

# VIENNA FILM INCENTIVE

## Funding Guidelines

applicable from March 23, 2022

**W I E N**

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## 1 Objective of funding

The Austrian capital provides the perfect backdrop for film shoots, whatever the era. Cinema, TV and video on demand (VoD) platforms have barely scratched the surface when it comes to exploiting the city's potential as a location for movies, documentaries and TV series. To help address this, the Vienna Film Incentive provides yet another reason to capture the different sides that the city has to offer on camera. International shoots play an important role both for Vienna's tourism industry and the capital's film industry, and deserve to be supported as key drivers of the city's continued internationalization and as an important source of induced economic impact.

The incentive program is aimed at international productions that are shot in the City of Vienna and commission Vienna-based firms as film production service companies.

## 2 Legal bases

### 2.1 DOMESTIC LEGAL BASIS

The relevant resolutions of the Vienna Tourism Commission form the domestic legal basis for these Guidelines.

### 2.2 EU LEGAL BASES

These Guidelines are subject to Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty on the Functioning of the European Union (General Block Exemption Regulation [GBER]), Official Journal of the European Union L 187 of 26 June 2014, p.1, as amended by Commission Regulation (EU) 2020/972 amending Regulation (EU) No 1407/2013 and Regulation (EU) No 651/2014, Official Journal of the European Union L 215 of 7 July 2020, and are based on the Communication from the Commission on State aid for films and other audiovisual works (2013/C 332/01) of 15 November 2013.

### 2.3 FUNDING BODY

The funding body is the Vienna Tourist Board.

### 2.4 EXCLUSION OF LEGAL ENTITLEMENT

Funding is granted subject to the budgeted funds available and on the basis of these Guidelines. There is no legal entitlement to funding.

## 3 Object of funding

### 3.1 ELIGIBLE INTERNATIONAL FILM PRODUCTIONS

International fiction and non-fiction film productions are eligible provided they meet the following criteria:

- Proof of at least two full days of actual filming in Vienna
- Compliance with the required number of criteria and achievement of the stipulated number of points in the cultural properties test (see Annex 1)
- Proof of a minimum running time of 45 minutes (in the case of series, the running time is the combined length of the individual episodes)
- Productions must be intended for international distribution in cinemas, on TV or on video on demand (VoD) platforms. A credible description of the intended commercial distribution must be included in the funding application.
- The total production costs must be at least EUR 4m for feature films and at least EUR 500,000 for documentaries
- Feature films must provide proof of eligible production costs of at least EUR 200,000 and documentaries of at least EUR 80,000, in accordance with Annex 2.

Funding is provided solely to cover expenses incurred in Vienna, which in turn enhance Vienna's standing as a business location.

Applicants must be unable to execute their project or carry out production in Vienna, or only able to do so to an insufficient extent, without funding provided on the basis of these Guidelines. This means that the applicant's financial requirements must at least be equivalent to the level of funding.

The project must be demonstrably financially secured once funding provided on the basis of these Guidelines is taken into account. The applicant must provide proof of this by submitting appropriate documentation, in particular cost projections, time schedules and financing plans.

The funding may only be used to cover production costs incurred in Vienna, in accordance with the principles of prudence, cost-effectiveness and expediency. The funding provided must not be used to create reserves or provisions in accordance with the 1988 *Einkommensteuergesetz* (Austrian Income Tax Act), Federal Law Gazette (FLG) 400, or the *Unternehmensgesetzbuch* (Austrian Business Code), German Imperial Law Gazette p.219/1897. The funding provided must not be made available to other parties by way of assignment, transfer or pledge.

### 3.2 DEFINITION OF AN INTERNATIONAL FILM PRODUCTION

In the meaning of these Guidelines, an international film production is defined as a film shot entirely or partly in Vienna, for which the production company primarily responsible for filming is not registered in Austria, but the funding applicant, in its role as a film production service company, is commissioned to carry out production of the project or part thereof in Vienna and undertakes to bear the financial risk and consequently all costs arising from production of the submitted project or part thereof.

