

# *RESOURCE ALLOCATION MANUAL*

Colombia  
Film  
Commission



Proimágenes Colombia

**Colombia**

We have it! 

## **AGREEMENT NO. 60 OF 2020\***

Whereby the Resource Allocation Manual provided for in Law 1556 of 2012, as amended by Articles 177° and 178° of Law 1955 of 2019, is adopted.

### **COLOMBIA FILM PROMOTION COMMITTEE**

In use of the powers conferred by Law 1955 of 2019, National Development Plan, Pact for Colombia, Pact for Equity; Law 1556 of 2012; and Decree 1080 of 2015, as amended and added as relevant by Decree 474 of 2020.

### **WHEREAS**

That by means of Agreement 038 of 2017, the Resource Allocation Manual of the Colombia Film Fund (FFC) established in Law 1556 of 2012 and amended by Law 1955 of 2019, National Development Plan, Pact for Colombia, Pact for Equity, was adopted.

That Article 177 of Law 1955 of 2019 extended until 2032 the validity of Law 1556 of 2012.

That, likewise, Article 177 of Law 1955 of 2019 extended the coverage of the Colombia Film Fund to other audiovisual genres, as defined in the Resource Allocation Manual.

That the previous article determined that at least fifty percent (50%) of said Fund must be allocated to feature films, unless there are insufficient applications or endorsed by the Colombia Film Promotion Committee. For its part, Article 2.10.3.3.3.5 of Decree 1080 of 2015, added by Article 1 of Decree 474 of 2020, provides how the referred norm of the National Development Plan should be applied, with the understanding that the relevant percentage shall be determined by the Committee within the first two (2) months of each year and may be modified during the course of the year according to the typology of the projects presented or in perspective of requesting the consideration from the Colombia Film Fund.

That Article 178 of Law 1955 of 2019 amended Article 9 of Law 1556 of 2012, in the sense of establishing, among other aspects, a 35% tax discount for the case of foreign audiovisual works of any genre defined by the Colombia Film Promotion Committee, when they undertake audiovisual works in the country. This discount is covered by Audiovisual Investment Certificates in Colombia as provided for in the aforementioned legal article.

Pursuant to Articles 177 and 178 of Law 1955 of 2019 and Decree 1080 of 2015, as amended by Decree 474 of 2020, the Colombia Film Promotion Committee is responsible for defining various aspects of the operation of the Colombia Film Fund's consideration for national and foreign audiovisual works, as well as the tax discount covered by Audiovisual Investment Certificates in Colombia for foreign audiovisual works that develop works in the country.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

Consequently, it is necessary to adopt a new Resource Allocation Manual to determine the management guidelines for both instruments described above, with respect to the promotion of the national territory as a stage for audiovisual works.

## **WE HAVE AGREED**

**Article 1. Decision.** To approve the following Resource Allocation Manual.

**Article 2. Index.** A thematic index is presented to facilitate the consultation of this Manual. Notwithstanding the above, applicants must read all regulations.

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\*Includes the amendments and additions provided for in Agreement 86 of 2022.

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## **CHAPTER I GENERAL INFORMATION**

**Article 3. Object.** This Resource Allocation Manual establishes the principles, requirements and conditions for the application, approval, follow-up, and coverage of audiovisual projects with the consideration from the Colombia Film Fund or with the tax discount covered by Audiovisual Investment Certificates in Colombia, as provided for in Law 1556 of 2012, as amended by Law 1955 of 2019.

**Article 4. Use of terms.** For the purposes of this Manual, the following concepts and acronyms shall be observed:

**4.1. Stimulus instruments of Law 1556 of 2012.** This concept will be used in this Manual to jointly designate the incentive systems established in Law 1556 of 2012, as amended by Articles.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

177° and 178° of Law 1955 of 2019 to promote the development of audiovisual works in the Colombian territory.

These instruments are, on the one hand, the Colombia Film Fund Consideration and, on the other hand, the tax rebate covered by Certificates of Audiovisual Investment in Colombia.

