



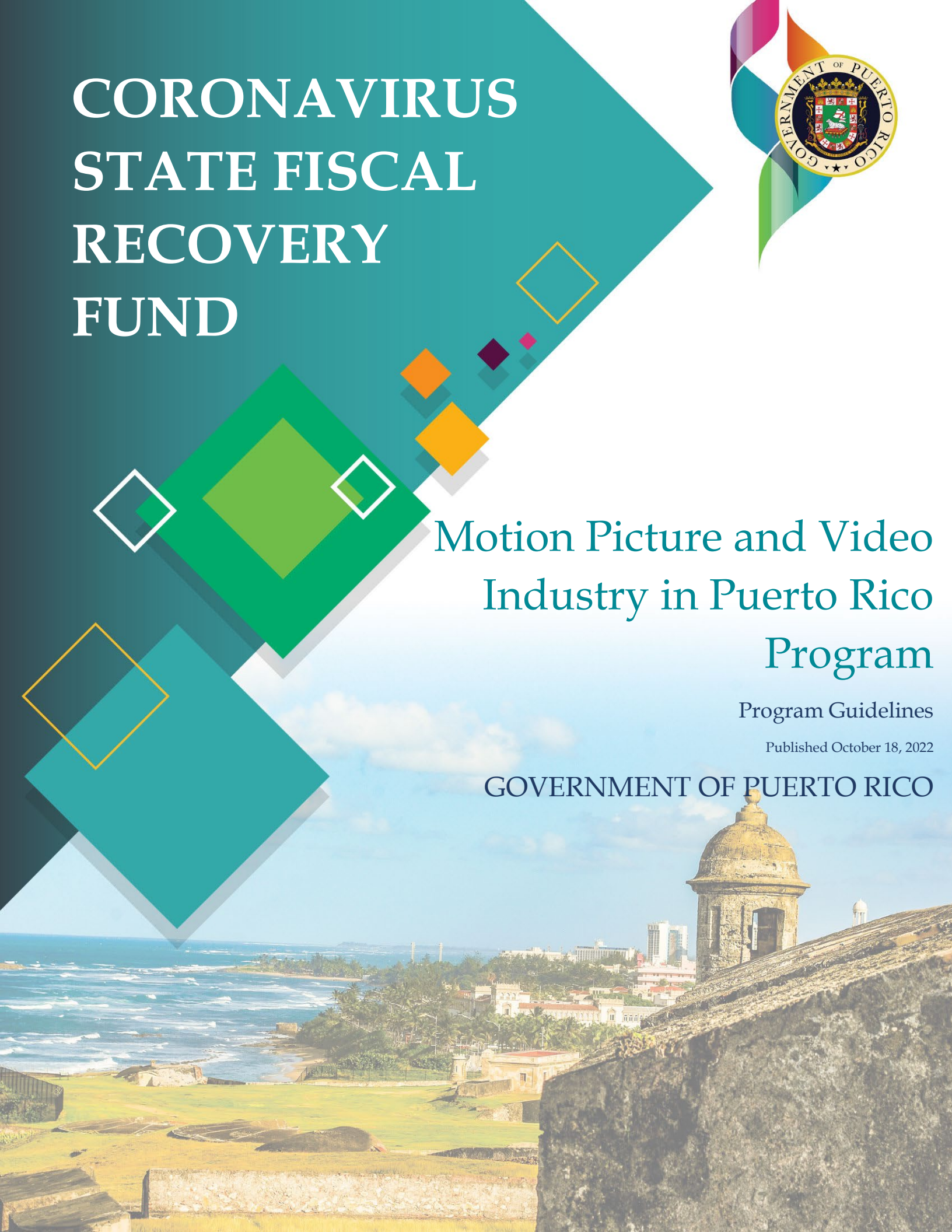
# CORONAVIRUS STATE FISCAL RECOVERY FUND

## Motion Picture and Video Industry in Puerto Rico Program

Program Guidelines

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GOVERNMENT OF PUERTO RICO



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## Program Overview

### Background

Since March of 2020, Puerto Rico, like most jurisdictions in the United States and countries around the world, has experienced an unprecedented emergency caused by the Coronavirus Disease 2019 ("COVID-19") pandemic. To slow the spread of the disease and ensure stability of its healthcare system, the Government of Puerto Rico has implemented measures to address the emergency. On March 12, 2020, the Government of Puerto Rico issued Administrative Bulletin OE-2020-020 through which formally declared a state of emergency due to the imminent impact of the coronavirus in Puerto Rico.

