

# Revolving Film Finance Fund (RFFF) Guidelines

Screen Queensland's purpose is to grow the screen industry and to be a significant contributor to the economic and cultural wellbeing of Queensland.

## **PURPOSE OF RFFF**

The Revolving Film Finance Fund (RFFF) is a lending facility established to cashflow Queensland screen productions and infrastructure projects by way of lending funds secured against Producer Offset, bank guarantees, letters of credit, distribution guarantees, pre-sales or other secure financial instruments.

The \$30 million revolving fund is administered by Screen Queensland on behalf of the Queensland Government. All funds are drawn from the Queensland Treasury Corporation (QTC).

The general purpose of the RFFF is to:

- increase the amount of Australian, and particularly Queensland-created, screen production in Queensland
- establish and maintain a commercially viable screen industry in Queensland
- establish sufficient production and post-production infrastructure to maintain a commercially viable screen industry in Queensland
- maximise employment opportunities and the continuity of employment in the screen industry in Queensland.

The RFFF may only be used for full recourse loan funding or equivalent arrangements (i.e. the Applicant must repay the whole of the principal, interest and costs associated with the loan, regardless of the outcome of the project).

## **HOW MUCH WILL SQ LOAN?**

The maximum amount of funding per Applicant for any single project is \$7 million or 50% of the production budget, whichever is the lesser. Only 90% of total estimated Producer Offset will be loaned, and the estimated QAPE must be covered by a Completion Guarantee, from a reputable Completion bond entity. An Applicant may apply for funding of a number of different projects. However, the maximum amount of funding which may be outstanding to any Applicant with respect to a number of projects is \$7 million. Upon the repayment of a loan, the Applicant may borrow additional funds up to this limit subject to fund capacity.

Priority will always be given to companies with an ongoing commitment to producing in Queensland and to companies using Queensland producers, directors, writers, cast and crew, and Queensland production facilities. The production must be a screen project intended to be produced wholly or principally for screening or broadcast in the form of a feature film, telemovie, documentary, broadcast series or mini-series but may be intended for any legitimate screen platform.

Screen Queensland reserves the right to reject projects that contain material which, in the sole discretion of Screen Queensland, brings Screen Queensland or the Queensland Government into disrepute, contempt, scandal or ridicule and/or offends public opinion. This may include, but is not limited to, projects which contain excessive violence, discrimination, sexual violence or sexual exploitation.

Projects which are ineligible include: advertising programs or commercials; a film of a public event; news or current affairs; content whose primary purpose is marketing or education; projects

developed as part of, or contributing to, a course of study; infotainment; how to; sports telecasts; corporate or promotional media; training videos; and community television shows.

Magazine and reality programs are not eligible except where Queensland production entities can demonstrate the investment will be used to create these programs as part of and to support a broader slate. Such applications will be strictly assessed against the production funding standard criteria, with particular focus on the benefits to the Queensland screen industry being significant.

## **WHO IS ELIGIBLE?**

To be eligible to apply for loan funds under the RFFF:

- The applicant must be a company incorporated in Australia, with the sole purpose of producing the project;
- The company will need an ABN, have no outstanding tax obligations and a clean credit history;
- The Queensland Production Expenditure (QPE) must be not less than 50% of its total budget. Exceptions to this requirement may be made in the case of official international co-productions;
- Where possible, the production will engage bona fide Queensland residents for the production of the project in all key creative positions and all areas of production;
- The production must have substantial finance in place and, for Producer Offset loans, must have a Provisional Certificate from Screen Australia for the project; and
- The applicant must be the copyright holder or have clear chain of title in any and all works on which the project is based.

Screen Queensland will not approve an application, in any case, where the Applicant or another party to the project is in default under any other loan or arrangement with Screen Queensland – both financial and delivery based.

Individuals and companies who are in breach of any obligation under any agreement they have with Screen Queensland or any of its predecessors are not eligible to apply.

Screen Queensland reserves the right to consider applications that may not meet the aforementioned eligibility guidelines where there are significant and demonstrable benefits to the Queensland screen industry.

Preference will be given to projects where Screen Queensland is an investor.

Applicants must always act in good faith in their dealings with Screen Queensland. Screen Queensland acts in the public interest and must exhibit the highest levels of propriety in its dealing with applicants. Screen Queensland requires applicants to act in the same way in their dealings with Screen Queensland. Applicants must be honest and open in all dealings with Screen Queensland. They must not mislead or deceive Screen Queensland by act or omission. In addition, Screen Queensland expects that communications between its staff and funding applicants will be courteous and respectful. Screen Queensland reserves the right to not accept applications for funding from any person who Screen Queensland forms the view persistently treats our staff in a discourteous, hurtful or intimidating fashion, nor will Screen Queensland enter into correspondence with any such person.

## **THE APPLICATION PROCESS**

Before you apply for loan funds please read these guidelines thoroughly, and seek independent professional financial and legal advice. All applications for RFFF funds must be made using the application form on the SQ website. The application form contains details of specific documentation to be delivered as part of the application. An application fee of \$330 (including GST) must accompany all RFFF loan applications, which will cover the required credit checks and ASIC searches. Payment can be made via EFT and details are available on Screen Queensland's website. All funding decisions are subject to the approval of the CEO and Board of SQ, and are subject to contract. Applications are assessed at SQ board meetings and therefore must be received by board application deadlines listed on the SQ website.