- 4.2. Colombia Film Fund.** Fund created by Law 1556 of 2012, from which the consideration system established therein is nourished. In this Manual it will be identified by the acronym FFC.
- 4.3. FFC's counterpart.** FFC resources that are allocated to the producer whose audiovisual project has been approved by the CPFC, once it accredits compliance with all the conditions established in the FFC regulations.
- 4.4. Audiovisual Investment Certificates in Colombia.** Negotiable securities documents in the name of the foreign producer responsible for the audiovisual project, through which the tax discount system created in Article 9 of Law 1556 of 2012, as amended by Article 178 of Law 1955 of 2019, is covered. In this Manual, Certificate of Audiovisual Investment in Colombia will be identified with the acronym CINA.
- 4.5. Colombia Film Promotion Committee.** Decision-making body for the stimulus instruments of Law 1556 of 2012. In this Manual it will be identified by the acronym CPFC.
- 4.6. Proimágenes Colombia.** Fondo Mixto de Promoción Cinematográfica (Mixed Fund for Film Promotion), created in accordance with Article 46 of Law 397 of 1997, is a non-profit civil corporation with state and private members, governed by private, civil, and commercial law.

By decision of the Ministry of Commerce, Industry and Tourism, the Ministry of Culture, and the Colombia Film Promotion Committee, respectively, and based on Decree 1080 of 2015, as amended by Decree 474 of 2020 and the relevant agreements entered into with said entities, it is the civil corporation that conducts the management of the FFC. It also serves as the Technical Secretariat of the CPFC and operates as the National Film Commission.

In this Manual Proimágenes will be designated as Technical Secretariat, or as the Management Entity as appropriate.

- 4.7. Colombia Filming Contract.** Legal agreement to be entered into by the applicant producer of the audiovisual project approved by the CPFC, in order to regulate the conditions for the allocation of the incentive instruments of Law 1556 of 2012.
- 4.8. FFC regulations.** Set of provisions of Law 1556 of 2012, as amended by Law 1955 of 2019, Decree 1080 of 2015, as amended by Decree 474 of 2020 and other regulatory norms; this Resource Allocation Manual, CPFC decisions, the Contracting Manual or any other norm that regulates aspects related to the allocation of the FFC consideration.
- 4.9. CINA Regulations.** Set of provisions of law 1556 of 2012, as amended by law 1955 of 2019, decree 1080 of 2015, as amended by.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

Decree 474 of 2020 and other regulatory norms; this Resource Allocation Manual, CPFC decisions, the Contracting Manual or any other norm that regulates aspects related to the allocation of NAICs.

**4.10. Postulated project.** It is the project submitted for consideration by the CPFC and corresponding to any of the audiovisual works covered by the incentive instruments of Law 1556 of 2012. In this Manual it may be referred to as the postulated project, the audiovisual project or generically as the project.

**4.11. Feature film.** In accordance with the provisions of Article 2.10.1.1, Title I, Part X of Decree 1080 of 2015 and according to the legally adopted definitions, the feature film designates elements that harmonize to constitute it, and comprise an artistic object and cinematographic language, a set of moving images, with or without sound, and a material support that allows them to be fixed.

In line with the preceding paragraph, the expression feature film refers to the concretion and structural conjunction of the aforementioned elements.

The following are not considered feature films:

- a) Due to its window: Those made with television as an essential window for public communication, except for feature films intended for television with a duration of not less than 52 minutes, excluding commercials.
- b) Due to its series nature: Soap operas, documentaries, series or works of any genre that are clearly intended to be broadcast on television with identifiable periodicity or under the coverage of the same programming space.
- c) For advertising or marketing purposes: Those with the appreciable purpose of advertising or marketing products, institutions, goods, services or any other activity or object.
- d) Because of its institutional nature: Those whose purpose is to highlight the image, activity or services provided by a specific public or private institution.
- e) By limit of display or hearing of marks: Those that use in an appreciable and/or repetitive manner visualization or sonorous mention of product or service brands, in such a way that it may be understood as an institutional or advertising work.
- f) For its fundamentally pedagogical purpose: Those whose main purpose is to educate about a fact, product, behavior, or activity.

**4.12. National feature film.** That which meets the Colombian nationality requirements (artistic, technical, and economic) set forth in Law 397 of 1997, Decree 1080 of 2015 or in the provisions that modify them.

**4.13. Non-national feature film.** The one that does not meet the requirements (artistic, technical, and economic) described in the previous numeral.

- 4.14. Series.** Fiction, documentary, or other audiovisual work approved by the CPFC, which is broadcast or communicated to the public in episodes. Non-scripted realities or works are included.
- 4.15. Video game.** Audiovisual work consisting of an interactive application that leads to an experience that allows interaction with the elements contained in it, through the use of audiovisual and software tools.
- 4.16. Music Video.** Audiovisual work essentially intended to represent a musical work or artist. It does not include concert recordings, but can incorporate images of recorded concerts.
- 4.17. Advertising audiovisual production.** It is the audiovisual work that has a purpose strictly aimed at the marketing of goods, products, brands, or services, among others.
- 4.18. Non-national audiovisual work.** For the purposes of this Manual, it will be a work that has foreign economic participation and is applied in that amount, by decision of its producer, to the tax discount covered by Certificates of Audiovisual Investment in Colombia.