During the state of emergency, Puerto Rico suffered great loss of life and severe economic hardships which have impacted a Commonwealth still reeling from natural disaster. Puerto Rico lost over 2,500 citizens, tourism dwindled with hotel registrations falling 95% from February to April 2020, and ~460,000 residents of Puerto Rico experienced unemployment, twice the previous number of unemployed individuals. Despite these hardships, Puerto Rico persevered, and with over 2,600,000 doses of COVID-19 vaccines administered, Puerto Rico is positioned to emerge from the COVID-19 pandemic.

To help Puerto Rico emerge from the COVID-19 pandemic, Congress passed the American Rescue Plan Act of 2021 ("ARP Act"), and the President signed it into law on March 11, 2021. To assist state governments with addressing the lingering public health emergency while targeting areas and industries in needs of economic development, the ARP Act established the Coronavirus State and Local Fiscal Recovery Fund, which provides \$350 billion in direct assistance to states, territories, counties, metropolitan cities, tribal governments, and non-entitlement units of local governments. As part of the Coronavirus State and Local Fiscal Recovery Fund, Puerto Rico received \$2.47 billion under the Coronavirus State Fiscal Recovery Fund ("CSFRF").

To ensure the expeditious processing of apportioned funds from the CARES Act, the Government of Puerto Rico established the Disbursement Oversight Committee, consisting of the Secretary of the Department of the Treasury, the Director of the Office of Management and Budget (OGP), and the Executive Director of the Puerto Rico Fiscal Agency and Financial Advisory Authority (AAFAF). The Committee was created on May 15, 2020, by means of Executive Order No. 2020-040, and on May 7, 2021, by means of Executive Order No. 2021-034, the Governor of Puerto Rico extended the Committee's oversight to include CSFRF.

### Program Description

For the past decade, Puerto Rico has been an upcoming film destination. As a film destination, Puerto Rico has hosted film projects such as *Pirates of the Caribbean*, *Fast and the Furious*, *Los Domirriqueños*, *Broche de Oro*, *Mad Dogs*, *200 Cartas*, *Gordita Chronicles*, *Picando Alante*, *Fantasy Island*, *The Resort*, *Ana*, *Wrecked*, *Rum Diaries*, *The Men who Stare at Goats*, *Réplicas*, *The Do Over*, among many others.

Due to the negative economic impact of the COVID-19 pandemic, since 2020 Puerto Rico has been failing to attract the film production business. The Motion Picture and Video Industry in Puerto Rico suffered a considerable reduction in employment after March 2020, when the quarantine period for the COVID-19 pandemic was decreed on March 15, 2020. As of December 2021, the industry's employment level had not managed to recover to the levels it had before the pandemic. According to the United States Bureau of Labor Statistics (BLS), the number of companies in the Motion Picture and Video Industry in Puerto Rico decreased by 14.3% from 2019 to 2021. As a result, the industry experienced employment loss of at least 8% compared by the average employment levels from December 19 to February 20, 2021, and September

21 to November 21, 2021. Puerto Rico’s employment loss in the industry represented a reduction of the industry and its companies by 28% because of a simplified test conducted with the information provided by the BLS.

Through the *American Rescue Plan Act, Public Law 117-2* (“ARP”), the Government of Puerto Rico received and allocation under the Coronavirus State Fiscal Recovery Fund (“CSFRF”), and the Governor has assigned the amount of \$74 million dollars (divided into \$37M per two fiscal years) to be allocated by the Puerto Rico Film Commission (PRFC) as a business opportunity for Puerto Rico as a film destination. Through this administration’s public policy, this opportunity is a valuable instrument used by the Government of Puerto Rico to promote capital investment and the creation of jobs and wealth in Puerto Rico. This opportunity will maximize and optimize the Film Commission’s impact in the promotion and attraction of eligible Film Projects to Puerto Rico this being the creative purpose of the Department of Economic Development and Commerce (“DEDC”).