### 3.3 CULTURAL PROPERTIES TEST

The Vienna Tourist Board will conduct a cultural properties test to ensure that the cultural purpose of the funding is fulfilled (see Annex 1). Funding is only awarded if the project meets the required number of criteria and achieves the stipulated number of points.

To ensure compliance with cultural properties criteria, fiction productions must achieve at least 21 points, while non-fiction productions require 12 out of a possible 40 points.

### 3.4 NON-ELIGIBLE INTERNATIONAL FILM PRODUCTIONS

Projects are not eligible for funding if:

- filming in Vienna begins before the application for production funding is submitted
- production is commissioned by another party
- the funding application is made by a television broadcaster or its subsidiaries
- the project breaches EU law, or the constitution or laws of the Republic of Austria
- the project violates human dignity, offends religious beliefs and public decency, or glorifies violence
- the project is an image production, or an advertising or promotional film
- the project is an entertainment show or similar
- the project is a magazine or reportage feature or associated broadcast element
- the project is purely a recording of a theater, opera or concert production

## 4 Entitlement to apply

Professionally qualified and experienced, i.e. in artistic and financial terms, independent film production companies with a business establishment or branch office in Austria, regardless of the company's domicile, provided that this is in the European Economic Area, are entitled to apply for funding, as are companies established solely for the purpose of producing a film, as long as the applicant can demonstrate that they will produce lasting cultural assets with a strong European character in the field of film. Companies established solely for the purpose of producing a film must have been set up by the time the application is submitted. The applicant's fulfillment of the professional requirements will be assessed in view of the scope and form of the project for which funding is requested. Film production companies are not classified as independent if they are majority-owned by a television broadcaster. Majority ownership occurs if a single television broadcaster holds more than 25% of the shares or voting rights (either directly or indirectly), or if two or more television broadcasters have a combined holding of more than 50% of the shares or voting rights.

The responsibilities of the funding applicant/the production company that performs the work must be limited to production of the project or part thereof in Vienna, as part of the international film production for which funding is requested. The film production service company that performs the work will be responsible for arranging the technical and artistic resources required for implementation, as well as for ensuring that production takes place, and is obliged to monitor production, and is liable for production costs incurred in Vienna in respect of these activities.

In the five years prior to submission of the application, the funding applicant must have produced, either as a legal or natural person, at least one comparable reference film in a European Union member state or another signatory of the Agreement on the European Economic Area, and must have commercially distributed the film in an appropriate manner.

In accordance with Article 1(4)(a) GBER, funding will not be provided to an undertaking which is subject to an outstanding recovery order following a previous Commission decision declaring an aid illegal and incompatible with the internal market, until the illegal and incompatible aid has been recovered in full.

Funding will also not be provided to undertakings in difficulty pursuant to Article 1(4)(c) GBER.

## 5 Eligible costs

The funding will be provided in the form of a non-repayable advance. Fiction productions must provide proof of eligible production costs incurred in Vienna of at least EUR 200,000 and non-fiction productions of at least EUR 80,000.

Funding is available for variable costs related directly to filming that are or have been incurred in Vienna (see Annex 2).

Funding is provided for a maximum of 30% of the eligible production costs. The maximum funding is EUR 400,000.

The cut-off date for eligible costs is the date of submission of the application. If the contractually agreed eligible production costs exceed the actual costs, the amount of funding will be reduced pro rata.

In the case of productions for which funding is provided, the maximum period for the approval of eligible production costs is three months after the end of filming in Vienna.

## 6 Combination and cumulation of funding

### 6.1 COMBINATION OF FUNDING

In principle, funding provided by the Vienna Tourist Board can be combined with other public funding if

- a. this is permitted under the cumulation regulations for state aid (see point 6.2)
- b. the finance raised for the project by means of various types of funding (grants, guarantees, loans, etc.) does not exceed the budgeted costs for the project as a whole
- c. the combination of various types of funding does not result in the substitution of public funds
- d. funding is not allocated to elements of the project that have already received cash subsidies from public funds of the City of Vienna

The combination of funding with other forms of financial support from the Vienna Tourist Board is expressly excluded.

