

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

It is important that you read the NZSPG Criteria for New Zealand 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 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, non-QNZPE and for official co-productions only, TPE and exclusions from TPE.

ACCRUALS

Can I include accrued expenditure in QNZPE?

No, all QNZPE must have been paid at the time of final application unless it falls within one of the exceptions set out in **Clause 22** of the Criteria. Please note that all of the exceptions in clause 22.2 (unpaid interest, auditor's fees and marketing or post-production costs) must be approved by the NZFC and the combined total must not exceed 1% of the total production budget.

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.

ADDITIONAL GRANT

Do I qualify for a Grant on QNZPE over \$15 million?

The NZSPG for New Zealand Productions is 40% of QNZPE up to \$15 million. The total Grant is capped at \$6 million per production. However, if the production has QNZPE of more than \$15 million, then subject to the requirements of Section 3 of the Criteria, an applicant can apply for an additional Grant to be paid on any QNZPE expenditure over \$15 million. Official Co-productions will also require QNZPE of more than \$15 million to apply for an Additional Grant. TPE will not be used for the threshold for the Additional Grant.

To qualify for an Additional Grant, the level of Producer experience will be taken into account by the Panel; market attachment of at least 10% will be required; and the applicant must provide the NZFC with a 50% Equity Share in the amount of Grant that is over-and-above QNZPE of \$15 million threshold. Evidence of legally binding agreements will be required at Final Certification to confirm compliance with the specific criteria required to lever the Additional Grant. Full details are set-out under **Section 3** of the NZSPG Criteria.

Is the Additional Grant capped?

The Additional Grant is capped at \$14 million (40% of additional QNZPE spend of \$35 million). The total maximum New Zealand Grant is \$20 million.

ADMINISTRATION COSTS

What general administration costs can I claim as QNZPE?

Administration costs incurred by the applicant on the production in New Zealand are QNZPE. Where these costs have been on-charged by a related party, the applicant should follow the apportionment guidelines outlined in the FAQ and ensure that evidence of the rationale behind the apportionment is available. For example, where parent company personnel have been shared between projects, a record of time spent by those personnel on each project should be maintained. This also includes administration costs included in the claimed business overhead cap where they are not specific to the individual production.

APPLICATIONS

Who can apply?

The applicant must be the entity responsible for all activities involved in making the production in New Zealand. Only one entity per production is eligible for the Grant. The entity must also be a Special Purpose Vehicle (SPV), as per the requirements set out in **Clause 9** 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 the NZFC sends you an 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?

No, but applicants are strongly advised to apply for provisional certification so that the NZFC can identify potential issues early on and notify applicants. Please note that a provisional certificate is an indication of eligibility only and is not a guarantee that a final certificate will be issued. In all cases, you must submit a final application which provides evidence that all relevant criteria have been satisfied.

When should I apply for provisional certification?

Applicants are advised to apply for provisional certification when their production financing is sufficiently advanced. Any premature applications that require a subsequent re-application may be subject to a re-application fee at a rate published on the NZFC website.

Does provisional certification expire?

Yes, provisional certification expires 6 months after the date of the provisional certificate unless the production has commenced principal photography within that timeframe. You may apply to the NZFC for an extension in exceptional circumstances. Alternatively you can submit a new provisional application but you may be required to pay a re-application fee.

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.

Note that at final application stage, all above-the-line contracts, distribution agreements and financing 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 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 in New Zealand on the provision of all services, or the actual or carefully estimated use of a good or person by the production 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.

APPROVED ISSUER LEVY

Can I claim the Approved Issuer Levy as QNZPE?

The Approved Issuer Levy cannot be claimed as QNZPE as it is paid to the IRD in lieu of withholding tax and is essentially a tax on interest.

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. 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

BUSINESS OVERHEADS

How do I calculate the cap?

