



New Jersey Digital Media Tax Credit Application

For State Fiscal Year 2010 (07/01/2009 – 06/30/2010)

(Please Read These Instructions Before Completing Application)

Please submit three (3) sets of completed application. Incomplete applications will be returned.

First Class US Mail Address:

NJEDA
PO Box 990
Trenton, New Jersey 08625-0990
Ref: Digital Media Tax Credit

Overnight Delivery Address:

NJEDA
36 West State Street
Trenton, New Jersey 08625
Ref: Digital Media Tax Credit

Dear Applicant:

The New Jersey Digital Media Tax Credit Program provides New Jersey Corporation Business Tax Credits of up to 20% for Qualified Digital Media Content Production Expenses. Please see P.L. 2007, c. 257 (N.J.S.A. §§ 54:10A-5.39 and 54A:4-12).

The NJEDA will accept applications on or after July 1, 2009 (but no later than June 30, 2010). No applications will be accepted prior to July 1, 2009. The applications will be considered on a first come first served basis.

PLEASE REVIEW THE FOLLOWING CRITERIA TO DETERMINE IF YOU MAY QUALIFY FOR THIS PROGRAM. (Failing any one of the below five (5) criteria will result in ineligibility of an applicant to receive a benefit from this Program):

- 1) At least \$2,000,000 in Qualified Digital Media Content Production Expenses must be incurred by the Applicant during the State Fiscal Year applied for;
- 2) At least 50% of the above Qualified Digital Media Content Production Expenses is from digital media salaries, as evidenced by NJ W2 forms with \$36,000 or more in wages and salaries, during the State Fiscal Year applied for;
- 3) Will create at least 10 high-quality full-time digital media jobs (annual salary of each is \$65,000 or more and is evidenced by NJ W2 forms) during the State Fiscal Year applied for; and those created 10 high-quality full-time digital media jobs must be maintained for at least 3 more years;
- 4) None of the above digital media employees, jobs, or positions could be included in a past, current or future NJ BEIP or NJ BRRAG;
- 5) The Applicant itself must be directly subject to the New Jersey Corporation Business Tax (NJ CBT).

9. Estimated amount of the Qualified Digital Media Content Production Expenses for the State Fiscal Year 2010 (July 1, 2009 to June 30, 2010): (cannot be less than \$2,000,000).

D. EXISTING NEW JERSEY JOBS

10. How many full-time (NJ W2) employees does the Applicant have at the digital media project site (the street address in Question 2 on Page 2)?

	At the time of application (on ___/___/20___):
BEIP jobs, if any	
BRRAG jobs, if any	
Digital Media jobs, if any	
All other	
TOTAL NJ FT W2 jobs:	

Do you have any other site (non digital media site) with employment in New Jersey (other than the street address in Question 2 on Page 2)? Yes No

If yes, please list them:

Also provide an attachment showing the same table and its content information for all locations, incl. the above digital media site, in New Jersey.

E. DIGITAL MEDIA JOB CREATION ESTIMATE FOR THE ABOVE PROPOSED DIGITAL MEDIA PROJECT

Estimated/Proposed Numbers For State Fiscal Year 2010 (July 1, 2009 – June 30, 2010)

	Number of Jobs	Total NJ W2 Salary & Wage Expense on Jobs
Completely New Digital Media Jobs with Annual Salaries of at least \$65,000	<i>Box A</i>	
New Digital Media Jobs Converted from Existing NJ Jobs with Salaries of at least \$65,000		
Completely New Digital Media Jobs with salaries between \$36,000 and \$64,999		
New Digital Media Jobs Converted from Existing NJ Jobs with salaries between \$36,000 and \$64,999		
TOTAL:		<i>Box B</i>

“Box A” must have 10 or more new jobs created in SFY2010. “Box A” jobs must be maintained for at least 3 more years. “Box B” divided by the estimated Qualified Digital Media Content Production Expenses shown on Page 3, Question 9, must be at least 50%.

DISCLOSURE

It is expressly agreed and understood that any information submitted to or obtained by the NJEDA, the New Jersey Division of Taxation or New Jersey Motion Picture and Television Commission in connection with this application may be shared among the NJEDA, the New Jersey Division of Taxation, the New Jersey Motion Picture and Television Commission, and the New Jersey Department of Labor and Workforce Development. Applicant understands and agrees that the NJEDA may be required to release information pursuant to a request under the New Jersey Open Public Records Act.