### 6.2 CUMULATION OF STATE AID

Grants awarded under this program may be cumulated with other state aid provided for the same eligible costs on the basis of block exemption regulations, provided the aid intensities and maximum aid amounts are not exceeded as a result.

Cumulation with public funding provided by other Austrian federal provinces is permitted, unless this is excluded under other applicable guidelines. In accordance with Articles 53 and 54 GBER, the sum of all state aid for the same eligible costs must not exceed the defined maximum amount of aid (cumulation of funding). Total public funding must not exceed 50% of the total production costs.

## 7 Applications and application procedure

The applicant must take part in a consultation meeting with the Vienna Tourist Board at least 14 days before the planned submission of the application.

Funding applications must be submitted in electronic form at [filmincentive.vienna.info](https://filmincentive.vienna.info). All of the information and documentation provided must be complete and correct.

Applications can be submitted at any time until December 31, 2023 or until such time as all of the available funding has been allocated. Complete funding applications will be processed in the order that they are received.

The application must include proof of or clearly demonstrate compliance with the funding requirements as well as the total financing required for the project.

The funding application must be submitted in full at least two weeks before the start of filming. If filming begins in Vienna before a decision on funding has been made by the Vienna Tourist Board, the applicant acknowledges that it does so at its own risk. The start of filming does not result in an entitlement to funding or give rise to obligations of any kind whatsoever on the part of the Vienna Tourist Board.

On request and where justified in exceptional cases, the Vienna Tourist Board can shorten the aforementioned deadlines for submission of an application.

Funding applications will be checked for completeness and ordered according to the date of their receipt. The first-come, first-served principle applies. Once all of the available funding has been allocated, no further funding will be provided. Applications cannot be placed on a waiting list.

Incomplete applications will not be considered. In the case of incomplete applications or applications that do not meet the standards for demonstrating or providing proof of compliance with the funding requirements, in exceptional cases and where justified the Vienna Tourist Board may grant a grace period for completion of the funding application.

Once a project has been approved by the Vienna Tourist Board, a new application cannot be submitted for the same project (e.g. in order to increase the amount of funding). Likewise, the amount of funding will not be increased if the actual eligible production costs exceed the costs specified in the application.

Provided they are not originals, all documents submitted with the application will become the property of and be retained by the Vienna Tourist Board. If original documents are submitted with the application, they will be returned to the applicant within a reasonable period of time.

All documents must be in German. If German originals are not available, the Vienna Tourist Board may request that the applicant provides a translation by a court-sworn translator or a summary of the key information in German for the purpose of processing the application.

## 8 Funding decision

The Vienna Tourist Board will reach a decision on all complete applications within seven weeks of the date of submission of the application.



Successful applicants will be notified in writing. The Vienna Tourist Board will send the applicant a funding offer (Funding Agreement) which is valid for a limited period. This offer is binding on the Vienna Tourist Board for two weeks. The Funding Agreement is subject to the condition precedent that it will be returned with an official signature within two weeks. The Agreement enters into force on the date of fulfillment of the condition precedent, whereby the date of receipt by the Vienna Tourist Board is decisive.

If the funding recipient does not return the Funding Agreement to the Vienna Tourist Board with an official signature within two weeks, the application is deemed to have been withdrawn.

If filming does not begin within six months of conclusion of the Funding Agreement, the application is deemed to have been withdrawn even if the Vienna Tourist Board does not provide additional notification of the expiry of the deadline (see the provisions on termination and revocation below).

If a funding application is rejected, the Vienna Tourist Board will notify the applicant in writing of the key reasons for its decision.

The Vienna Tourist Board is not obliged to assess the documentation provided by the funding recipient (in particular the calculations) in terms of accuracy and feasibility.

## 9 Settlement and disbursement

Funding is disbursed once the conditions of the Funding Agreement are satisfied and a final review of the production has been carried out. If several Austrian funding bodies are involved in the production, a joint assessment may be performed.