These guidelines represent DEDC’s requirements for the concessions of *cash grants*.

## Points of Contact

The Program will be administered by the Disbursement Oversight Committee (Committee) in conjunction with the Department of Economic Development and Commerce (“DEDC”), and AAFAF.

## Eligibility Criteria

Eligible Recipients must meet all the following criteria:

- Be the Department of Economic Development and Commerce (“DEDC”)
- Commit to abide by the Program's Terms and Conditions; and
- Agree to return the Program funds if it is determined that they did not comply with any of the Program eligibility requirements or if the Program funds were not obligated on eligible expenses by December 31, 2024.

## Allowable Expenditures

Allowable expenses under this award must be:

- Cash grants to eligible entities pursuant to these guidelines
- Expenses incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

For further guidance please refer to the [Guidance](#) and the [Frequently Asked Questions](#) published by the U.S. Treasury.

### *Other CSFRF Programs*

In addition to the Program detailed above, the Governor allocated funds for additional programs to address the public health emergency, ensure continuity of government services, address negative economic impact, provide premium pay, invest in water, sewer, and broadband infrastructure, and provide for provision of government services (up to lost revenue). Please visit AAFAF [website](#) for additional information about these programs.

## Ineligible Expenditures

Ineligible expenses will be determined by the Committee, the U.S. Department of the Treasury, the Office of Inspector General (OIG), and other regulatory bodies, and under this award include, but are not limited to:

- Payments to institutions that do not meet the eligibility criteria
- Necessary expenses that have been covered or reimbursed, or that will be covered in the future, by other state or federal programs, including funds received through the CARES Act or form FEMA
- Deposits into any pension funds
- Offsetting a reduction in net tax revenue resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax;
- Executive bonuses, debt refinancing, or other expenses that are determined to be unnecessary for continued operations in the COVID-19 environment
- Projects not included in the Resolution approving the funds

For further guidance please refer to the [Guidance](#) and the [Frequently Asked Questions](#) published by the U.S. Treasury.

## Process Overview

The following is intended to outline the process by which funds from the CSFRF will be distributed under the Program.

October 2022	Program Announced
October 2022 – December 2024	Biweekly Use of Funds Reports
October 2022 – December 2024	Monthly Performance Reports
December 31, 2024	Deadline for Award Funds to be Used
January 2025 – February 2025	Program Audits Use of Funds Compliance and Recovery

*\*Program reserves the right to adjust dates.*

### Requests

Requests will be submitted electronically using the [Agency Request](#) for Funding process along with the [request processing portal](#) administered by the Puerto Rico OGP. Applicants should submit requests under the PP Form-CSFRF Fund Request. Upon submission, Applicants will receive a confirmation via electronic mail. More information on forms, documents, and eligibility can be found on the [web](#).

### Administrative Costs

Administrative costs reduce the amount of Relief Funds that are directly supporting Puerto Rican projects and initiatives related to the COVID-19 emergency. If administrative costs are too substantial, there is a risk that the U.S. Treasury will deem the costs unreasonable and subject them to recoupment.

While the appropriate amount of administrative costs for any program is dependent on specific facts and circumstances, the Disbursement Oversight Committee has determined that indirect, administrative, or other expenses incurred in managing the Program, or individual proposal under the Program, should be aligned with Federal guidance. The Program's administrative cost cap, determined by an Advisory Panel consisting of representatives of AAFAF, shall not exceed 10% of the total proposal cost.

### *Evaluation for CSFRF funds*

For all requests, decisions will be evaluated for completeness and eligibility, and final determinations will be made by representatives of AAFAF. Each Request will be evaluated, and Program funds allocated using a standard of necessity.

The Disbursement Oversight Committee will approve final funding award decisions.

Due to the nature of the projects approved under this Program, projects will be subject to periodic review by AAFAF in which status of the projects must be submitted. Any delays in the project's timeline must be informed diligently to AAFAF representatives. Further amendments to the assignment, timeline, or project must be approved by the Committee.

PRASA must ensure that DWSRF and CWSRF criteria are satisfied throughout the execution of these initiatives, as applicable.

