APPROVED

 by Order No 1.1-2/2022/16 of 22 March 2022

of the Director General of the Investment and Development Agency of Latvia

**State Budget Co-Financing Tender of 2022**

**for Filming of Foreign Films in Latvia**

**REGULATIONS**

**I General Provisions**

* 1. The present Regulations lay down the procedure for the conduct of and granting the public financing for the State budget co-financing tender of 2022 for filming of foreign films (hereinafter referred to as “filming”) organised by the Investment and Development Agency of Latvia (hereinafter referred to as the “Agency”). The tender is organised in accordance with the procedure set out in the Film Law, 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 (hereinafter referred to as the “Regulation”), and Cabinet Regulations No 173 of 15 March 2022, “Procedures for the Granting of the State Budget Co-financing for Filming of Foreign Films in Latvia” (hereinafter referred to as the “Cabinet Regulations”).
	2. The purpose of the tender is to attract foreign financing to the Latvian film industry and other industries by **supporting filming of foreign films, including feature films, animated films and documentaries, as well as television films, in Latvia, for which** the final deadline for submission of the report on filming of the film (payment claim) for receiving the co-financing for 2022 is 15 November 2022.
	3. A “foreign film” within the meaning of the present Regulations shall be a film project which is partially or fully implemented in the territory of Latvia, and which is brought into practice as a service (or a joint-production) by film producers registered in accordance with the procedure laid down in laws and regulations.
	4. The total co-financing of the tender consists of the Agency’s planned state budget financing of 2022 amounting to **EUR 793 773** (seven hundred ninety-three thousand, seven hundred and seventy three euros). The financing of the tender may be increased if additional co-financing is granted from the state budget of the respective year for filming of foreign films in Latvia.
	5. The amount of co-financing that can be granted for the implementation of one project is unlimited (may not exceed the financing available within the tender).
	6. The Agency shall publish a notice on acceptance of project applications in the official journal “Latvijas Vēstnesis”, website [www.liaa.gov.lv](http://www.liaa.gov.lv) and on [www.business.gov.lv](http://www.business.gov.lv). The Agency shall post the Regulations on the websites [www.liaa.gov.lv](http://www.liaa.gov.lv) and [www.business.gov.lv](http://www.business.gov.lv) no later than on the day of announcement of the notice.
	7. **The co-financing may be combined with another type of public financing for a film project** (including financing awarded by the National Cinema Centre and the State Culture Capital Foundation for implementation of projects of the film industry, as well as co-financing granted within the framework of the Riga City Municipality co-financing programme “Riga Film Foundation”, **if the total public financing for the film’s project does not exceed 50% of the total eligible costs of the film’s project in Latvia**.

**II Conditions for Granting of Co-Financing**

1. A project for the tender may be submitted by micro, small, medium and large enterprises in accordance with Article 2(24) of and Annex 1 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 (hereinafter referred to as “Commission Regulation No 651/2014”), which have been registered as film producers in accordance with the procedures laid down in laws and regulations and have entered into a contract regarding the intent to film a film in Latvia with a film producer registered in the Register of Latvian Film Producers and the Commercial Register of Latvia for at least 24 months before the submission of the project.
2. Ineligibility to apply for co-financing may arise if:
	1. the project submitter complies with the attributes of an undertaking in difficulty specified in Article 2(18) of Commission Regulation No 651/2014;
	2. the project submitter has tax debts or duty debts, the total amount of which exceeds EUR 1 000, except for tax payments which have been granted an extension of the payment deadline, an agreement on voluntary payment of taxes has been set, or a contract has been concluded;
	3. the project submitter is subject to an outstanding recovery order according to a previous European Commission decision which is referred to in Article 1(4)(a) of Commission Regulation No 651/2014;
	4. the project submitter has not fulfilled liabilities arising from contracts previously entered into with the Agency on state budget co-financing for filming of foreign films in Latvia;
	5. more than 25% of the equity capital or voting rights of the project submitter belong to the state, local government, or state or local government capital companies;
	6. the project submitter and the foreign or Latvian producer, incl. owners, board members, beneficial owners, persons entitled to represent, parent or subsidiary undertakings etc., have been subject to international or national sanctions or sanctions of a Member State of the European Union or North Atlantic Treaty Organisation affecting significant financial and capital market interests;
	7. filming of the relevant film in Latvia has started as at the day when the tender project is submitted.
3. In accordance with Article 6(2) of the Commission Regulation, the Agency shall verify the incentive effect of the aid. If the project implementation works have been commenced prior to the submission of an aid application to the aid provider, all project costs in general shall be ineligible. The project shall be implemented once an application for receiving aid is submitted to all the bodies awarding aid.
4. The co-financing may be granted in accordance with Article 54 of Commission Regulation No 651/2014, not exceeding the threshold value indicated therein and by observing the average annual budget of an aid scheme, as well as if the project conforms to all of the following conditions:
	1. the film is partly or completely filmed in Latvia;
	2. services of such natural persons or legal persons are used in filming of a film which are registered in Latvia;
	3. the total costs of the film project for feature films and animated films reach at least EUR 711 436, and for documentary films—at least EUR 142 287;
	4. the financing available to the foreign producer on the day of submitting the project according to the financing plan is at least 50% of the total costs of filming a film.
5. The co-financing shall not be granted to pornographic film projects and projects of such films which propagate religious and racial hatred, show violence without justification, or contain propaganda demeaning human dignity, or show disrespect of Latvian national values or symbols of Latvia.