The documentation required for disbursement must be submitted to the Vienna Tourist Board no later than three months after completion of filming in Vienna and fulfillment of all obligations to the Vienna Tourist Board.

The following must be provided before the funding is disbursed:

- Funding Agreement bearing an official signature
- Proof of compliance with the requirements and conditions related to the Agreement
- Details of the total film production costs, the applicant's production costs (film production service company), the applicant's production costs (film production service company) incurred in Vienna, and the applicant's eligible production costs (film production service company) in Vienna, as well as a schedule of the actual production costs incurred in Vienna (budget/actual comparison; verifiable breakdown including receipts of all income and expenditure associated with the funded project – bookkeeping)

- Appropriate proof of fulfillment of the criteria in the cultural properties test (incl. days of filming, sets and locations in Vienna, crew and cast list incl. details of nationality and place of residence/work for tax purposes of the individuals employed)
- Discounts and rebates must be deducted from the relevant items included in the final costs

After assessing the complete documentation and compliance with the requirements related to the Funding Agreement, the amount of funding is recalculated on the basis of the assessed actual production costs that were judged to be eligible. The funding recipient will be notified of the final amount in writing.

The Vienna Tourist Board is solely responsible for the assessment and approval of eligible production costs. The funding amount is paid out in the form of a transfer by the Vienna Tourist Board to the funding recipient's company account.

The funding recipient is obliged to maintain an account/sub-account as the project account, which will be used exclusively for all income and expenditure related to the project, or using another method (e.g. cost center or cost accounting) which ensures transparent and verifiable recording of the use of funds.

The funding recipient's postal address will be the address of the registered office or branch office specified in the funding application. Notifications and declarations sent to this address by recorded delivery will be deemed to have been delivered, assuming a delivery time of two days.

## 10 Termination, revocation and repayment of funding

If one or more of the conditions below occurs or becomes known up to ten years after disbursement of the funding, the funding recipient is obliged to repay the funding in full or in part within 14 days of receipt of a written demand from the Vienna Tourist Board, or the entitlement to approved funding not yet disbursed will expire, in particular if:

- requirements or conditions for the extension of funding in accordance with these Guidelines have not been or will not be fulfilled
- it subsequently emerges that information regarding circumstances that were decisive for the provision of funding is incomplete or inaccurate, or that such circumstances do not occur or cease to apply, in particular if they contradict information provided in the application
- the production is altered to such an extent that it no longer meets the criteria for the approval of funding, in particular the cultural properties test
- the planned filming for which funding was requested took place outside Vienna

- the funding applicant provided inaccurate or incomplete details of material circumstances
- the funding recipient did not submit required reports, or did not provide documentary proof or required information, if a written reminder with a deadline for compliance and expressly referring to the legal consequences of non-compliance was sent to no avail
- other notifications provided for in these Guidelines were not submitted
- the funding recipient fails to report any events immediately – in any case before an audit or an audit announcement – on its own initiative, where such events would delay or make the execution of the service for which funding was provided impossible, or would require the modification of the service, particularly if a) the proper financing of the project is no longer guaranteed, and b) filming has not started within six months of conclusion of the Funding Agreement. The Vienna Tourist Board may grant a reasonable request from the funding applicant for postponement of the start of filming or an extension of the project duration.
- inspections by the Vienna Tourist Board, Vienna City Administration, City of Vienna Court of Audit, Austrian Court of Audit, European Union bodies or representatives of these agencies are rejected or obstructed
- planned audit measures are obstructed or prevented, or the entitlement to claim funding within the period allowed for the storage of documents can no longer be assessed
- the entire funding or part of the funding was used for purposes other than those intended
- the services cannot be or were not performed either at all or in a timely manner
- the prohibition on assignment, transfer, pledge or other prohibition on disposal in accordance with section 24(2)(11) *Allgemeine Rahmenrichtlinien für die Gewährung von Förderungen aus Bundesmitteln* 2014 (2014 General Framework Regulations for Federal Funding) was not observed
- European Union bodies demand termination and/or repayment, or funding guidelines and other requirements and conditions, particularly those aimed at achieving the purpose of funding, are not complied with
- the funding recipient revokes its consent in accordance with point 14 below (data protection)
- it appears unreasonable for the Funding Agreement to remain in force on other reasonable grounds

