

FREQUENTLY ASKED QUESTIONS (FAQs)
New Zealand Screen Production Grant (NZSPG)
INTERNATIONAL PRODUCTIONS

It is important that you read the NZSPG Criteria for International Productions dated 1 August 2015 before reading these FAQs. If there are any conflicts between these FAQs and the Criteria, the Criteria will always prevail. These FAQs are intended to help you interpret the Criteria only and are non-binding. Accordingly the New Zealand Film Commission (NZFC) does not accept any responsibility for errors or misstatements in these FAQs.

14-DAY RULE

How is the 14-day rule applied to crew who work on the production?

In order for their fees and expenses to be qualifying New Zealand production expenditure (QNZPE), a crew member who travels to New Zealand must work on the production for at least 14 days in total. This period includes any days off that are scheduled by the production and any paid travel days in New Zealand. For example, a 5-day shoot plus 2 days off in New Zealand count as 7 days.

A

ACCOUNTING SYSTEMS

Do I have to use a particular accounting system?

No, but your accounting system should be one that is recognised and commonly used for production accounting. It needs to be set up in such a way to enable you to track and code all items of expenditure with reference to QNZPE and non-QNZPE.

ACCRUALS

Can I include accrued expenditure in QNZPE?

No, all QNZPE must have been paid at the time of final application.

Can non-cash payments be treated as QNZPE?

No, for the purposes of the NZSPG scheme, only costs paid in cash can be included in QNZPE. In-kind payments or similar do not qualify.

APPLICATIONS

Who can apply?

The applicant must be the entity responsible for all activities involved in making the production in New Zealand, or for the Post, Digital and Visual Effects (PDV) Grant, all PDV Activity in New Zealand. Only one entity per production is eligible for the Grant. The entity must also be a Special Purpose Vehicle (SPV) unless it falls within one of the exceptions, as per the requirements set out in **Clause 11** of the Criteria.

How long will it take to process my application?

Provided all required information is included, the NZFC will endeavour to process applications as follows:

- Provisional applications: within 8 weeks of the NZFC's acknowledgement letter.
- Final applications: within 3 months of the NZFC's acknowledgement letter.

Please note that:

- The processing time does not start until the date of the NZFC acknowledgement of receipt letter (which will only be sent once the NZFC has checked that all required information has been received); and
- Actual processing time will depend on the NZFC's workload and how promptly any further information requested is provided by the applicant.

Do I have to apply for provisional certification?

For NZFC planning purposes, applicants should provide advance notice by email to nzspg@nzfilm.co.nz of their intention to apply for a Grant and with approximate dates of any proposed shoot in New Zealand.

Applications for the 20% Grant: Applicants are not required to apply for provisional certification. However, applicants with a television or non-feature film production are strongly advised to apply for provisional certification to ensure the proposed format meets the relevant criteria.

Applications for the 5% Uplift: Applicants intending to apply must:

- (a) Contact the Head of Incentives at the NZFC prior to submitting an application; and
- (b) Submit a complete provisional application prior to commencement of principal photography.

The criteria for the 5% Uplift are set out in **Appendix 2** of the Criteria.

APPLICATION FORMS

Where can I get application forms?

Application forms are available from the NZFC website. Please ensure that the application form and all attachments are submitted as separate documents (not scanned together) and that each attachment is named and numbered in accordance with the checklist at the back of the application form.

Be aware that at final application stage, all above-the-line contracts and any other agreements that are submitted as attachments must be dated and signed by all parties to the agreement.

APPORTIONMENT

How should I apportion costs between qualifying and non-qualifying services or between multiple productions or other activities?

Apportionment is best dealt with on a case-by-case basis. However, there are some overriding guidelines:

- The proportion of costs claimed as QNZPE must be fair and reasonable in the circumstances.
- The amount claimed should reflect the provisions of any contract including the timing of any instalments of the agreed fee or cost.
- The amount claimed should also reflect the actual time spent providing qualifying services. This should be a portion of the actual time spent on the provision of all services, or the actual or carefully estimated use of a good or person by the production in New Zealand as a proportion of the total cost of that good or person over the same period of time.

When looking at apportionment the NZFC will review the relevant contract, the production travel schedule, the timing of payments and any other supporting information to determine what is a fair and reasonable apportionment. If you are unsure of how to apportion any costs, please contact the NZFC for guidance before you submit your application.

ASSETS

Should I treat wardrobe and props as expenses or assets?

It depends on what the value of each item is at the end of the production. If items have no value at the end of production and are thrown away or destroyed, then the full purchase price can be claimed as QNZPE. If there is still some value at the end of production and the item is sold, then the difference in price should be used for your QNZPE calculation. Usual accounting practices should be applied. Please refer to the IRD's website for information on depreciation used to estimate how much assets, props/wardrobe etc., are worth at the end of a shoot: <http://www.ird.govt.nz/business-income-tax/depreciation/bit-accounting-depreciation.html>

B

BUNDLING

How does bundling work?