### **ASSESSMENT OF LOAN APPLICATION**

Screen Queensland will perform a full credit-worthiness assessment of the parties, based on credit searches, industry knowledge, other inquiries and external advice.

Screen Queensland will also assess the following criteria with regards to RFFF Loans:

- The adequacy of the production schedule and budget
- Any risks associated with the project
- The market attachments to the project
- The benefits to the Queensland screen industry
- The experience and track record of the applicant, production team and the key creatives attached to the project.

Projects applying for the RFFF are not creatively assessed.

Loan funding is always subject to approval by the Screen Queensland Board as well as contracting.

The following materials need to be provided with the SQ application:

- RFFF Application Form and Application fee
- Provisional Certificate and accompanying letter from Screen Australia which states their satisfaction that the producer has a bona fide intent to distribute the film, if a feature film project. (Please Note an RFFF application assessment is not possible unless Screen Australia has issued a Provisional Certificate)
- A-Z Production Budget & QAPE spreadsheet indicating the estimated QAPE and Producer Offset (Screen Australia format)
- Finance plan (including the source, terms and proposed drawdown schedule)
- QAPE opinion from an independent Certified Practising Accountant or Chartered Accountant
- Production Investment Agreement for the project; or strong letters of commitment from all investment sources
- Details of all security for loan, including signed contracts and letters of interest
- Details of Completion Guarantor and letter of intent
- Sales estimates for all territories (low, medium, high) (ANZ and ROW)
- Marketing plan, audience plan and release plan (target audience, promotional activity)
- Production schedule (Key dates for: pre-production, production, post and delivery)
- Details of use of QLD elements (crew, locations and facilities), including a detailed Queensland Production Expenditure (QPE) estimate
- CV and Bios for key personnel

- Contact details for all key creative, key cast, and production companies
- Copy of Treatment, Synopses, Concept Document and Script
- Details of professional placements (QLD HOD's, production crew and attachments)
- Letter of intent from Insurer (Public liability and ENO)
- Certificate of Incorporation, ASIC Company Historical Search and ABN Search
- Co-Production documents (if applicable)

## **LOAN SECURITY**

Each application to the RFFF should demonstrate that the loan will be able to be repaid from sources, which are not related to the marketplace performance of the project for which the loan is sought, namely Producer Offset, distribution guarantees or pre-sales.

In addition to security arising from the commercialisation of the project, Screen Queensland may also seek a mix of all or some of the following based upon an assessment of risk:

- Cut through contract clauses to enable recoupment in first position from exploitation of the project in all territories where the loan is unable to be fully paid out by the principal source nominated;
- Registered securities over assets not connected with the intellectual property arising from the project;
- Additional guarantees or securities as circumstances may require including escrow arrangements.

Screen Queensland will require a security interest over the security provided, including the 'cinematograph film' as such term is defined in the Copyright Act 1968 (Cth), and will register that interest on the Personal Property Securities Register established by the Personal Property Securities Act 2009.

For loans to cashflow the producer offset, Screen Queensland will require a third party opinion as to the QAPE addressed to Screen Queensland from a reputable Certified Practising Accountant or Chartered Accountant and will seek access to revenues from exploitation of the project in all territories to repay any balance of the loan not recovered from the producer offset, and/or may seek to recover any shortfall from the producer's share of revenues or from the producer directly.

Screen Queensland will not lend more than 90% of the anticipated level of Producer Offset, and reserve the right to reduce this lending value ratio to below 90%. The applicant is expected to provide information on the security as may be required by Screen Queensland (such as audited financial statements and historical financial records) to determine its value. A letter of credit or other similar level of security in a form acceptable to Screen Queensland from an Australian financial institution is preferred in the case of loans to or secured by international companies without significant assets in Australia and loans for substantial sums secured by Australian or international companies. In the case of substantial public companies, a corporate guarantee may be considered in exceptional circumstances. The loan agreement (and related documents) will only be executed when Screen Queensland is satisfied with the form of security and documentation.

## **OTHER SECURITY MEASURES**

In cases where the security is dependent upon completion and delivery of a project, such as a distribution guarantee, presale, insurance policy or other similar financial instrument, Screen Queensland will also require a completion guarantee and in addition to the standard RFFF criteria

above, will assess the security based on each of the following:

- Credit-worthiness of the security offered by the applicant and other parties granting securities;
- Veracity of the sales estimates;
- Cost to Screen Queensland of having to exercise its rights to recover the loan from the security offered;
- The terms of the completion guarantee.

The SPV will need to establish a Bank Account for the sole purpose of receiving the Producer Offset refund. However SQ may also ask for a Tax Agent Directive to be put in place to transfer the outstanding loan amount, including outstanding interest, into SQ's own bank account, upon the release of the Producer Offset from the Australian Taxation Office.

Completion guarantees will be required for projects receiving loans where the security is the Producer Offset, and the amount of the loan must be less than the amount guaranteed.