In certain circumstances, the partial termination of or repayment of funding may be provided for, as opposed to demanding full repayment, if

- the funding recipient's obligations are divisible and the part-performance executed is eligible for funding in itself
- the funding recipient is not at fault for the circumstances that led to the demand for repayment and the funding body believes that it is reasonable for the Funding Agreement to remain in force

Interest of 4% per year from the date of disbursement of the funding will be charged on the amount to be repaid, applying the compound interest method. If this interest rate is lower than the rate defined by the European Union for repayments, the EU rate will apply instead.

In the event of a delay in repayment of the funding, default interest of 9.2 percentage points above the applicable base rate will be charged per year from the commencement of default. The base rate on the first calendar day of a given half year will apply for the entire half year.

If services can only be or were only partially performed through no fault of the funding recipient, the Vienna Tourist Board may refrain from voiding the claim and demanding repayment of the funding attributable to the part-performance, if the part-performance alone is eligible for funding in its own right.

Funding may be reduced if:

- the actual production costs are lower than the contractually agreed eligible production costs (this may result in a pro rata reduction in funding)
- after submitting the application, the funding applicant receives funding for the same services, albeit for a different purpose, from another federal agency or legal entity, including other regional or local authorities, and this was not known at the time of approval of the funding

If more than one Austrian film company works on the funded production or part of the funded production in Vienna, all of the Austrian co-production companies will be jointly and severally liable for repayment of the funding. The co-production agreement must include a clause to this effect.

In each of the cases specified in point 10, the Vienna Tourist Board is entitled to withhold the pro rata funding or demand repayment of amounts disbursed, at its own discretion.

All managing directors of the funding recipient will assume liability as guarantors and payers, in order to ensure payment of all current and future receivables to the Vienna Tourist Board under the debt obligation, including any claims for repayment, interest, fees, etc. The Vienna Tourist Board is not obliged to inform the guarantors of the current amount of the guaranteed debt. In the event of differences between the records of the guarantors and those of the Vienna Tourist Board regarding the amount of the guaranteed debt, the burden of proof rests on the guarantors.

If the funding recipient appoints a new managing director, the previous managing director will only be discharged from liability if the new managing director assumes liability as guarantor and payer, and this assumption of liability demonstrably ensures the same level of security for the Vienna Tourist Board.

## 11 Publicity, acknowledgement requirements and logo placement

The funding recipient is obliged to include an acknowledgement of funding received from the Vienna Film Incentive and name the City of Vienna as the film location in all of its publicity, marketing, announcements and other presentations related to production of the film (e.g. on the main page of the press kit, in press releases, on posters and wherever credits are published).

An acknowledgement of funding received from the Vienna Film Incentive must also be included in the production's opening and closing credits. In the opening credits, at least one line of text must be used to acknowledge the funding received. In the closing credits, the Vienna Film Incentive logo must be used as the acknowledgement of the funding received. The logo is available at [filmincentive.vienna.info](http://filmincentive.vienna.info). Use of the logo must be agreed with the Vienna Tourist Board in advance.

The obligation to include acknowledgements extends to all forms of distribution and advertising of the production for all forms of use worldwide, either by the funding recipient or third parties. For a period of 36 months from the premiere in cinemas and/or on TV or VoD platforms, the funding recipient is obliged to report details of all commercial distribution steps and/or broadcasts to the Vienna Tourist Board without request at least once a year, at the end of a given year.

The funding recipient must give the Vienna Tourist Board and its appointed press officer the opportunity to visit the set, as part of the publicity activities of the Vienna Tourist Board and the Vienna Film Commission.