**III Preparation and Submission of the Project Application**

1. In order to grant the state budget co-financing for filming of foreign films in Latvia, the Agency shall, twice a calendar year, organise an open tender in project application selection rounds. In each selection round, the Agency shall take a decision on granting the co-financing and conclusion of the contract or on inclusion of a project application in the application reserve list, or on a refusal to conclude the con-financing contract.
2. In a selection round, project applications are to be submitted within the deadline specified in the notice.
3. Project application layout:
	1. The project application shall be drawn up in printed form in the Latvian language (Annex 1 to the present Regulations).
	2. The film screenplay may be submitted in Latvian, English or Russian languages.
	3. If any of the documents contained in the project application is in a foreign language, it shall be accompanied by the project applicant’s responsible official’s certified (text “Translation correct”, date, signature and signature transcript) translation into Latvian or a written summary-overview of the document contents. This provision shall not apply to a film’s screenplay in accordance with Paragraph 15.2 of the present Regulations.
	4. The project application documents shall be clearly legible, without corrections, in order to avoid any doubts and misunderstandings as regards words and numbers, and without insertions, deletions, or mathematical errors.
4. A project application shall be submitted within the specified deadline in one of the following ways:
	1. **in the form of an electronic document to be sent to the e-mail address pasts@liaa.gov.lv** in accordance with the laws and regulations regarding the drawing up and handling of electronic documents (the document shall be signed with a secure electronic signature);
	2. **in the form of an electronic document** on the National Platform for Business Development www.business.gov.lv.
5. The accompanying documents of a project application shall be submitted in accordance with Annex 2 to the present Regulations.

**IV Processing of Personal Data**

1. The basis of processing of personal data: the purpose of processing of personal data is data processing for granting of public financing and supervision of its use and Points (b) and (c) of Paragraph one of Article 6 of Regulation (EU) No 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
2. The data of natural persons included in a project application shall be processed with the purpose of ensuring evaluation of the project applications, granting of the financing and supervision of its use in accordance with the laws and regulations regulating this field.
3. When processing personal data, the Agency shall ensure:
	1. access of authorised persons to the technical resources that are used for personal data processing and protection (including to personal data);
	2. that information carriers by which personal data is available shall be processed by persons authorised for this;
	3. that the resources used in the processing of personal data are transferred by duly authorised persons.
4. The Agency confirms that:
	1. it will not collect, use and disclose personal data, unless the regulatory enactments provide for this, or it is necessary for the protection of rights and interests provided for in laws and regulations;
	2. it will process personal data in accordance with the purpose of the processing of personal data arising from laws and regulations;
	3. when performing data processing, it shall ensure the corresponding technical and organisational measures, in order to provide data protection;
	4. it shall ensure that the persons who are authorised to process data have undertaken to comply with confidentiality requirements;
	5. it will ensure the inaccessibility of data to third parties and will immediately inform the project submitter of cases when access to personal data occurred for unauthorised or third persons;
	6. it will erase the personal data collected within the framework of the Contract as soon as the legal basis for the processing thereof ceases to exist.