LEGAL

Businesses applying for eligibility for NJEDA programs are subject to the Authority's Disqualification/Debarment Regulations (the "Regulations"), which are set forth in N.J.A.C. 19:30-2.1, et seq. Applicants are required to answer the following background questions pertaining to the commission of certain actions that can lead to debarment or disqualification from eligibility under the Regulations.

All capitalized terms used in this Legal Questionnaire, except those defined elsewhere herein, shall be defined at the end of this Legal Section.

Has the applicant, any officers or directors of the applicant, or an Affiliate (collectively, the "Controlled Group") been found guilty, liable or responsible in any Legal Proceeding for any of the following violations or conduct? (Any civil or criminal decisions or verdicts that have been vacated or expunged need not be reported).

1. Commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or in the performance of such contract or subcontract.

Yes No

2. Violation of the Federal Organized Crime Control Act of 1970, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty.

Yes No

3. Violation of the Federal or State antitrust statutes, or of the Federal Anti-Kickback Act (18 U.S.C.874).

Yes No

4. Violation of any law governing the conduct of elections of the Federal Government, State of New Jersey or of its political subdivision.

Yes No

5. Violation of the "Law Against Discrimination" (P.L. 1945, c169, N.J.S.A. 10:5-1 et seq., as supplemented by P.L. 1975, c127), or of the act banning discrimination in public works employment (N.J.S.A. 10:2-1 et seq.) or of the act prohibiting discrimination by industries engaged in defense work in the employment of persons therein (P.L. 1942, c114, N.J.S.A 10:10, et seq.).

Yes No

6. To the best of your knowledge after reasonable inquiry, violation of any laws governing hours of labor, minimum wage standards, prevailing wage standards, discrimination in wages, or child labor.

Yes No

7. To the best of your knowledge, after reasonable inquiry, violation of any law governing the conduct of occupations or professions of regulated industries.

Yes No

8. Debarment by any department, agency, or instrumentality of the State or Federal government.

Yes No

9. Violation of any of the following prohibition on vendor activities representing a conflict of interest, or failure to report a solicitation as set forth below:

- i. No person shall pay, offer or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any Authority officer or employee or special

Authority officer or employee, as defined by N.J.S.A 52:13D-13(b) and (e), with which such person transacts or offers or proposes to transact business, or to any member of the immediate family as defined by N.J.S.A 52:13D-13i, of any such officer or employee, or partnership, firm or corporation with which they are employed, or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A 52:13D-13g.

ii. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Authority officer or employee or special Authority officer or employee from any person shall be reported in writing by the person to the Attorney General and the Executive Commission on Ethical Standards.

iii. No person may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such person to, any Authority officer or employee or special Authority officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Authority, or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A 52:13D-13g. Any relationships subject to this subsection shall be reported in writing to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the Authority officer or employee or special Authority officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

iv. No person shall influence, or attempt to influence or cause to be influenced, any Authority officer or employee or special Authority officer or employee in his or her capacity in any manner which might tend to impair the objectivity or independence of judgment of the officer or employee.

v. No person shall cause or influence, or attempt to cause or influence, any Authority officer or employee or special Authority officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the person or any other person.

Yes No

10. Has any member of the Controlled Group been found guilty, liable, or responsible for the violation in any Legal proceedings of any State, Federal or foreign law that may bear upon a lack of responsibility or moral integrity, or that may provide other compelling reasons for disqualification. (Your responses to the foregoing question should include, but not be limited to, the violation of the following laws, without regard to whether any monetary award, damages, verdict, assessment or penalty has been made against any member of the Controlled Group, except that any violation of any environmental law in category (v) below need not be reported where the monetary award damages, etc., amounted to less than \$1 million).

i. Laws banning or prohibiting discrimination or harassment in the workplace on the basis of gender, race, age, religion or handicapped status.

ii. Laws prohibiting or banning any form of forced, slave, or compulsory labor.

iii. Laws protecting workers who have reported the wrongdoing of their employers to governmental authorities, commonly referred to as “Whistleblower Laws”.

iv. Securities or tax laws resulting in a finding of fraud or fraudulent conduct.

v. Environmental laws.

vi. Laws banning the possession or sale of, or trafficking in, firearms or drugs.

vii. Laws banning anti-competitive dumping of goods.

viii. Anti-terrorist laws.

ix. Criminal laws involving commission of any felony or indictable offense under State, Federal or foreign law.

x. Laws banning human rights abuses.

xi. Laws banning the trade of goods or services to enemies of the United States.

xii. The New Jersey Conflicts of Interest Law, N.J.S.A. 52:13D-1, et seq.