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. They should be calculated using all relevant expenditure for the production. Should this equal less than 5% of the QNZPE or \$500,000, the total amount of overheads can be claimed. Should they equal more than 5% of the QNZPE or \$500,000, only the amount up to 5% of the QNZPE or \$500,000 may be claimed, whichever is the lesser.

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).

Use the following steps to calculate what business overheads you can claim as QNZPE (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'). Co-productions may use TPE for this calculation.
- 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 as 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 6 months after completion of the production.

CONTINGENCY

Can I include any contingency in the estimated QNZPE at provisional application stage?

No. Contingency will not be assessed as QNZPE at provisional stage unless it is necessary for the NZFC to take a view (for instance, where the QNZPE or TPE is close to the threshold). In these circumstances, the provisional certificate will note any assumption made around contingency.

In a final application, only the amounts of contingency actually spent on qualifying goods and services will be QNZPE.

Can I include contingency in estimated TPE at provisional application stage?

If your production is an official co-production (and you are therefore using TPE to meet the threshold), then you can include 100% of contingency in your TPE calculation. The contingency can include the New Zealand contingency portion and the off-shore contingency portion. Applicants should note that this is for the purpose of meeting the expenditure threshold only, and contingency will still not be treated as

QNZPE at provisional application stage. At final application stage, only contingency spent on QNZPE can be claimed.

CO-PRODUCTIONS

What is an official co-production?

An official co-production is one that has been certified under one of the co-production treaties that New Zealand has with other countries (see the NZFC website for the most up-to-date list: <http://www.nzfilm.co.nz/international-productions/co-productions>).

Does the same co-production criteria apply to non-official co-productions?

No. Non-official co-productions are subject to the general NZSPG Criteria and the relevant official co-production criteria does not apply.

How should I apportion contingency between each co-producer's spend?

This will be determined on a case-by-case basis, however, it is generally expected that contingency will be apportioned in accordance with the estimated total spend of each co-production party. If you wish to apportion the contingency using a different method, then you should set out the rationale for that method in your application.

What information do I need to get from my co-producer?

If you are relying on TPE (and not just QNZPE) to meet the relevant expenditure threshold then you need to have access to full financial information for the production worldwide and you must provide that information in English to the NZFC upon request. The presentation and coding of the financial information (e.g. cost report) must be consistent with the information provided in relation to QNZPE, and must follow standard accounting practices. Please also be aware that audited cost reports will be required.

You may also be required to provide copies of contracts and other documents that your co-producer has entered into if they relate to any costs claimed by you as QNZPE (e.g. cast contracts).

All financial information and other documents supplied by your co-producer must be in English.

What should I do first – submit my co-production application or my NZSPG application?

You should submit your co-production application and your NZSPG application around the same time. Please note that the NZFC's process for assessing each application is separate and so you need to submit separate applications with separate copies of all relevant documents. This applies to both provisional and final applications.

When does my co-production certificate need to be in place?

A copy of your co-production certificate needs to be submitted to the NZFC at least two business days *before* your NZSPG application is considered by the NZSPG Panel. If possible, you should include it with your application, however, the NZFC understands that the two application processes often happen simultaneously and therefore the NZFC will accept a submission of the co-production certificate after the NZSPG application has been submitted. The NZSPG Panel will assess your final application but the Grant will not be paid out until the co-production is approved by both authorities.

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 of 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

DEFERRALS

Can deferred or held-back fees be claimed as QNZPE?

Yes, provided they meet the requirements in **Clause 22.1** of the Criteria. Please note that only fees or overheads that are held back for the purpose of cashflowing any part of the funding required to meet the budget can be treated as QNZPE under this exception. The funding that is cashflowed by such holdbacks could be (for example) an instalment of a sales advance or minimum guarantee or part of the estimated NZSPG grant.

DEVELOPMENT LOAN

Does the premium payable on an NZFC development loan qualify as QNZPE?

Yes, provided it is paid after 1 July 2008.