Additionally, the funding recipient must provide the Vienna Tourist Board with press materials from the filming in Vienna (incl. stills from the film, photos of filming on set, film clips, etc.) for presentation as part of the Vienna Tourist Board's publicity activities (e.g. print, online, Vienna Film Commission showreel, etc.) and its archives free of charge, as well as granting corresponding editing, reproduction, printing and exhibiting rights, as well as other non-commercial rights of use to the funded production or material filmed in Vienna, free of charge and without restrictions as to time or scope.

## 12 Publication

Unless otherwise regulated by Austrian federal or provincial law or EU law, in the event that funding is approved, and from the time of conclusion of the Funding Agreement at the latest, the Vienna Tourist Board and the City of Vienna are entitled to publish non-personal data on the funded production and the amount of funding provided in the overall context of their reporting on the funding program.

## 13 Reporting and disclosure obligations, and duty to retain records

### 13.1 REPORTING AND DISCLOSURE OBLIGATIONS

In particular from the time of receipt of a funding offer that is valid for a limited period, the funding applicant is obliged to voluntarily notify the Vienna Tourist Board in writing and without delay of any deviations from the funding application, material changes related to the production, as well as all events that delay or prevent implementation of the project, or would require modification of the funding application or agreed requirements and conditions. The applicant must provide justification for any significant deviations.

In any event, written notification of material changes must be provided immediately after they become known, and without undue delay, including details of resulting changes in costs and/or related changes in the filming period that formed the basis for the provision of funding (list of criteria, etc.).

Furthermore, the funding recipient is obliged to:

- provide notification of the start of the project and the start and end of filming immediately
- allow the Vienna Tourist Board, or bodies or representatives of the City of Vienna, the Austrian Federal Government or the European Union to inspect its bookkeeping records and receipts as well as other documentation required for inspection of performance of the service, either at its own premises or those of a third party, to carry out an inspection on site, or, at their request, to provide them with the required information or have the information provided and to nominate a suitable individual to provide the information; in this regard, the inspecting body will determine the relationship between the documentation and the service performed
- store all bookkeeping records, receipts and other documentation in a secure and orderly manner for ten years from the end of the year in which the entire funding was disbursed, and as a minimum from the time of performance of the service; if retention periods of longer than ten years are specified by EU law, these periods will apply. In principle, appropriate image and data storage media may also be used, provided that the complete, structured, verifiable display of the identical content, as shown on the original documentation, is guaranteed at any time until expiry of the retention period
- provide any other additional information required to assess achievement of the objective of the funding in the meaning of these Guidelines as well as corresponding documentation

### 13.2 RETENTION OF DOCUMENTS

The funding recipient is obliged to retain all documentation provided in connection with and relevant to the submitted funding application, as well as Vienna Tourist Board documents related

to the provision of funding and its administration, as provided by the Vienna Tourist Board, with due care and in an orderly and expedient manner. This obligation terminates ten years after disbursement of the funding.

In particular, this duty to retain documents includes documentation appropriate for clarification of the net amounts applied in the calculation basis for the funding and the respective funding amount.

During the retention period, the funding recipient is obliged to allow the Vienna Tourist Board, Vienna City Administration, City of Vienna Court of Audit, Austrian Court of Audit, European Union bodies or representatives of these agencies to inspect these documents at any time. On request, the film production service provider must make available, transmit and allow inspection of originals or copies of these documents, including in electronic form. Where necessary, the aforementioned agencies or their representatives must be given access to business premises, offices, storage facilities and the like for the purpose of performing inspections.

### 13.3 UNIFORMITY OF DOCUMENTATION

Uniform documentation on the production must be submitted to all individuals, companies and funding bodies involved in providing finance. By submitting the funding application, the funding applicant consents to the sharing of production-related data with other individuals, companies and funding bodies involved in the production for the purpose of checking the funding applicant's documentation.

## 14 Data protection

### 14.1 PROCESSING OF PERSONAL DATA

The funding applicant is obliged to consent to the processing by the Vienna Tourist Board of all personal data required for the funding application, and for processing and checking the application. These data may also be processed by the following bodies for the purpose of reviewing the application for and granting funding:

- a. Vienna Film Commission
- b. Funding bodies of the Republic of Austria and the federal provinces

The data will be stored for ten years, in accordance with statutory provisions.

