open territory.
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Revenue corridor	The producer negotiates a deal with the provider of the advance/guarantee/gap (usually the distributor) such that the advance/guarantee/gap is recoupable, not from 100% of revenue but from some lesser share of the revenue. The remaining portion of revenue flows to Telefilm (and other financial participants entitled to the same position as Telefilm).
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When an advance/guarantee/gap is provided by a company related to, or affiliated with, the producer, 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*).

Since financing structures, distribution arrangements, marketability and most other elements vary considerably from project to project, Telefilm considers different deals acceptable on a case-by-case basis. In every case, Telefilm is seeking a reasonable expectation of recoupment in light of its objectives as outlined above.

Approved budget over-runs and service deferrals 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 and third party cast, crew, or service deferrals), Telefilm requires a recoupment position that ensures that such items do not negatively affect Telefilm's recoupment.

7.1.1. Incentive to encourage private financing

In order to encourage producers seeking non-traditional sources of Canadian 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, eligible private participants may receive 50% of revenues *pro rata* and *pari passu*. The other 50% will be shared *pro rata* and *pari passu* with the remaining first tier participants.

Such a preferred position will not apply to: 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 fulfilment of regulatory requirements, or entities receiving a producer credit. Furthermore, any portion of the said 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.

7.1.2. Special recoupment requirements of private funds

Telefilm does not accept an arrangement that provides it with less favourable recoupment than *pro rata* and *pari passu* with all other financial contributions included in the financial structure for the production.

7.1.3. Incentive for producers of French-language productions

In recognition of the difficulties faced by producers of French-language productions in gaining access to the global marketplace, and therefore in contributing to the capitalization of their companies through recoupment, Telefilm provides the following incentive:

- until full recoupment by the producer of a provincial tax credit and an investment made by a producer used towards financing a French-language production, the producer will receive 50% of net production revenues. The other 50% will be shared *pro rata* and *pari passu* among the remaining participants.

Following recoupment of Telefilm's full financial participation, the producer will recoup 100% of the federal tax credit amount.

7.1.4. Standard distribution terms and conditions

Telefilm may impose caps or limitations on deductible distribution fees and expenses.

APPENDIX C

COPY OF THE RECOUPMENT POLICY IN THE 2012-2013 PRODUCTION PROGRAM GUIDELINES FOR ENGLISH-LANGUAGE PRODUCTIONS, AS PUBLISHED ON FEBRUARY 21, 2012

6.2. Repayment

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

6.2.1. Minimum recoupment practices for production financial participations

Telefilm will recoup its financial participation no less favourably than *pro rata* and *pari passu* with all other financial contributions (except as noted below), including:

- producer investment, private fund and provincial agency financing, broadcaster investment, craft and creative deferrals (whether or not by related parties) 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 whose financing structures include distribution advances/ minimum guarantees, pre-sales for non-Canadian territories or other similar forms of participation including gap financing, the producer must offer Telefilm a deal that will not unfairly limit Telefilm's ability to recoup its financial participation, and that will permit a reasonable expectation of recoupment.

Although a producer may sell worldwide distribution rights in return for an advance/minimum guarantee to be included in the project's financial structure, or arrange gap financing of unsold territories, the advance/guarantee/gap may not recoup from worldwide revenues ahead of Telefilm's participation. The following are the two most typical kinds of recoupment arrangements that can satisfy the requirement:

Open territory	A major territory or territories is or are excluded from the recoupment of the advance/guarantee/gap to allow for Telefilm's financial participation to recoup in first position (shared with other participants entitled to recoup in the same position as Telefilm) from net revenue generated from these territories, without being subject to prior recoupment of the advance/guarantee/gap. The open territory must be a territory or territories that represent reasonable revenue potential to Telefilm. An open territory arrangement does not mean that the provider (usually a distributor) of the advance/guarantee/gap cannot be granted the right to sell in the open territory simply that the advance/guarantee/gap does not recoup from the open territory.
Revenue corridor	The producer negotiates a deal with the provider of the advance/guarantee/gap (usually the distributor) such that the advance/guarantee/gap is recoupable, not from 100% of revenue

but from some lesser share of the revenue. The remaining portion of revenue flows to Telefilm (and other financial participants entitled to the same position as Telefilm).

When an advance/guarantee/gap is provided by a company related to or affiliated with the producer, 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*).

Since financing structures, distribution arrangements, marketability and most other elements vary considerably from project to project, Telefilm considers different deals acceptable on a case-by-case basis. In every case, Telefilm is seeking a reasonable expectation of recoupment in light of its objectives as outlined above.

Approved budget over-runs and service deferrals 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 and third party cast, crew, or service deferrals), Telefilm requires a recoupment position that ensures that such items do not negatively affect Telefilm's recoupment.

6.2.2. Incentive for producers of low budget English-language productions

To encourage wider distribution of projects produced by SMEs²⁵ producing low budget English-language productions (and to improve their capitalization through recoupment), Telefilm provides the following incentive:

- Where the production budget of an English-language project produced by a SME does not exceed \$1.25 million, Telefilm will forego recoupment of 25% of its participation in favour of the producer. Producers will be allowed to recoup this amount as their own, in addition to whatever other participation they may have in the project, *pro rata* and *pari passu* with all other financial participations.

6.2.3. Incentive to encourage private financing

In order to encourage producers seeking non-traditional sources of Canadian 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, eligible private participants may receive 50% of revenues *pro rata* and *pari passu*. The other 50% will be shared *pro rata* and *pari passu* with the remaining first tier participants.

²⁵ Small- and medium-sized companies have gross annual consolidated (including related companies) revenues of less than \$25 million, averaged over the past three years or less depending on the age of the company, and are not related to any company that exceeds the above threshold. Telefilm will use the *Handbook of the Canadian Institute of Chartered Accountants* as a guide in determining when two companies are related.

Such a preferred position will not apply to: 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. 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.

6.2.4. Special recoupment requirements of public and private funds

With the exception of the incentive to encourage private financial participation (as described in the section above), and distributor distribution advances, Telefilm will not accept an arrangement that provides it with less favourable recoupment than *pro rata* and *pari passu* with all other financial contributions included in the financial structure for the production, including those of private or public funds which are directly or indirectly affiliated with government agencies, broadcasters, CRTC licensees, or 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.

6.2.5. Breakage

For productions in which Telefilm has made a commitment to financially participate, with a recoupment schedule as described herein (open territory(ies) or corridor(s)), Telefilm will consider, on a case-by-case basis, allowing third-party financing of extraordinary costs directly related to the engagement of a performer(s) with exceptional marquee value to recoup more preferentially than indicated herein. This exception is made in keeping with the CFFF's objective of increasing Canadian box office and audiences generally for Canadian feature films, and in recognition of industry practice regarding the financing and recoupment of breakage. Telefilm will only agree to such an arrangement in cases where there continues to be a reasonable expectation of recoupment, or indeed an increased expectation given the value of the performer in the marketplace.

6.2.6. Standard distribution terms and conditions

Telefilm may impose caps or limitations on deductible distribution fees and expenses.