In the case of audiovisual works submitted to the FFC's compensation system, the producers, both nationals and foreigners, will decide under which nationality they will apply.

The above does not apply to feature films, which are subject to the definition of nationality set forth in items 4.12 and 4.13.

- 4.19. Services in Colombia.** Pursuant to Decree 1080 of 2015, Article 2.10.3.3.3.4., added by Article 1 of Decree 1091 of 2018, they are film or audiovisual services for the purposes of Articles 9° and 14° of Law 1556 of 2012, of its amending or regulatory provisions and of this Manual:
- a. Film or audiovisual services: *Specialized activities directly related to the pre-production, production and post-production of feature films or audiovisual works, including artistic and technical services **provided by Colombian individuals or legal entities domiciled or resident in the country.** (...)*
  - b. Film or audiovisual logistics services: Hotel, food, and transportation, necessary for the film or audiovisual project.

Legal entities must prove domicile in Colombia, understood for the purposes of this Manual as the address of their headquarters in the country.

Colombian natural persons must be domiciled, that is, prove a permanent residence address in Colombia and be residents in the country, understanding this as continuous or discontinuous stay in Colombia for no less than 183 calendar days in the calendar year of the expense.

Colombian individuals or legal entities that file income tax returns in Colombia meet these conditions.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

For the purposes of this Manual, the generic terms audiovisual services shall be used to refer to those described in item "a"; and audiovisual logistics services shall be used to refer to those described in item "b".

Together, both types of services may be referred to in this Manual as National Project Services.

**4.20. Film services company:** A legal entity legally incorporated in Colombia and registered in the Registry of Film Service Providers of the Ministry of Culture, whose purpose includes the provision of film services.

**4.21. Producer.** Person who has the initiative, coordination, and responsibility for the production of the audiovisual work. It is the person responsible for entering into contracts with the persons and entities involved in the realization of the work, and owner of the economic rights of the same.

Only audiovisual projects whose producers are legal entities may apply to the incentive instruments of Law 1556 of 2012.

**4.22. Applicant producer.** Producer who applies with their audiovisual project to the incentive instruments of Law 1556 of 2012. In this Manual it may be referred to as producer or producing company.

**4.23. Total spending budget in the country:** This is the budget presented by the producer that includes all the items and amounts to be executed in the country, classified into audiovisual services and audiovisual logistics services, taxes and other expenses. This budget is an integral part of the audiovisual project approved by the CPFC.

**4.24. Budget of expenses subject to consideration:** This is the budget for in-country spending on audiovisual services and audiovisual logistics services subject to FFC consideration, before the application of VAT. This budget excludes expenses not covered by the FFC consideration.

**4.25. Expenditure budget subject to CINA.** It is the budget of expenditure in the country on audiovisual services and audiovisual logistic services that can be covered by CINA, before the application of VAT. This budget excludes expenses not covered by the CINA tax credit.

**4.26. Minimum expenditure in the country:** It is the expenditure on audiovisual services or audiovisual logistics services in Colombia, for a minimum amount described in this Manual for each type of audiovisual work eligible for the incentive instruments of Law 1556 of 2012. In this Manual, the concepts of investment and expense are considered analogous.

The minimum monthly legal minimum wage in force in Colombia in the year the project is approved is used as a reference for calculating the minimum expenditure.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.



- 4.27. SMLMV.** Minimum legal monthly salary in force in Colombia, which changes every year. For the purposes of this Manual, the calculation in SMLMV will not take into account the transportation allowance.
- 4.28. Contributions to the comprehensive social security system.** They refer to all contributions or payments provided for by the Comprehensive Social Security System in force in Colombia to guarantee the coverage of economic, health and complementary services benefits, subject of this Law 100 of 1993, or others that may be incorporated in the future.
- 4.29. Production.** It refers to work related to audiovisual production in its different stages of conception and realization. In this Manual, the production stage is differentiated from the post-production stage.
- 4.30. Management Entity.** This refers to the non-profit entity that, through a relationship with the Ministry of Commerce, Industry and Tourism (in the case of the FFC) and the Ministry of Culture (in the case of the tax rebate under NAIC), manages the different processes set forth in this Manual.