Yes No

11. To the best of your knowledge, after reasonable inquiry, is any member of the Controlled Group a party to pending Legal Proceedings wherein any of the offenses or violations described in questions 1-10 are alleged or asserted against such entity or person?

Yes No

If the answer to any of the foregoing questions is affirmative, you must provide the following information as an attachment to the application: (i) the case and court in which such matters were tried or are pending; (ii) the charges or claims adjudicated or alleged; and (iii) a brief explanation of the circumstances giving rise to such matters. Also, for affirmative answers to questions 1-10, copies of the final judgments, consent orders or administrative findings, as the case may be, that were entered or made in such matters must be attached.

The terms set forth below shall be defined as follows for purposes of this Legal Section:

“Affiliates” means persons having an overt or covert relationship such that any one of them directly or indirectly controls or has the power to control another.

“Legal Proceedings” means any State, Federal or foreign civil, criminal or administrative proceeding in a court or administrative tribunal in the United States, any territories thereof or foreign jurisdiction.

The Authority reserves the right to require additional clarifying or explanatory information from the applicant regarding the answers given. If, at any time prior to board action on this application, or, at any time between the date of such action and the execution of a grant or project agreement, if any, the applicant should become aware of any facts that materially alter or change such answers, or render any of them incomplete, the applicant shall have a duty to immediately report such facts to the Authority in writing.

CERTIFICATION

As the _____ [title] of _____ [applicant], to the best of my knowledge and belief, after due inquiry, the information provided in connection with this application is accurate and complete.

Signature of Authorized Person
[must be an authorized officer]

Print Name and Title

Date

DEFINITIONS

Excerpts from 2007 N.J. Ch. 257 (N.J.S.A. §§ 54:10A-5.39 and 54A:4-12):

"Digital Media Content" means any data or information that is produced in digital form, including data or information created in analog form but reformatted in digital form, text, graphics, photographs, animation, sound and video content. "Digital media content" does not mean content offerings generated by the end user (including postings on electronic bulletin boards and chat rooms); content offerings comprised primarily of local news, events, weather or local market reports; public service content; electronic commerce platforms (such as retail and wholesale websites); websites or content offerings that contain obscene material as defined pursuant to N.J.S.2C:34-2 and N.J.S.2C:34-3; websites or content that are produced or maintained primarily for private, industrial, corporate or institutional purposes; or digital media content acquired or licensed by the taxpayer for distribution or incorporation into taxpayer's digital media content.

"Qualified Digital Media Content Production Expenses" means an expense incurred in New Jersey for the production of digital media content. Qualified digital media content production expenses shall include but shall not be limited to wages and salaries of individuals employed in the production of digital media content on which the tax imposed by the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq. has been paid or is due; the costs of computer software and hardware, data processing, visualization technologies, sound synchronization, editing, and the rental of facilities and equipment. Qualified digital media content production expenses shall not include expenses incurred in marketing, promotion or advertising digital media or other costs not directly related to the production of digital media content. Costs related to the acquisition or licensing of digital media content by the taxpayer for distribution or incorporation into the taxpayer's digital media content shall not be qualified digital media content production expenses.

"Total Digital Media Content Production Expenses" means costs for services performed and property used or consumed in the production of Digital Media Content.

Reporting Requirements:

- 1) Annual Report on Digital Media jobs created and maintained showing Employee Names, Dates of Hires, Annual W2 Salaries, Social Security Numbers, Job Titles, and a certification that the Project is still a digital media project.
- 2) Certification that no employee listed in said Annual Report is included in either a BEIP Grant or BRRAG.
- 3) An independent CPA audit of all Total Qualified Digital Media Content Production Expenses for the State Fiscal Year showing qualified W2 salary and wage component, number of high-quality digital media employees (with \$65,000 or more NJ W2s), number of other qualified digital media employees (between \$36,000 and \$64,999 on NJ W2 forms), and that the applicant has met all the requirements and conditions of the Statute, and the Regulations. The CPA audit should include total NJ full-time W2 employment with classification of current or past BEIP and BRRAG employees/positions, if any.