DISTRIBUTION

Can I apply for a provisional certificate without a distribution agreement?

Evidence of distribution is required to obtain a provisional certificate. If you don't have a signed deal memo or distribution agreement at the time you lodge your provisional application, then you can request the NZFC to approve a draft version. In which case, your provisional certificate will state that provided you enter into a legally binding deal memo/distribution agreement (as the case may be) on the terms submitted with your application, then you will meet the distribution requirements in the criteria.

Can I distribute a feature film myself?

Feature films:

*Refer to **Clause 7.4** of the Criteria*

The Criteria requires that, by time of final certification, the production must have secured a legally binding distribution agreement (or deal memo) with a recognised distributor to release the film commercially as the main attraction in New Zealand cinemas. It is expected that the applicant provide evidence that the release will be of a 'certain scale' to a paying audience. In most cases an application for self-distribution is likely to be declined.

If you have evidence of successful self-distribution in New Zealand, the NZSPG Panel will assess proposed distribution arrangements on a case-by-case basis. Self-distribution will only be accepted if the NZSPG Panel is confident that the scale and outcome of the cinematic release will meet the intention of the Criteria.

What are acceptable distribution platforms for non-feature film productions?

Television and other non-feature film formats

*Refer to **Clause 8.4** of the Criteria*

Acceptable New Zealand distribution platforms include New Zealand television broadcast (free-to-air or Pay TV); commercial distribution on DVD/Blue-ray; or commercial distribution via new media platform accessible to New Zealand residents, such as on-line or mobile content. In all cases, the applicant must provide a genuine, legally binding commercial distribution agreement by the time of final application.

The Criteria states that distribution must be "commensurate with the expected amount of the New Zealand Grant" – what does this mean?

The last sentence of clause 7.4 of the Criteria (“..the distribution must be commensurate with the expected value of the NZ Grant”) is a recent amendment to the Criteria. It is intended to reinforce the requirement that there be genuine commercial distribution of the production in New Zealand. The NZSPG Panel will continue to consider all applications on a case-by-case basis in this regard and will need to be satisfied that the production will be shown to the public in New Zealand and that it has a distribution deal that is in line with, and of a scale expected in the industry for the type and cost of the production. For example, a relatively low budget arthouse feature (perhaps a minority co-production with English sub-titles) would not be expected to have the same scale of distribution as a larger budget feature more suited to exhibition in mainstream cinemas.

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 recesses, 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 NZ 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 is 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 or TPE 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 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).

EXECUTIVE PRODUCER FEES

When are executive producer fees treated as financing fees (and therefore subject to the financing cap of 2%)?

If an executive producer fee is payable to an investor who doesn't actually work on the production then it is treated as if it were a financing fee and is subject to the provisions in **Clause 17.2(h)** of the Criteria. If the executive producer does both financing and production work, the Panel may choose to apportion the fee.

If this doesn't apply, then the usual rules apply to executive producer fees – note the 14-day rule and the apportionment guidelines in particular. The NZFC may require evidence of what services in New Zealand were provided by the executive producer.

F

FINANCING

How do I work out what interest I can claim as QNZPE?

The amount of interest you can claim on loans used to finance the budget of the production is capped at the NZ Reserve Bank 90-day Bank Bill rate plus 2% per annum. For the purpose of this calculation you should use the 90-day Bank Bill Rate as set out on the Reserve Bank website (www.rbnz.govt.nz) at the date of closing the financing (this will often be the date of your Production Financing Agreement).

What financing costs are not QNZPE?

- Any interest that is *not* connected with raising, servicing or cashflowing finance for the production;
- Any financing costs that are *not* paid to a New Zealand entity, unless the expenditure relates to the cashflowing of the Grant and the entity is located in an approved country;
- Any portion of interest payments that exceed the cap; and
- Any portion of a financing fee that exceeds the cap.

G

GOVERNMENT FUNDING

Is the amount of money available in the NZSPG fund capped?