**Article 5. General precepts.** The following general precepts shall be observed in the management and use of the incentive instruments of Law 1556 of 2012:

- 5.1. Equality:** The projects will be evaluated with the same criteria, with no order of priority or prevalence among them.
- 5.2. Responsibility:** Failure to comply with the project generates the consequences set forth in this Manual and in the Colombia Filming Contract. The latter provides for cases of non-compliance.
- 5.3. Truthfulness:** All documentation and information submitted by the producer to the CPFC is presumed to be truthful. By applying, the producer accepts that the CPFC and the instances designated in this Manual verify the information they consider; likewise, the producer agrees to submit any clarification required to confront aspects of the project and accepts that no incentive instrument of Law 1556 of 2012 will be granted until any doubts are clarified.
- 5.4. Concurrence:** The same producer may apply for several CPFC projects.
- 5.5. Information to the producer:** The information on project applications does not constitute advice to the producer, nor does it constitute a promise of allocation of any of the incentive instruments of Law 1556 of 2012.
- 5.6.** The costs incurred by the producer for the application are the sole responsibility of the producer.
- 5.7. Application of deadlines:** When the FFC or NAIC regulations refer to days, these are understood to be business days, i.e., any day from Monday to Friday, excluding holidays in Colombia. In the event that the last day of an established term is not a business day, it will run on the next business day, regardless of whether the term is established in years, months, or days.

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- 5.8. Rights:** The allocation of any of the incentive instruments of Law 1556 of 2012 does not confer patrimonial rights to the CPFC or the Management Entity over the projects. Nor does it imply solidarity or responsibility of these instances for the projects.

Given the nature of audiovisual projects and their stages, the following events cannot be excused for non-compliance with the contract or the project, nor can the following be alleged as a fact attributable to third parties or force majeure or fortuitous event: (a) The insufficiency of other sources of financing other than the stimulus; (b) Difficulties, discrepancies or litigation inherent in the contractual relations of the applicant producer with the artistic, technical, creative personnel or with other co-producers, participants, investors, dependents, or third parties linked to the project, or the facts of these; (c) Contingencies of the stages of the audiovisual work.

The applicant producer agrees to respond directly and autonomously before the Management Entity and third parties for any act related to the application, regardless of who within the applicant producer's organization (employees, dependents, contractors, attorneys-in-fact, among others) may have committed the act.

Applicants declare and undertake to hold the Management Entity and Colombian public entities harmless against any claims from third parties related to their projects. This Manual and the Colombia Filming Contract establish the consequences of non-compliance with the projects.

- 5.9. Advertising.** The applicant producer expressly authorizes the Management Entity and members of the CPFC to provide any information related to the Project, when a public entity so requires in the exercise of its powers.

Likewise, it understands and accepts that it is public and that the Management Entity and public instances members of the CPFC may provide to the public and any person who so requests, the information of the Project, related to: (a) Who is the recipient of the incentives of Law 1556 of 2012; (b) Amount of the Stimulus and disbursements; (c) Contractual term; (d) Title of the Project; (e) In general, all other information that is not expressly subject to reserve by law, regarding the recipient of the respective incentive of Law 1556 of 2012, the Project or the Colombia Filming Contract.

## **CHAPTER II COLOMBIA FILM FUND (FFC); CONSIDERATION**

### **SECTION I PROJECT APPLICATION**

**Article 6. Projects covered.** The Colombia Film Fund (FFC) is open to audiovisual projects from:

- 6.1. Feature films.
- 6.2. Series.
- 6.3. Music videos.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

**Paragraph.** Projects may be of any nationality.

**Article 7. Components.** *Modified by article 1 of Agreement 86 of 2022. The new text is as follows:* Applications can be in the following components:

- 7.1. Production that incorporates filming in the country.
- 7.2. Production and postproduction component.
- 7.3. Post-production, only for projects that prior to the application had been recipients of the FFC counterpart for production.
- 7.4. Animation, where, in accordance with Decree 1080 of 2015, it is not essential to carry out filming but rather production and post-production activities relevant to this genre.

**Paragraph.** Projects whose only scope is post-production are not eligible.

**Article 8. Applicants.** *Modified by article 2 of Agreement 86 of 2022. The new text is as follows:* Legal entities that are producers of the respective audiovisual project may apply for the FFC consideration.

For foreign projects, all the necessary steps, from the application to the delivery of the FFC counterpart, can be done through

(a) the national co-production company, or (b) the project's film services company, under a power of attorney or mandate; always in the name and on behalf of the foreign producer.

**Paragraph:** The power of attorney or mandate document must correspond to the format established by the Management Entity.