The funding applicant has the right to withdraw declarations of consent at any time by notifying the Vienna Tourist Board of this in writing. Notification of withdrawal must be sent to the Vienna Tourist Board's Data Protection Officer at [datenschutz@wien.info](mailto:datenschutz@wien.info). In case of withdrawal of a declaration of consent, the Vienna Tourist Board will stop all uses of data that are prohibited without the relevant consent within the periods specified by law.

Withdrawal of a declaration of consent by the funding recipient will result in withdrawal of the approval for funding and a demand for repayment of any disbursed funding.

## 15 Compliance with anti-discrimination provisions

Funding in accordance with these Funding Guidelines will be provided solely to natural and legal persons that comply with the prohibition on discrimination in accordance with section 2 *Wiener Antidiskriminierungsgesetz* (Vienna Anti-discrimination Act; Provincial Legal Gazette 35/2004 as amended) and disadvantage in accordance with section 4(3) Vienna Anti-discrimination Act. The film production service provider is obliged to comply with all applicable legislative requirements and legal bases related to the application for, extension of and processing of funding, as well as related checking and the like. The film production service provider is liable for any damages arising from non-compliance with the prohibition on discrimination and disadvantage (section 2 and 4[3] Vienna Anti-discrimination Act) or other provisions that the film production service provider must comply with in relation to the processing of funding and/or implementation of the funded production, and is obliged to fully indemnify and hold harmless the Vienna Tourist Board and the City of Vienna against third-party claims.

## 16 Applicable law/jurisdiction

All legal relationships based on these Guidelines are subject exclusively to Austrian law, and to EU legislation applicable in accordance with these Guidelines and any other relevant EU legislation.

The competent court in Vienna will have jurisdiction regarding all legal disputes arising from or in connection with these Funding Guidelines. The English translation of these Funding Guidelines is for reference purpose only. The German language version of these Guidelines shall be controlling in all respects and shall prevail in case of any inconsistencies with translated English language version, if any.

## 17 Applicability of the Guidelines

These Guidelines apply to applications submitted between March 23, 2022 and December 31, 2023, subject to any amendments due to relevant official resolutions or the premature cessation of funding.

## 18 Contact details and address for applications

Vienna Tourist Board

Invalidenstrasse 6

1030 Vienna

[filmincentive.vienna.info](http://filmincentive.vienna.info)

E [filmincentive@vienna.info](mailto:filmincentive@vienna.info)

T +43 1 211 14 631



ANNEX 1

# Cultural properties test

## INCL. POINTS

In order to qualify for funding, international film productions must meet the required number of criteria and achieve an appropriate number of points in the cultural properties test.

To ensure compliance with cultural properties criteria, fiction productions (e.g. feature films) must achieve at least 21 points and non-fiction productions (e.g. documentaries) at least 12 out of a possible 40 points. Only whole numbers of points and no half points will be awarded.

1. Is the film set in Vienna?

- Yes (6 points)
- Partly (3 points)
- No (0 points)

2. Does the film use locations in Vienna?

- Yes (3 points)
- No (0 points)

If yes, please specify which locations in Vienna are used.

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3. How many scenes are set in Vienna?

- All (6 points)
- Some (3 points)

Which scenes are set in Vienna?

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4. Is the film based on an existing work that has a special connection with Vienna?

- Yes (3 points)
- No (0 points)

If yes, what existing work is the film based on?

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5. Does the film address topics that are currently significant for Vienna from a social or cultural point of view?

- Yes (3 points)
- No (0 points)

If yes, which topics are addressed?

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6. Are Austrian filmmakers\* employed as heads of department on the project?