No, the pool of government funding available is not capped, but this should not be confused with the cap that applies to individual productions.

The New Zealand Grant for productions with QNZPE below \$15 million is capped at \$6 million per production, unless the production qualifies for an Additional Grant.

The Additional Grant is for QNZPE between \$15 million to \$50 million and is capped at \$14 million per production.

The total maximum New Zealand Grant per production is \$20 million.

Do I need to meet the required level of non-New Zealand Government funding at provisional application stage?

*(see **Non-New Zealand Government Funding**)*

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 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.

INTEREST

I see I can now include some accrued (unpaid) interest in QNZPE. How should I calculate this?

You should use the best estimate available to you. In terms of estimating a date for repayment of the loan, we suggest you use the estimated timeframe for processing your final application (3 months) plus 10 days from receipt of invoice to allow for payment of the Grant. Please remember that the portion of the New Zealand Grant payable on any accrued interest (that has been approved under clause 22) will not be paid until proof that the accrued interest has been paid has been provided to the NZFC.

K

KOHA (see *Gratuities*)

M

MARKET ATTACHMENT THRESHOLD

What are counted as 'market attachments' for the purpose of assessing the 10% market attachment threshold required for TV and other non-feature film productions?

Market attachments are sales advances, distribution advances and licence fees that are payable in exchange for certain rights to screen the production. Market attachments may also include other types of market funding where the financier is not entitled to share in the net receipts from the production. Where a broadcaster commissions and funds all or a substantial part of a production, then the NZFC will review the principal funding and distribution agreements to assess what proportion of the funding is a market attachment as opposed to equity or other types of funding.

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 17.2(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

What is a New Zealand Production?

A production which has 'Significant New Zealand Content' as determined in accordance with the Significant New Zealand Content Guidelines (incorporating a points test) in **Appendix 3** of the Criteria. **All** productions must achieve a minimum of 20 points to qualify as having significant New Zealand content.

NEW ZEALAND SETTING

If I shoot my production in New Zealand does this mean it has a 'New Zealand setting'?

For the purposes of meeting **Section A1** of the Significant New Zealand Content test, the setting must be identifiable as a New Zealand setting. Not all productions shot in New Zealand will have a New Zealand setting. For example, the setting in *Slow West* is NOT a New Zealand setting. However, the settings in *Boy* and *The Dead Lands* are New Zealand settings. A fictionalised version of New Zealand, that is still clearly identifiable as a New Zealand setting, will be considered a New Zealand setting. The proportion of a film that is set in New Zealand is measured by the estimated number of on-screen minutes that that setting is shown (this is assessed by reading the script at the provisional application stage and by reference to the completed film at final application stage).

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.

NON-NEW ZEALAND GOVERNMENT FUNDING

Do I need to meet the required level of non-New Zealand Government funding at provisional application stage?

No, however, if you want the provisional certificate to state that this requirement has been satisfied (the lender cashflowing your Grant may require this) then you will need to provide evidence that this has been satisfied at provisional application stage.

If you do not provide this evidence at provisional application stage then your provisional certificate will state: "Provided the proportion of non-New Zealand Government funding is 10%/25% (depending on format) or more of the production budget, then you will meet the non-New Zealand Government funding threshold requirement."

Does a TVNZ Licence Fee qualify as non-government funding?

Yes. TVNZ is a commercial broadcaster and therefore its licence fee is non-New Zealand Government funding.

NZSPG PANEL DECISIONS (see *Panel Decisions*)

O

OFFICIAL CO-PRODUCTIONS (see *Co-Productions*)

OTHER NEW ZEALAND SCREEN INCENTIVES AND PRODUCTION FUNDING

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

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

A production may only receive other New Zealand government production funding if the production is an eligible feature film, an animated production or a children's television drama.

All productions may receive New Zealand government development funding or other non-production funding and a Grant.