**Article 9. Minimum expenditure in the country.** *Modified by article 4 of Agreement 86 of 2022. The new text is as follows:* By applying to the FFC, the producer agrees to make, separately or jointly, expenditures for audiovisual services and/or audiovisual logistical services, for a minimum amount of one thousand eight hundred (1,800) SMLMV, including taxes. The following special rules apply depending on the type of work:

- 9.1. For series, the minimum expenditure may be distributed in up to four (4) episodes in series. Of the total minimum expenditure in the country, the average per episode cannot be less than 450 SMLMV.
- 9.2. The minimum expenditure per episode referred to in numeral 9.1 does not apply to animated series.

**Paragraph.** For music videos the minimum expenditure may be distributed in a package of a maximum of twenty (20) videos. In any case, of the total minimum expenditure in the country, the average per video cannot be less than ninety (90) SMLMV.

**Article 10. Restrictions.** *Modified by article 6 of Agreement 86 of 2022.* They will not be eligible for the FFC consideration:

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

- 10.1. Projects that have any economic or patrimonial participation (producers, investors, sponsors, financiers in any capacity), artistic or technical (artistic and technical personnel according to decree 1080 of 2015), authorial (authors of script, pre-existing work, music, designs) of a CPFC member.
- 10.2. Projects in which the executive personnel of the production company, the film services company or the national co-production company has a relationship with a member of the CPFC: spouse or permanent partner, or kinship up to the second degree (parents, children, siblings, cousins, uncles, aunts, uncles, spouse, permanent partner).
- 10.3. Projects that have previously obtained FFC counterpart funds (except for the post-production component provided for in this manual), or CINA.
- 10.4. Projects related to legal entities subject to any of the restrictions of this article. This includes (a) those who have the status of producer, co-producer, investor, sponsor (or financier in any capacity) or Film Services Company, of the project; or (b) members of the same corporate group of the applicant producer.
- 10.5. Projects whose producers, co-producers, partners, or investors had omitted the FFC credit in previously benefited projects.
- 10.6. Projects that are in the process of applying to, or have been recipients of:
  - 10.6.1. Incentives from the Film Development Fund (Law 814 of 2003).
  - 10.6.2. National project resolution for tax deduction (law 814 of 2003).
  - 10.6.3. Audiovisual Investment Certificates in Colombia (law 1955 of 2019, article 178).
- 10.7. Producers that in a previous opportunity had not established the trust required by Law 1556 of 2012 within the term and conditions set forth in this manual. In this case, they may not apply for projects within a period of two (2) years from the date of approval of the respective project.
- 10.8. Producers who in a previous opportunity have not complied with the expenditure of one thousand eight hundred salaries (1,800) SMLMV (current minimum legal monthly wages), once the Colombia Filming Contract has been executed. This restriction will operate during the year following the maximum date for the realization and accreditation of the expense established in the previous project.
- 10.9. Producers who have breached the Colombia Filming Contract on any occasion.
- 10.10. Producers who fail to sign the Colombia Filming Contract within the stipulated term. In this case, projects may be submitted after

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

two (2) years from the maximum date for signing the Colombia Filming Contract.

**Article 11. Opportunity.** *Modified by article 8 of Agreement 86 of 2022. The new text is as follows:* Applications must be submitted to the Management Entity through the technological platform determined by it. If corrections are required, they will be managed through the communications channel and deadlines determined by such entity.

**Paragraph.** The Management Entity will only inform the CPFC of projects that, within five (5) working days prior to the date of the session, comply with all of the application requirements, including clarifications, corrections, and/or corrections.

**Article 12. Application requirements.** *Modified by article 10 of Agreement 86 of 2022. The new text is as follows:* The project must be submitted on the platform provided, including a digital copy of all of the following documents and information.

### **12.1. Documents of the applicant producer:**

- 12.1.1. Application form signed or electronically accepted by the legal representative of the applicant production company.
- 12.1.2. Citizenship card, foreigner's identification card, passport or equivalent document that allows the identification of the legal representative of the producing company.
- 12.1.3. The following documents, with respect to the legal entities related to the project:
  - A) For Colombian producers, Film Service Companies, and national co-producers: certificate of existence and legal representation issued by the Chamber of Commerce, with an issue date not exceeding thirty (30) calendar days.
  - B) For foreign producers: document(s) issued by an entity, institution or authority sufficiently empowered in the country of origin, stating, at least, the following: (i) that the company has an active, qualified, current, or equivalent status; (ii) the current name or corporate name of the company; and (iii) which persons may represent the company.