**V Evaluation of Project Applications**

1. The submitted project applications shall be evaluated by the Agency and an expert commission established by it (hereinafter referred to as the “Commission”) which operates in accordance with by-laws approved by the Agency. The Commission has the right to invite such specialists in an advisory capacity for the evaluation of project applications who have the knowledge or working skill in the film industry and who do not represent the interests of project submitters.
2. The Agency shall evaluate project applications within a month from the expiry of the application deadline of the respective call.
3. The Agency shall carry out the evaluation of the submitted project applications and project submitters in accordance with administrative compliance evaluation criteria in order to ascertain whether the project submitter and the project application conform to the requirements specified and should be advanced for further evaluation;
	1. If the project application or the project submitter does not conform to at least one of the conformity criteria for the project submitter referred to in Annex 3, Sub-paragraph 1.1 to the present Regulations, or at least one of the conformity criteria for a project referred to in Annex 3, Sub-paragraph 2.1, 2.5, 2.6 or 2.8 of the present Regulations, the Agency shall take a decision on non-conformity of the project application with the evaluation criteria and refusal to enter into a co-financing contract;
	2. If the project application does not conform to the project submitter conformity criterion referred to in Sub-paragraph 1.2 of Annex 3 to the present Regulations or project conformity criteria referred to in Sub-paragraphs 2.2, 2.3, 2.4 or 2.7 of Annex 3 to the present Regulations, the Agency shall request in writing once the project submitter updates the project application or submits additional information within 10 (ten) working days. The request shall be sent to the e-mail address indicated by the project submitter. After receiving the requested information, the Agency shall re-evaluate the project application according to the evaluation criteria of administrative conformity. If after re-evaluation the project application does not conform to the conformity criterion for a project submitter referred to in Sub-paragraph 1.2 of Annex 3 to the present Regulations, or the conformity criteria for a project referred to in Sub-paragraph 2.3, 2.4 or 2.7 of Annex 3 to the present Regulations, or if the project submitter has not submitted the necessary additional information within 10 working days after request of the Agency, the Agency shall take a decision on non-conformity of the project application with the evaluation criteria of administrative conformity and refusal to conclude the co-financing contract.
4. If the project submitter and the project application conform to all the evaluation criteria of administrative conformity, evaluation of the project application shall be continued in accordance with the evaluation criteria for a project application referred to in Annex 4 in order to evaluate the quality of the project application in relation to the tender’s objective.
5. The applicants whose applications conform to both the administrative evaluation criteria and the project performance evaluation criteria shall be invited to a meeting of the Evaluation Commission to give a presentation.
6. The Agency shall, three days prior to the meeting of the Evaluation Commission, send an invitation electronically to the project applicant to arrive for the Evaluation Commission’s meeting and give a presentation.
7. The Commission shall evaluate the conformity of the project application to Criterion 6 in Annex 4 to the present Regulations of the tender and provide an opinion to the Director General of the Agency on the criterion referred to Paragraph 6 of Annex 4.
8. Taking into account the opinion provided by the Commission, the Director General shall, within 2 (two) working days from receiving the Commission’s evaluation, take a decision on conclusion of the co-financing contract or inclusion of the project in the project application reserve list, or on refusal to conclude the co-financing contract. The day when the decision on granting the co-financing for supporting the project application is taken shall be deemed to be the moment of granting the co-financing. The right to conclude the co-financing agreement (as long as there is sufficient co-financing envisaged for the project tender) shall be awarded for implementation of those projects which have received a higher score in accordance with the criteria referred to in Annex 4 to the Regulations of the tender.
9. If project applications, when arranged in a priority order according to the score received, have an equal score, they shall be arranged in accordance with the score obtained in the evaluation in accordance with Criterion 5 of Annex 4 to the Regulations of the tender. If project applications, when arranged in a priority order and according to Criterion 5 of Annex 4 of the Regulations of the tender, have an equal score, they shall be arranged according to the total score obtained during the evaluation according to Criterion 2 of Annex 4 to the Regulations of the tender.
10. The amount of the co-financing of a project shall be 20% of the total sum of eligible expenditure indicated in the co-financing contract, except for the eligible cost items related to remuneration costs. For remuneration cost items, the amount of co-financing shall be 30%.
11. The Director General of the Agency shall, in accordance with the opinion provided by the Commission and considering the order specified in the reserve list of project applications, within a month from the day of availability of the co-financing take a decision on conclusion of the co-financing contract with the project submitter on financing a project included in the reserve list of project applications (as long as there is sufficient co-financing envisaged for the tender of the projects):
	1. from the unused funds, if a contract for implementation is not concluded within the specified deadline with any of the recipients of the co-financing;
	2. from the unused funds, if any of the recipients of the co-financing do not acquire the maximum possible co-financing as specified in the contract;
	3. from the additional co-financing awarded in the state budget in the respective year for filming of foreign films in Latvia (if granted).
12. Project submitters shall be notified of decisions of the Director General. A notification regarding the results of the project tender shall be published on the Agency’s website liaa.gov.lv and on [www.business.gov.lv](http://www.business.gov.lv)**.**

**VI Conclusion of the Co-financing Contract**

1. The Agency and the project submitter shall conclude a co-financing contract within one month from taking a decision on the conclusion of the co-financing contract.
2. If the co-financing contract is not concluded within the specified deadline due to the project submitter’s fault, the Director General of the Agency shall revoke the decision on the conclusion of a co-financing contract with the project applicant, and the Agency shall be entitled to conclude the contract with a project submitter included in the reserve list who has obtained the next highest score.