If you bundle several productions together to achieve a total QNZPE spend of \$30 million or more then you will qualify for a Grant provided each production within the bundle has QNZPE of at least \$3 million and principal photography or PDV production (as the case may be) is completed within 36 months from the date the first production started principal photography.

Who can apply for a bundle?

The applicant for each production within a bundle must be the same entity or a 'Related Entity' OR each production must have the same Creative Producer who is a New Zealand citizen or permanent resident. Refer to **Appendix 1** of the Criteria for further definitions.

BUSINESS OVERHEADS

What business overheads are subject to the cap?

The cap on New Zealand business overheads applies to the total amount claimed for the general business overheads of the applicant and any associate entities (including parent and subsidiary entities).

Qualifying business overheads only apply to New Zealand-based entities. Business overheads are generally accepted to mean the ongoing expenses necessary to maintain the business operation, and may not necessarily be directly attributed to the specific cost of making the production.

An applicant claiming an overhead for a New Zealand registered company that does not have a functioning office in New Zealand would not qualify.

How do I calculate the cap?

Use the following steps to calculate what business overheads you can claim as QNZPE (they are capped at 5% of the budget or \$500,000 whichever is lesser):

- Deduct the budgeted overhead from the total QNZPE (this is the 'adjusted amount').
- Divide the adjusted amount by 95% then multiply by 5%. This then represents the maximum business overhead that can be claimed as QNZPE (as long as it does not exceed \$500,000). Any business overheads in excess of this amount will not qualify as QNZPE.

If you are unsure how to calculate this cap, you can contact the Incentives Executive at the NZFC.

C

CARNET

Can I claim the cost of a carnet as QNZPE?

A carnet fee paid to a New Zealand entity (usually the Chamber of Commerce) to organise the bond amount to be deposited with Customs can be claimed as QNZPE provided it relates to goods to be used on the production. The 'carnet bond' itself cannot be claimed as QNZPE.

CAST AND CREW PERKS

What are cast and crew 'perks'?

Extra benefits provided to cast and crew are assessed as perks and do not count as QNZPE, unless the applicant is contractually obliged to provide the 'perk' to the relevant cast or crew member in relation to their services in New Zealand, e.g. gym membership; nanny/tutor services; companion airfares (however, only the incoming fare can be claimed, if travelling from off-shore).

COMPLETION

When is a production considered to be completed?

A production is completed when it is first in a state where it could reasonably be regarded to be ready for distribution, broadcast or exhibition to the public. Refer to **Appendix 1** of the Criteria for the definition of "Completed". This is relevant as you must submit your final application no later than 3 months after completion of the production.

CREDITS AND PROMOTIONAL MATERIAL

Do I have to provide a credit and promotional materials to the New Zealand Government via the NZFC?

Yes, this is now mandatory. However, if there are exceptional circumstances which mean you are unable to provide a credit and/or provide promotional materials, you need to discuss this with the NZFC before submitting your final application. Waivers of this requirement will only be given where the applicant is genuinely not in a position to satisfy this criteria.

The promotional material schedule can be viewed on the NZFC website:

<http://www.nzfilm.co.nz/resources/promotional-materials-schedule>

CURRENCY

Can transactions through off-shore bank accounts or in non-New Zealand currencies be included in QNZPE?

Yes, as long as the applicant incurred the cost and the payment otherwise qualifies as QNZPE.

D

DEVELOPMENT COSTS

Can development and pre-production expenditure be claimed as QNZPE?

Yes, but only New Zealand development and pre-production expenditure will qualify as QNZPE.

E

ENTERTAINMENT

Can I claim for meals in restaurants, when they are part of meetings to discuss the production?

No. Meals outside the production base can only be claimed as QNZPE where they are provided in place of standard production catering for the crew and cast (i.e. crew working away from set, during recces, etc). In all cases, if a meal includes alcohol the cost of the entire meal will be assessed as 'entertainment' and excluded from the QNZPE calculations.

EXCHANGE RATES

How do I decide what exchange rate to use for non-New Zealand dollar costs?

For the purpose of converting foreign currency amounts to New Zealand dollars in an application you should use:

- a) The actual rate of exchange at the time the expenditure was incurred (the spot rate published by the Reserve Bank of New Zealand will be used to calculate this);
Or (if this not practicable)
- b) The Inland Revenue mid-month exchange rates (available on www.ird.govt.nz).

Can I pre-set an exchange rate prior to production?

Yes, but only for the purpose of meeting the expenditure threshold and only if:

- Your estimated QNZPE is close to the relevant expenditure threshold;
- Part of that amount will be spent in non-New Zealand dollars; and
- You are concerned that the exchange rate fluctuations over the production period may lead to your actual expenditure falling below the relevant threshold.