This document(s) must have an issue date of no more than thirty (30) calendar days. The document(s) issued by a public authority must be legalized by consulate or apostille.

For the purposes of this paragraph, the Management Entity may determine which documents are acceptable in each jurisdiction; this information must be made available to the applicants.

- 12.1.4. Curricular description of the production company with details of other audiovisual activities, works of audiovisual services

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

or, in general, management or performance in creative, technical, or producing fields in these activities.

12.1.5. Certification, under oath, according to the pre-established format, that the audiovisual project applied for did not opt for or receive Certificates of Audiovisual Investment in Colombia or incentives under Law 814 of 2003.

12.1.6. Certification, according to a pre-established format, that the company applying for the project is a producer of the project. This is irrespective of the existence of co-producers.

12.1.7. Identification of the corporate or business group to which the company applying for the project belongs, and its relationship with it, if applicable.

**12.2. Project information:** the information required for each type of project will be published in an annex and will be updated by the Management Entity, taking into account the specificities of each audiovisual genre or type.

**12.3. Spending in Colombia:**

12.3.1. Total spending budget in the country.

12.3.2. Budget of expenses subject to consideration.

12.4. Letter of commitment from the film services company (mandatory when contracting audiovisual services for non-national projects submitted), signed by its legal representative. There may be several, in which case a letter of commitment from each one is required.

12.5. Explanatory document of the project's financing plan where its financial consistency can be determined. It should contain, at a minimum, the following information:

12.5.1. An enumerative list of the sources of financing of the total expenditure budget in the country, other than the FFC, with their respective values in Colombian pesos and identification of the reference date of the applicable exchange rate.

12.5.2. Description of the legal instruments, financial vehicles, mechanisms and/or relevant documents that support the sources described above.

For the purposes of this requirement, the following rules apply:

A) Financing sources must be fully confirmed and secured by the producer.

B) Sources in a preliminary or negotiation stage (such as memorandums of understanding or letters of intent) are not acceptable for purposes of this paragraph.

C) The Management Entity may adopt formats for the provision of the required information.

- D) The Management Entity may request copies of the legal instruments, financial vehicles, mechanisms and/or relevant documents, if deemed necessary for the analysis of the project.
- E) If, due to circumstances justified to the CPFC, the document explaining the financing plan cannot be accredited at the time of application, it may be submitted to the CPFC prior to the opening of the trust provided for in this manual. In this case, prior to the opening of the trust, the Management Entity must notify the applicant producer of the approval of the financing plan. The Colombia Filming Contract will state that the Contract will terminate if the consideration is negative.

**12.6. Bid bond:** Consignment receipt in the name of the Management Entity, for the amount of forty (40) SMLMV, as a commitment to perform the obligations of the producer. The following rules apply:

- 12.6.1. The value of the bid bond shall only be reimbursed in full to the producer (a) in the event that the project is not approved by the CPFC, or (b) if the project is withdrawn prior to the CPFC's evaluation, except for the case provided for in the fourth paragraph of this article. This reimbursement will be made without yields or indexation.
- 12.6.2. The value of the bid bond will remain for FFC purposes as of the approval of the project by the CPFC, regardless of what happens subsequently in relation to the project.
- 12.6.3. There will be no reinstatement of coverage for applications withdrawn where there have been circumstances that have cast doubt on the veracity of the documents submitted, or that have been framed in any of the grounds for restriction in force, regardless of the time of withdrawal.

**Paragraph one:** the documents must be submitted in their original language and translated into Spanish, with the exception of the identity document.

**Paragraph two:** all documents and requirements set forth in this manual are considered substantial for the consideration of applications.

## **SECTION II PROJECT APPRAISAL**

**Article 13. Evaluation procedure.** The following procedure will be followed in the evaluation of the projects:

- 13.1. Within ten (10) days of receipt, the Management Entity will verify compliance with the project application requirements.
- 13.2. Within the same period, the Management Entity shall inform the producer of the need to supplement documents or contents, specifying the term for doing so. If the requirements are not met, the project will not be evaluated and will remain at the disposal of the producer at the Management Entity.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

- 13.3. Once the application is complete, the Management Entity will prepare a concept for the CPFC regarding the verification of the requirements and the relevance of the project, in accordance with the criteria of Law 1556 of 2012, Article 1 (promotion of the national territory for audiovisual filming; promotion of tourism, the country's image and the development of the national film industry). The concept does not bind the CPFC.
- 13.4. Qualified projects will be presented to the next CPFC session in a general package. The order will depend on the date on which they have satisfied all the application requirements, without prejudice to their initial date of receipt.