**VII Eligible and Ineligible Costs**

1. The production and pre-production costs meeting the following criteria are specified as eligible costs (costs to be co-financed):
	1. they have been performed after the day of submission of a project application to the Agency;
	2. they have been utilised in Latvia;
	3. they are directly related to the filming process;
	4. they are directly related to the following needs:
		1. costs of the administrative and professional staff necessary for the provision of filming, renting of equipment and services;
		2. transport services and fuel;
		3. construction services related to filming of a film;
		4. hotel services and other services related to accommodation;
		5. catering services (only if *a catering service provider is contracted*);
		6. security guard services;
		7. communications services;
		8. public utilities and public services;
		9. purchase of such articles and materials which are necessary during the filming process and the price of which does not exceed EUR 500, exclusive of value added tax (VAT) (the costs of purchase of such articles and materials the value of which exceeds EUR 500, excl. VAT, shall be eligible in exceptional cases when the necessity of their acquisition is justified in detail by the recipient of the co-financing);
		10. sound processing, visual (creation of characters, animation and special effects, scenography), musical and other artistic and technological services directly related to filming a film;
		11. renting or hire costs of movable and immovable property necessary for filming a film;
		12. administrative services—legal, accounting and translation services, staff recruitment, except for the costs for the services of a sworn auditor or a commercial company of sworn auditors;
		13. fees for actors and participants in mass scenes who have participated in the making of the film.
2. Service providers who provide services related to the costs referred to in Paragraph 37 of the present Regulations must be registered in Latvia and commercial activity within the scope of the relevant film project must be carried out in the territory of Latvia.
3. The following costs are determined as ineligible costs:
	1. those which do not conform to the requirements of Paragraph 37 of the present Regulations;
	2. those which have not been determined in the co-financing contract entered between the Agency and the recipient of co-financing or are not necessary for implementation of filming of a film;
	3. those which have been carried out in violation of requirements of laws and regulations, including as regards payment of taxes and transactions in cash, and which have not been accounted for in accounting registers, are non-identifiable and provable.
4. The following costs may be determined as ineligible costs:
	1. those which have been transferred to such service providers (goods suppliers, performers of construction works) for whom the provision of the respective services (supply of goods, performance of construction works) has not been registered as a type of primary activity in the Enterprise Register and/or with the State Revenue Service;
	2. those which have been transferred to persons related to the co-financing recipient within the meaning of the Law on Taxes and Duties.

**VIII Recognition of Eligible Costs and Disbursing of the Co-financing**

1. The co-financing shall be disbursed in one part, or in two parts if the filming of the film lasts for longer than one calendar year and if this is provided for in the project application.
2. A payment claim for the eligible costs of 2022 must be submitted to the Agency within three months after the end of filming in Latvia, but no later than by 15 November 2022.
3. If the project implementation continues into 2023, the second payment claim for the period from 16 November 2022 must be submitted to the Agency within three months after the end of the filming in Latvia, but no later than by 15 November 2023.
4. The following documents certifying costs shall be submitted by the recipient of co-financing to the Agency:
	1. **a payment claim in accordance with the form available on the Agency’s website,** indicating the payments performed in Latvia, the recipients thereof, the sums (euros excluding VAT) and dates of the payments;
	2. **a report of a sworn auditor or a commercial company of sworn auditors** on payments performed during implementation of the film project in Latvia;
	3. **other documents determined according to the co-financing contract entered into.**
5. The Agency shall evaluate the documents referred to in Paragraph 44 of the present Regulations within a month after receipt thereof and verify whether the costs of the co-financing conform to the eligible costs referred to in Chapter VII of the present Regulations, as well as the co-financing contract.
6. The Agency has the right to request and receive additional information and documents certifying expenditure in relation to implementation of the film project.
7. After the check referred to in Paragraph 45 of the present Regulations, the Director General of the Agency shall take a decision to disburse the co-financing, determining the amount of the co-financing to be disbursed to the recipient of the co-financing, or to refuse to disburse the co-financing.
8. The amount of the co-financing shall be:
	1. 20% of the total sum of eligible expenditure indicated in the co-financing contract, except for the eligible cost items related to remuneration costs;
	2. For remuneration cost items, the amount of co-financing shall be 30%.
9. The part of the co-financing to be granted to the recipient of co-financing shall be determined on the basis of a payment claim submitted by the recipient of the co-financing, a report on filming of the film, documents certifying expenditures, and the co-financing contract.
10. The Director General of the Agency shall take a decision to refuse to disburse the co-financing or part thereof:
	1. if, on the basis of the documents submitted by the recipient of the co-financing and the check carried out by the Agency, it is established that the recipient of the co-financing has utilised fewer financial resources than the amount indicated in the co-financing contract;
	2. if the recipient of the co-financing is unable to prove the expenditure performed;
	3. if the Agency has recognised the costs as ineligible in accordance with Chapter VII of the present Regulations.
11. The co-financing according to the amount indicated in the decision of the Director General of the Agency shall be transferred to the co-financing recipient’s bank account indicated by the recipient of the co-financing within five working days after taking of the relevant decision, **but no later than by 23 December 2022**.