### *Requirements established by the DEDC*

The following Film Projects will be considered for this cash grant: *Feature Films and Series or Pilots*, and any other film project subject to the discretion of the Secretary of the DEDC representing Puerto Rico's best interests.

Cash grants will be available to Puerto Rico resident or non-resident production companies registered to do business in Puerto Rico and who have budgeted at least one million (\$1,000,000.00) to shoot on-location for a film primarily featuring Puerto Rico based talent (i.e., extras, production staff, etc.) and where a majority percentage of principal photography must take place in Puerto Rico.

Each cash grant quantity will be negotiated on a case-by-case basis and shall not represent more than \$15,000,000.00 for feature films, \$10,000,000.00 for series and \$3,000,000.00 for a pilot. The cash grant provided per eligible film projects shall not represent more than 75% of the total budgeted amount.

The following projects are not considered Eligible Film Projects and will not be considered for the cash grant:

- a. *a production that endorses a particular religious or political belief;*
- b. *a production that includes pornographic material;*
- c. *a production that primarily markets a product or service other than a national or international commercial;*
- d. *a production with the primary purpose of fund-raising;*
- e. *a production that primarily is for employee training or in-house corporate advertising or other similar production;*
- f. *sport projects;*
- g. *any audiovisual Film Project which it is not originally intended as a film or TV show which could be an event, show or radio programming that only places a camera to record the activity but, in its origin, is not intended as an audiovisual project;*
- h. *radio, live events, conventions, expos, and any other activity that is not customarily part of a regular TV roster, aimed as a theatrical/movie theatre release or for any of the major streaming platforms such as Apple, Netflix, Amazon, Hulu, HBO, among others;*
- i. *gossip shows.*

The Eligible Film Project must demonstrate that the film project is ready to begin preproduction with a complete balanced financing plan, of the above-mentioned amount, as applicable. Proof of funds must be requested.

- a. The Eligible Film Project must not have any debts with the Government of Puerto Rico.
- b. The Eligible Film Project must not apply to the Puerto Rico Film Incentives Program for film tax credits. This consideration will be applicable even if there is an amendment to the Incentives Code resulting in an increase of the annual cap provided in Section 3050.01(c)(1)(iv) of the Incentives Code. The Eligible Film Project must not apply to any of the incentives provided in Sections 5010.01, 5010.02 and 5010.03 of the Incentives Code.
- c. The Eligible Film Project shall not request or receive any other incentive provided on behalf of the Government of Puerto Rico. This includes federal grants provided through governmental agencies of Puerto Rico or sponsorship agreements with other agencies or instrumentalities.
- d. The Eligible Film Project must coordinate set visits, photo opportunities with principal cast and/or production members and other promotional activities, which will be reasonably conditioned for the concession of this cash grant.
- e. Set photos and behind the scenes footage/photos must be provided to the PRFC during production for promotional use.
- f. Joint press releases, conferences and other press related matters are encouraged for purposes of calculating a larger amount of the cash grant.
- g. A copy of the film project must be available when released for the DEDC's promotional use.
- h. The DEDC will negotiate with the Eligible Film Project the opportunity of product placement such as: *Rones de Puerto Rico*, and a collaboration with the *Artisans Program*, as applicable. This will be coordinated in good faith with the production.
- i. The Eligible Film Project shall commence Principal Photography in Puerto Rico within one hundred and twenty (120) calendar days after the issuance of the contract. This will be incorporated in the contract and can be negotiated with the PRFC.
- j. The Eligible Film Project must include a screen credit in connection with Puerto Rico as a film destination to be provided by the PRFC.
- k. The Eligible Film Project must complete an exit interview questionnaire in regard to the experience filming in Puerto Rico. This will be used by the PRFC for promotional purposes. Filmed exit interviews are encouraged for purposes of calculating a larger amount of the cash grant.

#### *DEDC's evaluation process*

A representative of the Eligible Film Project will communicate with the PRFC to present the Film Project. This communication will be done through email to the following address: [prfilmcommission@ddec.pr.gov](mailto:prfilmcommission@ddec.pr.gov)

The following information should be included in the e-mail: name of the film project, type of film project, Puerto Rico budget, Non-Resident budget, if applicable, production calendar, name of producer and name of production company.