The pre-set rate only applies to the calculation of the spend threshold - nothing else. The actual or IRD rates (whatever was used by the producer to convert the foreign currency costs) are used to calculate the grant amount. Once you have received a 'pre-set' rate, you may not apply for a new pre-set rate unless you are submitting a new provisional application (and you pay the re-application fee).

At the time of final application, the IRD mid-month rate or the actual exchange rate should be used. Once an application is approved, the Grant is paid on the actual QNZPE incurred (not the amount calculated using the 'pre-set' rate).

F

FINANCING

Do any financing costs qualify as QNZPE?

No, all financing costs are non-QNZPE for international productions.

G

GRATUITIES

If I give a gratuity can I claim that as QNZPE?

Gifts and gratuities are not QNZPE. Gratuities include tips, koha, vouchers and similar payments for which no invoice or receipt is provided. However, if you obtain a receipt from the person to whom the gratuity/koha was paid, and this was an expense of the production in New Zealand, then you can claim this as QNZPE.

I

INSURANCE PROCEEDS

How do I treat the proceeds of an insurance claim?

Proceeds from an insurance claim do not need to be deducted from your QNZPE. For the purposes of the NZSPG, insurance proceeds are treated the same as any other income received to finance budget overages. To the extent that you incur additional expenditure due to an 'insurance event', you can add this expenditure to your claim, provided it is QNZPE.

K

KOHA (see *Gratuities*)

M

MUSIC LICENCES

Can I claim the cost of licences for New Zealand music if the cost is paid to an offshore record company?

Yes, if the original owner of the copyright is a person or company who is, or was, resident in New Zealand for tax purposes*. It is common for an offshore record company to own the copyright in a sound recording, however, if the performer or composer is a New Zealand tax resident then they will be deemed to be the original owner of copyright. Therefore, licence fees payable to offshore record companies can be treated as QNZPE if the original owner of the copyright meets the requirements of **Clause 16.2(a)** of the Criteria.

*For further information on New Zealand tax residency, please refer to the IRD's website:

<http://www.ird.govt.nz/international/residency/>

N

NEW ZEALAND PRODUCTIONS

Can a New Zealand Production qualify for an International Grant?

Yes, provided it meets the Criteria and provided in the case of a television or other non-feature film, it is not principally made for the New Zealand market. However, a production can only apply for one Grant (a New Zealand Grant, International Grant or PDV Grant) and if it has significant New Zealand content and otherwise meets the Criteria for New Zealand productions, then it will usually be more beneficial to apply for a New Zealand Grant.

NON-NEW ZEALAND CAST AND CREW

If I use non-New Zealand cast and crew on the production, do their costs qualify as QNZPE?

There are different rules for cast and crew. Non-resident crew costs for the portion of their time spent working on the production in New Zealand are QNZPE provided the crew member has spent at least 14 days in total working on the production in New Zealand.

Similarly, non-resident cast costs are QNZPE, but there are no minimum number of working days on the production required.

Please refer to the FAQ on **Apportionment** to determine how to apportion costs between work in New Zealand and work in another country.

NZSPG PANEL DECISIONS (see *Panel Decisions*)

O

OTHER NEW ZEALAND SCREEN INCENTIVES AND PRODUCTION FUNDING

Can I access other New Zealand screen incentives if I apply for a NZSPG for International Productions?

A production may not receive a New Zealand Grant *and* an International Grant.

A production may not receive a Grant and any other New Zealand Government production funding, however, it may still receive New Zealand Government development funding or other non-production funding and a Grant. Refer to **Clause 14** of the Criteria.

OVERHEADS (see *Business Overheads*)

P

PANEL DECISIONS

Can I appeal NZSPG Panel decisions?

Decisions of the NZSPG Panel are final and cannot be appealed. Prior to each meeting, the NZFC or the independent consultant will attempt to advise applicants of any proposed adjustments to the claimed QNZPE and applicants will have an opportunity to comment on those adjustments. Applicants' comments will be reported to the NZSPG Panel.

Who sits on the NZPSG Panel?

Information about the make-up of the Panel is in **Clause 37** of the Criteria.

PAYMENT

What happens if I submit my final application, then realise that I forgot to claim some QNZPE?

Provided the application has not yet been considered by the NZSPG Panel, you can choose to withdraw the application and then re-submit it with the additional QNZPE included. However, the additional QNZPE will need to be covered by the auditor's report and you must re-submit the application before 3 months has expired from the completion of the production.

When is the Grant paid?

Once your final application has been approved you will be sent an approval letter along with a pro-forma invoice. You must then send an invoice to the Ministry of Business, Innovation and Employment including bank account details and the payment will be made into the nominated bank account within 10 business days of receipt of the invoice. The Grant must be paid into a New Zealand bank account in the name of the applicant.