**Article 14. Project approval.** The CPFC will decide on the approval or disapproval of projects, for reasons related to compliance with the purposes set forth in Law 1556 of 2012, Article 1 (promotion of the national territory for audiovisual filming; development of the national film industry; promotion of tourism activity and the country's image), for which purpose it may define processes, instructions, evaluation parameters that serve as input in the preliminary evaluation of the Management Entity, or internal guidelines.

With the approval of a project by the CPFC, the country's budget for spending on audiovisual services and audiovisual logistics services and the maximum amount of the FFC consideration for the respective initiative are set. Likewise, the execution of the Colombia Filming Contract is ordered.

The CPFC will prioritize the approval and consideration of the FFC in view of the various projects presented. Its decisions shall be recorded in agreements.

**Article 15. Grounds for non-approval.** Projects will not be approved when:

- 15.1. There are reasons to doubt the veracity of the documents submitted.
- 15.2. It is verified that any of the documents and requirements presented do not comply with the requirements established in this Manual.
- 15.3. The applicant producer or the project is within one of the circumstances set forth in Article 10 of this Manual.
- 15.4. The CPFC considers that the project is not relevant for the purposes set forth in Law 1556 of 2012 (promotion of the national territory for audiovisual filming; promotion of tourism activity, the country's image, and the development of the national film industry).

The Management Entity will inform the applicant about these situations.

### **SECTION III COLOMBIA FILMING CONTRACT; PROJECT EXECUTION**

**Article 16. Contract and commitments.** Once the project is approved, the producer must comply with the following:

- 16.1 Enter into the Colombia Filming Contract with the Management Entity within a maximum period of twenty (20) days following the communication sent by the latter to

\*Includes the amendments and additions provided for in Agreement 86 of 2022.



. If the producer fails to do so within said term, it is understood that he/she withdraws from the project, and the FFC resources are immediately released for other projects.

- 16.2. Establish a trust for the administration and payment of the resources to be spent on audiovisual services and audiovisual logistic services, identified for this purpose, within a term no longer than three (3) months from the execution of the Colombia Filming Contract.

In the event that the producer does not establish the trust in the required time implies that the project is abandoned, even if the trust is established ultimately, not timely. The FFC resources are immediately released for other projects.

- 16.3. In the case of non-national projects, contracting audiovisual services through one or more of the film service companies indicated in the project application.

When one or more of the film service companies nominated in the project are to be changed, the prior approval of the CPFC must be requested. Expenditures that do not comply with this procedure will not be accepted for FFC consideration.

If the producer voluntarily turns to the film services company for audiovisual logistical services expenses, he/she is subject to all the rules of this manual on film services. The same applies to national audiovisual works that opt for the service described in this paragraph.

- 16.4. Develop filming activities of the film work in the country or production work in the case of animations. The Management Entity may appoint a person to accompany the shooting of the work and verify the filming of scenes in Colombia, or the corresponding in animation works.

- 16.5. *Modified by article 17 of Agreement 86 of 2022. The new text is as follows:* Once the work for which the FFC consideration has been received has been completed, incorporate a credit in the work to publicly communicate the support received. The Management Entity may define and approve different schemes, forms, formats, media and/or characteristics for this credit, depending on the type of audiovisual work derived from the project.

- 16.6. Provide the reports established in this Manual, as well as those required by the CPFC or the Management Entity with respect to the project.

- 16.7. Any others stipulated in the Colombia Filming Contract.

#### **Article 17. Execution of the expenditure budget subject to consideration.**

The execution of the expense budget subject to consideration must comply with the following parameters and requirements:

- 17.1. The total expenditure on audiovisual services and audiovisual logistics services must be at least one thousand eight hundred (1,800) SMLMV, including taxes, subject to the parameters of this Chapter. In any event,

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

the consideration will only be recognized up to the value approved by the CPFC.

- 17.2. Payments and transfers from the in-country expenditure budget for audiovisual services or audiovisual logistical services must be made from the fiduciary entity. The latter may make advances to the producer, without limitation, which must be legalized and subject to the accreditations required in this Manual.

The respective resources coming from abroad must enter through the exchange system and in compliance with the legal regulations; this must be accredited by the producer before the financial entities or competent authorities.

- 17.3. For purposes of the consideration of the FFC, expenses must be incurred within the following deadlines as of the date of execution of the Colombia Filming Contract:

a. Feature films: Nine (9) months. If the project has production and post-production activities, the period described above is extended to eighteen (18) months.

b. Series: Twelve (12) months. If the project has production and post-production activities, the period described above is extended to twenty-four (24) months.

c. Animation projects: Forty-eight (48) months.

d. Music videos: Eighteen (18) months for production and post-production.