Following the introductory e-mail, the PRFC will conduct a preliminary evaluation of the film project. Not all introductory e-mails will conclude in the opportunity to present an application. In the event that the PRFC is interested in the presented project, the PRFC will coordinate a virtual meeting for further evaluation. However, this does not represent an approval for purposes of granting this cash grant.

In the event that the PRFC is not interested in the presented project, the PRFC will inform the interested project and will conclude the preliminary evaluation process. This project will be considered non-eligible for purposes of presenting an application to this cash grant.

The following questions will be considered by the PRFC as part of the preliminary evaluation process:

- a. *In the absence of this grant, would the film project occur in Puerto Rico?*
- b. *Can Puerto Rico prevail as the film destination of this Film Project compared with other considered film industry jurisdictions?*
- c. *How much investment, employment, hotel nights and no resident labor be generated in Puerto Rico through this Film Project?*
- d. *Will local suppliers and services benefit from this Film Project?*
- e. *Will there be new services or suppliers because of this Film Project?*
- f. *Will any other businesses in Puerto Rico loose employment or business due to this Film Project?*
- g. *Will knowledge be transferred to local crew members and opportunities for professional growth be stimulated under our cinematographic industry with this Film Project?*
- h. *Can promotional opportunities for Puerto Rico through cast, producers and director be accomplished?*
- i. *Can other governmental programs be incorporated into this project?*

#### *DEDC's Approval Process*

Following an interest on behalf of the PRFC, a meeting will be coordinated. The following items will be discussed and supporting documents such as *Puerto Rico production budget, synopsis, cast, production calendar, among others*, may be requested.

Upon the meeting, the PRFC will provide an application to be filed by the Eligible Film Project. This application will request the following supporting documents on behalf of the company and project: *certificate and articles of organization, certification of registration to do business in Puerto Rico, production budget, synopsis, main talent bio, shooting schedule, among others*.

*Not all meetings and/or presented applications will conclude in granting the cash grant.*

Upon approval, the DEDC will negotiate with the Eligible Film Project the concession of a *cash grant* by means of a contract with the DEDC. In this time, the parties will negotiate the amount of the concession taking into consideration the opportunities provided by the Eligible Film Project with respect to the DEDC.

The following opportunities will have a positive impact in the final amount of the concession: product placement on behalf of *Rones de Puerto Rico*, if applicable; a collaboration with the *Artisans Program*, if applicable; *joint press releases; promotional opportunities for Puerto Rico as the film destination; social media mentions; media opportunities*, among others.

In the event the project is denied, the Eligible Project will be notified by the PRFC. The approval of cash grants on behalf of the DEDC will be final. Should an applicant disagree with a determination, the applicant can resort to an Administrative Appeal within thirty (30) days from the date the determination became final before the Court of Appeals of Puerto Rico.



### *DEDC's Disbursement Process*

The terms of the contract will be included in each approved project's contract in order to safeguard the disbursement of funds. The contracts will be negotiated by year 2022 and 2023. All contracts must be signed by December 31, 2023.

**Deadline for Award Funds to be obligated is December 31, 2024 and fully expended by December 31, 2025.**

Each contract will include the film dates and the projected day in which the project will end filming in Puerto Rico. These dates are subject to negotiation and will consider the production timeline of the project. The contracts will provide for the opportunity of amendments in the event the project's filming schedule changes. However, amendments are not guarantee and must represent just cause.

The disbursement will be subject to evidence of a produced project. For which, each project will have to present an Examination Report by an Independent Puerto Rico Certified Public Accountant.

Each contract will include a projected date for disbursement of funds which cannot be later than December 31, 2024. *Disbursements shall not be later than December 31, 2024, by DEDC.*

### *Additional information*

#### Local Projects

In a particular effort to support the local film industry, the DEDC will provide for grants to be disbursed in various stages representing financial aid for the development and continuation of the industry. Grants under this section will be conditioned to the above-mentioned guidelines as well as additional conditions represented below.

Please note that a local project is a project *written, directed, produced and post-produced* by Puerto Ricans in Puerto Rico. In addition, there will be no eligibility for a cash grant of any political, religious, or pornographic themed scripts.