## **INTEREST**

Interest is calculated on the loan amount from the date of drawdown until repayment. The repayment date is nominated by the borrower, and forms part of the loan agreement.

SQ will determine the interest rate applicable for each drawdown of funds, and this interest will be prepaid and withheld from the drawdown requested. Where loans are repaid early, the borrower will be entitled to a refund of the overpaid portion.

The applicable interest rate is half (50%) the 90-day Bank Bill Swap Rate.

## **ADMINISTRATION & LEGAL FEE**

The administration and legal fee will be charged on the whole loan and will be deducted from the first drawdown. This fee will cover all of SQ's administration and legal costs for the whole term of the loan.

The Applicant will be required to pay its own legal and other costs, but not those of SQ.

Provision should be made in any relevant budget or finance plan for the payment of interest and administration fee.

The Administration & Legal fee is a flat 5.5% of the total principal loan amount and is payable in advance on the total loan on the date of the first drawdown. GST is payable on the fee.

## **DRAWDOWNS**

The loan should be drawn down in accordance with the cashflow requirements of the project as approved by SQ. Unless prior written approval is granted, any funds not drawn within one month of the contracted dates will be subject to interest penalties (as Screen Queensland incurs interest on these loan funds).

A pre-condition of any drawdown is the receipt of an up-to-date QAPE cost report and QPE report.

There should be a maximum of 3 drawdowns and these must be requested in the correct written

format, as included in the loan contract.

It is suggested that prior to application submission, applicants should discuss their Drawdown and Repayment schedule with Screen Queensland to minimise the potential for loan extensions which incur additional and in some cases penalty interest.

## **REPAYMENT**

The loan must be repaid by the due date as stated in the RFFF loan agreement, usually no longer than 24 months after the first drawdown.

If the main security is the Producer Offset, then it must be used to repay all amounts outstanding, and cannot be used for any other purposes until the RFFF loan is repaid in full.

The SPV must apply for a Final Certificate from Screen Australia, as soon as possible, but no later than 3 months after the completion date, and take all steps necessary to obtain the Producer Offset.

The borrower will keep SQ informed in writing and direct to the appointed project manager of the progress and status of the application for the Final Certificate and the Producer Offset at least once every 2 weeks after application is made.

Applicants will be required to carefully consider the date they propose for repayment of the loan. If the loan is not made by the repayment date, the applicant will be considered in default, and may not have access to any further funding from SQ.

Any application to request an extension to the repayment date should be made in writing to Screen Queensland no later than three (3) months prior to the contracted repayment date. Extensions will be at the discretion of the CEO.

Additional interest will be applied in line with the terms of the RFFF loan agreement.

Where repayment is dependent upon payment of a distribution guarantee, pre-sale or maturation of any other financial instrument, the dates of repayment should be discussed with SQ before the submission of an application.

## **YOUR REQUIREMENTS DURING THE LOAN PERIOD**

You must do the following until repayment of the loan:

- Give written notice to SQ as soon as the borrower becomes aware of anything which may decrease the amount of QAPE or otherwise affect the issue of the Final Certificate;
- Not incur any financial indebtedness which may adversely affect your capacity to repay the loan;
- Produce and complete the Project in a professional manner and in accordance with the Project Documents, the QAPE Report and the Provisional Certificate and Minimum QPE;
- Prepare and keep all financial and accounting books and records for the Project;
- Provide SQ with a cost report of QAPE and QPE spent up to that date, prior to requesting a loan drawdown; and
- Provide SQ with a copy of every communication you have with the Producer Offset Unit in relation to the application for the Final Certificate.

## **INFRASTRUCTURE LOANS**

The RFFF will also provide loans for production and post-production infrastructure that has the ability to maintain a commercially viable film and television industry in Queensland.

Infrastructure for the purpose of these guidelines will not include plant and equipment.

The financial instrument proposed as security must ensure the repayment of funds.

Applicants must demonstrate that:

- the infrastructure project has a focus toward market driven outcomes;
- the infrastructure project will be a viable and sustainable operation in the medium to longer term with no further need for Screen Queensland (SQ) or Queensland Government financial assistance beyond that provided at the outset of the project;
- the project will increase industry capabilities in Queensland; and
- the cost of the project would be a specific impediment to the construction or expansion other than with the assistance of the RFFF Infrastructure Fund.

Loans are not available for speculative ventures.

Applicants must own the freehold title to the property on which the proposed infrastructure is to be constructed, and all proposed construction must satisfy relevant regulatory and statutory requirements for construction.

The applicant must be a legal entity incorporated in Australia.

Priority is always given to companies with an ongoing commitment to Queensland, and to infrastructure improvements that will provide the largest economic and cultural impact in Queensland.

## **HOW MUCH WILL SQ LOAN**

The nature of the project itself and the funds available determine the amount of funding per applicant for any single infrastructure loan.

RFFF infrastructure loans are subject to the availability of funds.

## **LOAN SECURITY**

A principal factor in the assessment of applications is the value of the security.

The applicant is expected to provide information on the security as may be required by SQ to determine its value.