

Financing Your Film Project

Philadelphia Volunteer Lawyers for the Arts
A program of the Arts & Business Council of Greater Philadelphia



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So, You Want to Finance Your Film Project

By Max Kimbrough and Michelle Backes
For Philadelphia Volunteer Lawyers for the Arts

Did you know that for the Fiscal Year 2008, the City of Philadelphia appropriated \$2.1 million for the Philadelphia Cultural Fund? That since its inception in 1993, the Cultural Fund has distributed \$23,700,000 to hundreds of arts and culture organizations throughout the city? The Commonwealth of Pennsylvania has also appropriated \$15.7 million in grants for the arts, to be distributed through the Pennsylvania Council on the Arts for Fiscal Year 2008. On a national level, the federal government appropriates roughly \$130 million for the National Endowment for the Arts each year. For filmmakers, the question becomes: "How Can I Get Some of This Money to Fund My Film Project"?

Some Basics

There are primarily two paths to take when seeking the necessary capital to sustain your film project: **fundraising** and **financing**. Fundraising consists of acquiring capital, traditionally in the form of grants or other contributions, from individuals or entities that do not expect any financial return on their gift. This is the common choice for independent filmmakers whose projects include, for example, shorter films, experimental projects, and documentaries. Financing, on the other hand, involves acquiring capital from investors who do expect a return on their investment. This avenue often appeals to filmmakers developing larger, commercial projects and feature films.

Fundraising

For filmmakers just beginning their careers, or for short-feature film projects, fundraising will generate the most capital towards the creation of the film. These funds primarily come from contributions, either monetary or in-kind goods or services, of friends and family. However, there are other sources of capital contributions, such as grants received from non-profit or government organizations or from corporate giving

programs. When researching non-profit foundations, do not limit yourself to ones that focus on the arts or filmmaking specifically. It may also be helpful to examine the mission statements of such organizations to see how your project advances their goals. Further, especially with respect to corporations, look to see what kinds of projects they have funded in the past. Also keep in mind that applying for grants may be a somewhat tedious process, and it may be helpful to hire a grant-writer who is experienced in drafting successful proposals.

Financing

Financing is also an important source of funds. Investment companies, such as production companies and studios, are the primary source of these funds. Another option is co-production. Much like one would "pitch" their project to attain a grant, a filmmaker can pitch his idea to investors. The primary difference between financing a project and earning capital through fundraising is that these contributions are not gifts. If the contribution was a loan, the film producer will be required to pay it back. Investors may alternatively contribute capital in exchange for a percentage share of the film's profits. Common sources for financing are private investors, large studios, or independent production companies that frequently work with new directors.

State Tax Credits

Pennsylvania offers a 25% tax credit (up to \$75 million) to films that spend at least 60% of their total budget in the Commonwealth. In addition, Pennsylvania state departments and agencies may not charge a fee above the actual costs incurred by the affected department or agency, for the use of state-owned property for the purpose of making commercial motion pictures. For specific information regarding incentives for filming in Pennsylvania, please visit the Pennsylvania Film Office's Web site at <http://www.filminpa.com/filminpa/econIncentives.jsp> or call 717-783-3456.

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Getting Started

The first step can be to incorporate your film project, which would essentially mean incorporating as a production company. There are various forms of business organization, such as sole-proprietorships, limited liability corporations, partnerships, and many more. Each possesses inherently different features in terms of individual liability and tax implications, and it is recommended that you consult with an attorney to determine which form best suits your individual needs as well as the goals for your film project. The idea behind incorporating is that the funds raised are received by and for the project, not the filmmaker himself. There are several salient points to note concerning this process. Most foundations are unwilling to grant funds to individuals directly. Rather, the grants are made to organizations for an individual's project.

Further, in many cases, to be tax-deductible individual contributions may only be made to an organization that has non-profit status. This brings us to another point. Most foundations are also unwilling to grant funds for filmmakers unless the organization has non-profit status. However, while production companies may apply for 501(c)(3) status, it is a rather complicated process, and many companies decide that it is not worth the effort unless the company will be producing non-commercial work for a number of years.

Thus production companies may also seek fiscal sponsorship by a non-profit organization for their film project. A fiscal sponsorship can create legal and fiduciary obligations between the sponsoring non-profit organization and the individual production company. Essentially, in many cases the production company borrows the agent's 501(c)(3) status.

The sponsor will then receive and administer grants and other donations made towards the producer's project. Further, the sponsor may often take an administration fee for use of its 501(c)(3) status, averaging five to ten percent of the project.

Resources

The Internet is probably the best place to start searching for potential donors and investors for your film project. Here in Philadelphia, the Philadelphia Film Office is a great place to get started. In addition, the Philadelphia Independent Film and Video Association (PIFVA) at www.pifva.org is a

valuable resource for information on getting started and pitching your project, including popular sources for funding. PIFVA's services include its Subsidy Grant program, which gives cash and in-kind mini-grants to member applicants. The Greater Philadelphia Film Office (GPFO) is a non-profit organization that serves southeastern Pennsylvania, and is another good resource for burgeoning filmmakers. GPFO's services include a 24-hour hotline with job opportunities and industry news, assistance with government permit or license requirements, location scouting, and support and promotion through local film festivals. For more information, please visit www.film.org or call (215) 686-2668. The number for the 24-hour hotline is (215) 686-3663. While Philadelphia-area resources may provide the bulk of your resources, there are state and national organizations as well. For example, the Commonwealth of Pennsylvania offers many economic incentives to feature-length filmmakers filming in Pennsylvania, such as sales tax exemptions upon national distribution and free use of state property for filming. Particularly with respect to larger, feature films, these economic incentives can help to improve the bottom-line figures and ultimately aid in making the film more profitable. While many of these incentives do not often apply to short-films and other smaller productions, they are valuable resources for filmmakers of feature-length projects. For more information on these economic incentives see www.filminpa.com. Remember that capital contributions are not the only way to get assistance with your project. Organizations and production companies may be willing to give or loan equipment. Even a local restaurant may want to get involved by donating lunch for the set one day! Most importantly, be creative in your approach and do not limit the resources you target.

For more information on these or any other arts-related legal issues, contact:

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