The following stages will be conditioned to evidence of expenses through various Examination Reports and the following documents: *script, film schedule, production calendar, director's treatment, head of departments, production budget, marketing plan, distribution agreements, cast list, crew lists, production reports, call sheets, vendor lists, among others.*

The first stage will provide a quantity as *seed money* to secure script development. An invoice representing script development will be requested and cannot represent more than *\$65,000.00*. The period for script development as the first stage is three (3) months after the first disbursement. This represents that the film project will have three (3) months to provide evidence of a final script. Evidence of a final script will be conditioned before advancing to the second stage as well as the possibility for the DEDC to request script doctoring.

The second stage will provide for pre-production. The period for pre-production is three (3) months after the second disbursement. Evidence of a final script will be conditioned for a second disbursement. An invoice representing pre-production will be requested and cannot represent more than *\$300,000.00* for the pre-production stage.

The third stage will provide for production. The period for production is three (3) months after the third disbursement. An Examination Report will be requested to provide for evidence of a concluded pre-production period. An invoice representing production will be requested and cannot represent more than \$800,000.00 for the production stage.

The fourth stage will provide for post-production. The period for production is three (3) months after the third disbursement. An Examination Report will be requested to provide for evidence of a concluded production period. An invoice representing post-production will be requested and cannot represent more than \$600,000.00 for the post-production stage. This last disbursement will be conditioned to evidence of an updated marketing plan and should include invoices for marketing efforts. The cash grant provided shall not represent more than 95% of the total budgeted amount.

All disbursements will be conditioned to evidence of expenses and a conclusion of the previous stage.

No disbursement will be granted after December 31, 2024.

#### *Award and Funding for CSFRF funds*

Requestors will be notified via electronic mail of funding decisions. Subsequent funding opportunities (including expansion of eligible institutions and use of funds) will be determined based upon availability of funds remaining after completion of initial awards. Disbursement Oversight Committee will approve final funding award decisions.

## Compliance

Any government entity receiving funds must adhere to the Uniform Guidance, 2 C.F.R § 200 ("Uniform Guidance"). This Uniform Guidance outlines the "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards". Recipients and their personnel are responsible for reviewing, understanding, and applying the complete underlying legislation and guiding documents. For complete details on 2 CFR 200, visit the Electronic Code of Federal Regulations at [https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl). Topics included in the Uniform Guidance include, but are not limited to:

- Procurement standards and requirements
- Contract cost and price principles
- Bonding requirements
- Document retention and auditing provisions

Any government and non-government entity receiving Program funds will be required to retain use of funds records and supporting documentation for a period of five (5) years. Furthermore, by accepting CSFRF funds, government and non-government entities are required to certify proper and legal use of the funds and agrees to cooperate in any audit proceedings requested by the Government of Puerto Rico or other governing entity responsible for the compliant use of Program funds.

## Reporting Requirements

On an annual basis, the Government of Puerto Rico is required to submit a performance report detailing the progress and impact of the use of CSFRF funds. This Recovery Plan Performance Report will include

descriptions of the projects funded and information on the performance indicators and objectives of each award, helping local residents understand how their governments are using the substantial resources provided by Coronavirus State and Local Fiscal Recovery Funds program.

The key output performance indicators for this Program include:

- Amount disbursed
- Project progress

The key outcome performance indicators for this Program include:

- Number of entities impacted
- Impact on the local economy

To ensure timely reporting, the Government of Puerto Rico requires the Lead Agencies to adhere to the following reporting frequency:

- On a weekly basis, the Puerto Rico Department of Treasury will provide a summary of all program disbursements to date.
- On a monthly basis, the lead agency will report the number of entities impacted.
- On a monthly basis, the lead agency will report the local economy impact.
- On a monthly basis, the Lead Agencies will provide a project progress update.

To ensure timely reporting, the Government of Puerto Rico requires the Recipients to adhere to the following reporting frequency:

- On a biweekly basis, the recipients will be required to submit financial reports using the reporting template provided by the Program. Upon program close, recipients will be required to submit a comprehensive final financial reconciliation report detailing the use of program funds.

As needs may change over time, the Program reserves the right to 1) request additional data from recipients at any time, 2) withhold any disbursements to any eligible recipient, 3) withhold any allocation to or from the Program.