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 NZSPG Panel is in **Clause 36** 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 6 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 NZFC including bank account details and the payment will be made into the nominated bank account within 10 business days of the NZFC receiving the invoice. You may assign the benefit of the Grant to a third party and may nominate a bank account into which the Grant should be paid.

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 the completion of the production.

R

RECOUPMENT OF NZSPG EQUITY

Can I agree to give some of the Producer NZSPG equity to another entity?

The applicant (or its parent company) must retain the right to receive a share of net receipts from the production of similar value to the Grant (often referred to as the NZSPG equity). This should be recoupable in a similar position to other equity investors. For example, if the NZSPG equity is 20% of the total budget, we would expect the producer to have a recoupment position that is equal with other investors in the film i.e. in 2nd or 3rd position, retaining 20% of the net receipts. However, the disbursement of net receipts for all projects is different and there are different models for film and TV and for co-productions. Please speak with the NZFC if you require further clarification. Applicants who wish to assign part of this right to third parties (other than cast or crew) should discuss this with the NZFC in advance to ensure compliance with this requirement. See **Clause 13** of the Criteria.

RESIDENCY REQUIREMENTS

Why are the residency requirements for the applicant tougher than in the criteria for International Productions?

One of the key purposes of the New Zealand Grant is to enable New Zealand producers and production companies to develop their businesses. As such, the New Zealand Government expects that the primary beneficiary of the New Zealand Grant will be a New Zealand-based producer or production company. See **Clauses 10.1 and 10.2** of the Criteria.

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 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.

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.

Screen Producers and Directors Association (SPADA) Levy

Can I claim the SPADA Levy as QNZPE?

Yes, the SPADA Levy qualifies as QNZPE.

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.

TIPS (see *Gratuities*)

TRAVEL OUTSIDE NEW ZEALAND

Can I claim on-the-ground travel costs within a foreign country for NZ resident cast and crew?

If the travel is during principal photography and meets the requirements of **Clause 17.2(g)** of the Criteria then on-the-ground travel costs for New Zealand tax resident cast and crew might be claimable as QNZPE. 'On-the-ground' travel costs only apply to travel *to and from accommodation* ("suitcase in hand"); commonly referred to in travel bookings as "ground transportation and/or "airport transfers".

Travel costs such as production vehicle hire and petrol are treated on the basis of the "suitcase-in-hand" principle, meaning that only travel costs to accommodation can be QNZPE.

In general, on-the-ground travel costs will be assessed on a case-by-case basis. The onus is on the applicant to provide appropriate evidence to demonstrate that certain costs are QNZPE where Principal Photography is offshore.

Travel to and from set is excluded from QNZPE.

You may claim accommodation costs, fees and per diems for New Zealand resident cast and crew while they are providing services outside New Zealand during Principal Photography. Any costs incurred during prep days offshore are excluded from QNZPE.

Travel costs to relocate New Zealand tax resident cast and crew between cities in an offshore location, or between foreign countries is QNZPE, provided that the travel is to and from accommodation, “suitcase-in-hand”. This is on the proviso that the locations being used for Principal Photography are reasonably required by the subject matter of the production (such as where a certain landscape or place is needed for a story).

TPE (TOTAL PRODUCTION EXPENDITURE)

What is TPE?

TPE (Total Production Expenditure) is defined in **Appendix 2** of the Criteria. It is essentially the total production budget (worldwide) less certain excluded costs.

TPE is only relevant if your production is an official co-production between New Zealand and another country or countries, and you are using TPE to calculate the expenditure threshold or the business overheads cap.

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WARDROBE PURCHASES (see *Assets*)

WRITERS

If I employ a non-New Zealand writer to work on the script, will their fee qualify as QNZPE?

Only the portion of their fee for script work actually carried out in New Zealand will qualify as QNZPE. If you employ a New Zealand writer who is based off-shore, then only the work actually carried out in New Zealand will qualify as QNZPE.