- More than 3 (3 points)
- 1-2 (2 points)
- No (0 points)

7. How many Austrian filmmakers\* are employed on the project?

- 21 or more (7 points)
- 11-20 (5 points)
- 3-10 (3 points)

8. How many full days of filming will take place in Vienna?

- 11 or more (9 points)
- 5-10 (7 points)
- 3-4 (5 points)
- At least 2 (3 points)

\*Wages, salaries and fees are recognized as expenses in Austria if they are subject to Austrian tax, and only up to the extent of the tax liability in Austria. The names of individuals employed on the production and their place of residence/work for tax purposes must be specified on a list of the crew and cast members.

## ANNEX 2

# Eligible production costs

A distinction must be made between

- a. the total film production costs,
- b. the funding applicant's production costs (film production service company),
- c. the funding applicant's production costs (film production service company) in Vienna, and
- d. the funding applicant's eligible production costs (film production service company) in Vienna.

**Re point a.:** The total production costs include all costs incurred for production of the film as calculated by the foreign film production company that commissioned the filming.

**Re point b.:** The funding applicant's costs (film production service company) include the types of cost in the table below, based on a calculation method that is customary in the industry. The principles of expedient and prudent management must be taken into account. VAT (deductible input tax) is not included in the calculation of production costs.

	Cost summary	€
1	Pre-production costs	
2	Rights of use	
3	Fees and wages	
4	Image and sound recording (equipment, rental)	
5	Studio filming, original locations, buildings	
6	Equipment	
7	Editing, dubbing, mixing	
8	Pictures, sound, editing	

9	Insurance	
10	Haulage and transportation costs	
11	General project-related costs	
12	Income leading to diminished costs	
13	= Production costs	
14	Service Producer's fee	
15	Finance costs	
16	Overrun reserve	
17	= Total production costs	

**Re point c.:** The funding applicant's production costs (film production service company) are equal to the production costs incurred for the execution of the project or part of the project in Vienna.

**Re point d.:** Compensation will only be paid for the funding applicant's net eligible production costs (film production service company), i.e. excluding VAT. Eligible production costs are those production costs incurred in Vienna that are clearly attributable to the funded project, subject to the following conditions:

**A. SERVICES PROVIDED BY INDIVIDUALS**

Wages, salaries and fees will only be recognized if and to the extent that they are subject to unlimited or limited tax liability in Austria. The names of individuals employed in production of the project and their place of residence/work for tax purposes must be specified on a list of the crew and cast members, in a form commonly used in the industry.

**B. SERVICES PROVIDED BY COMPANIES**

Services provided by companies will only be recognized if:

- a. the company providing the service demonstrably has its place of business or a branch office in Austria at the time of performance of the service and issue of the invoice, and
- b. detailed invoicing of the funding applicant for the service is performed either through the company itself or through the branch office

## SEPARATE PROVISIONS

### PRE-PRODUCTION COSTS/PROJECT DEVELOPMENT

Project development costs covered by other public funds cannot be recognized as eligible production costs under any circumstances.

### COLLECTIVE AGREEMENT

Where applicable, the collective agreement for the Austrian film industry must be complied with when implementing the funded project.

### FEES AND WAGES

Fees and wages must be included in the calculation using the corresponding valuations under the collective agreement, where applicable, and at a rate no more than 20% higher than the minimum fees under the collective agreement. In certain special cases, recognition at a rate 30% higher than the minimum fees is possible, depending on the relevant qualifications and experience.

When appointing senior crew members, the necessary qualifications and clear definition of skills (four-eye principle) must be taken into account. In case of multiple functions that overlap chronologically, the funding application must give reasons to justify the compatibility of the functions.

### SERVICE PRODUCER'S FEE

A service producer's fee of up to 5% of the funding applicant's production costs can be recognized, and a fee of up to 2.5% if the funding applicant's production costs amount to EUR 5m or more.

### OVERRUN RESERVE

An overrun reserve (of up to 8% of the funding applicant's production costs, or up to 10% in exceptional cases) can be recognized as eligible in the calculation, based on the amount of the funding applicant's eligible production costs. These costs will only be recognized in the final costs if they were actually incurred, and the overrun can be justified.