PDV ACTIVITY

Can costs on PDV activities which are not listed in Appendix 3 of the Criteria count as QNZPE?

Yes, this list is not exhaustive. If you incur costs on an activity that is not included in this list, but which you consider to be a 'PDV' activity, please contact the Head of Incentives at the NZFC to find out whether the expenditure is QNZPE.

If my PDV supplier sub-contracts part of its services outside New Zealand, do these costs count as QNZPE?

No – see ***Services outside New Zealand***.

PERSONAL ASSISTANTS

Can fees for assistants to executive producers be claimed as QNZPE?

If the assistant is providing their services directly to the executive producer rather than to the production, and the fees are not part of the production budget, then the fees and all expenses are not claimable as QNZPE.

PRINCIPAL PHOTOGRAPHY

My production is an animation, so how do I define the 'principal photography' period?

Principal Photography for animation starts on the day production of the animated images commences and ends on the day the animated images are completed.

A full definition of Principal Photography for all formats is set out in **Appendix 1** of the Criteria.

PROVISIONAL CERTIFICATION (see Applications)

PUBLICITY AND PROMOTION EXPENDITURE

Do costs relating to publicity and marketing materials qualify as QNZPE?

Yes, but only if they are incurred in New Zealand before completion of the production.

S

SERVICES OUTSIDE NEW ZEALAND

I have contracted a New Zealand company to work on the film. Are all of its costs automatically QNZPE?

No, just because payment is made to a New Zealand company it does not mean all of its costs are automatically QNZPE. If a supplier performs any element of its services outside New Zealand which would normally be excluded from QNZPE if performed directly by the applicant, these services need to be separately identified in any invoices and excluded from QNZPE.

This requirement is particularly relevant to PDV work where the majority of the expenditure is often payable to one supplier. The applicant for a PDV Grant must require suppliers of PDV Production services to provide invoices which are broken down to show the cost of New Zealand-based services and non-New Zealand-based services, so only services in New Zealand are QNZPE.

SOFTWARE LICENCES

Is the cost of a software licence QNZPE?

This is treated in the same way as the acquisition of other intellectual property (e.g. music licences). Therefore, if the underlying software was created in New Zealand the costs can be claimed. Otherwise, it won't be QNZPE i.e. Sync on Set.

SCREEN PRODUCERS AND DIRECTORS ASSOCIATION (SPADA) Levy

Can I claim the SPADA Levy as QNZPE?

Yes, the SPADA Levy qualifies as QNZPE.

SPECIAL PURPOSE VEHICLE (SPV) EXCEPTIONS

What is the difference between PDV Exception 1 and PDV Exception 2?

PDV Exception 1 applies where the applicant is the producer who uses one or only a small number of PDV suppliers in New Zealand to undertake PDV work on its various productions. For example, the applicant (a New Zealand company) is owned by a US-based studio which engages one of New Zealand's digital effects companies to carry out PDV work on its productions. In this example, the studio does not need to set up a new SPV for each separate production, provided it obtains a waiver under this clause.

PDV Exception 2 applies to smaller PDV production where the NZ-based supplier of the PDV work has decided to apply for the International Grant. This might be because its offshore producer-client does not want to establish an SPV in New Zealand. It is expected that the price agreed between the New Zealand supplier and the offshore producer-client will have been discounted to allow for the fact that

the New Zealand supplier would be entitled to receive the Grant. Hence the QNZPE is deemed to be higher than the actual price agreed and paid for the PDV work. For example, a United Kingdom production company engages one of New Zealand's physical effects companies to create some specialised props. The price is \$5 million. The deemed QNZPE will be \$6.25 million and the Grant will be paid to the New Zealand physical effect company on this amount.

T

TAX

Do I have to pay income tax on the Grant?

No, the Grant is exempt for the purposes of income tax.

Does the Grant include GST?

The Grant is calculated on amounts that are net of GST. However, due to New Zealand tax laws, when the Grant is paid, it is paid plus GST. The applicant must therefore return the GST component as part of its normal GST returns.

Can VAT or other tax be included in QNZPE?

No, the Grant is paid on QNZPE that is net of New Zealand Goods and Services Tax. This principle extends to taxes (e.g. VAT) that are paid on goods purchased overseas and then brought to New Zealand for use on the production.

TIPS (see *Gratuities*)

TRAVEL OUTSIDE NEW ZEALAND

If New Zealanders travel to another country for part of the production, can I claim their fee and costs relating to those services as QNZPE?

No, only fees and costs relating to services performed in New Zealand on the production are QNZPE.

W

WARDROBE PURCHASES (see *Assets*)

International wardrobe is claimable when it is used in New Zealand on the production and there is a clear paper trail demonstrating where the item was bought and the original price. Costs may need to be apportioned if the wardrobe items are then shipped off shore and used on the shoot in another country.