It is understood that the expense has been incurred with the transfer by the trustee to the final recipient.

**Paragraph One.** Expenditures that do not comply with the provisions of this article shall not be eligible for consideration from the FFC.

**Paragraph Two.** *Modified by article 12 of Agreement 86 of 2022. The new text is as follows:* During the execution of the project, during the course of the Colombia Filming Contract, the producer may request one or more extensions to the budget for expenses in the country, up to a maximum of twenty percent (20%) of the initial amount presented in Colombian pesos, stating the details of the additional expenses to be incurred.

The CPFC may favorably consider or deny such a request based on priorities, list of projects, availability of resources or appropriateness of the extension. Likewise, it may request the documentation deemed necessary to support the extension.

In the event that the decision is favorable, the Colombia Filming Contract must be added to the corresponding amount of the FFC consideration, and the producer must administer the resources through the trust fund already established. In this case, it is not obligatory to extend the bid bond.

With respect to the addition, the parameters defined in this Manual for initially approved expenditures will be followed. This does not imply an addition to the term of the Colombia Filming Contract.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

## **SECTION IV ACCREDITATIONS; FFC CONSIDERATION**

**Article 18. Accreditations.** Once the expenditure budget has been executed in the country, the producer may request the Management Entity to transfer the FFC consideration, upon accreditation of the following:

- 18.1. Request for disbursement of the consideration addressed to the Managing Entity, indicating the amount actually spent in the country and the value of the FFC consideration requested.
- 18.2. Certification issued by the fiduciary entity, stating the date of entry of the resources provided for in the Colombia Filming Contract and their expenditure in the items of the expenditure budget in the country subject to consideration, with the following characteristics:
  - 18.2.1. Invoice numbers, identification of the equivalent documents in tax matters, their issuers, dates of issuance of each one and dates of payment must be discriminated in the certification.
  - 18.2.2. Expenses for audiovisual services accredited by means of an equivalent document in tax matters are accepted only if the issuer is a Colombian individual under the simplified regime and they correspond to artistic or technical personnel positions, or in the case of work related to writing or script correction.
  - 18.2.3. All other audiovisual services or audiovisual logistics services must be invoiced. The receipts (invoices or equivalent documents in tax matters, as the case may be) cannot be dated prior to the date of incorporation of the trust.
  - 18.2.4. In the event that general payments are made to film service companies, these must be invoiced. In this event, it is the producer's obligation to submit to the Management Entity a detailed list of each of the audiovisual services and each of the audiovisual logistic services, audited in accordance with the following paragraph. The Management Entity may request from the trustee or the producer information on the detail of expenses.
- 18.3. Concept, certification, or report issued by the external auditor linked by the producer, which meets the requirements of previously agreed procedures indicated by the Management Entity, and includes at least the following aspects:
  - 18.3.1. Compliance with each and every one of the aspects set forth in the preceding paragraph, except for the dates of payment made by the trustee.
  - 18.3.2. That the invoices or equivalent documents in tax matters that support the fiduciary certification meet the legally demanded requirements.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

18.3.3. Compliance with obligations derived from the Comprehensive Social Security System for hired Colombian personnel.

18.4. In the case of foreign audiovisual works, certification issued by the film services company, showing: (a) which of the expenses certified by the trustee were incurred through said company and (b) whether the applicant producer made all the payments corresponding to the project. No disbursement of the consideration may be made until such payments have been made.

The same is required for cases in which the producer of Colombian works has resorted to this type of service or in the case of audiovisual logistic services.

**Paragraph.** The request for disbursement of the FFC consideration, together with all the certifications described in this article, must be submitted to the Management Entity within a maximum term of three (3) months from the expiration of the deadline for making the expenditure in the country, as established in this Manual.

If this deadline expires without all the accreditations being presented, it is understood that the FFC consideration has been withdrawn and, consequently, this amount will be released for other projects.

**Article 19. Audit firms' linkage.** The auditing firms authorized to issue the certification, opinion or concept described in the preceding article must be legal entities that meet at least the following requirements:

- 19.1. Experience greater than ten (10) years in auditing or tax audit.
- 19.2. Accredited experience in internal or external auditing of public or private companies that are large taxpayers.
- 19.3. Registration before the Board of Accountants, with certification of disciplinary records, with a date of issue not exceeding thirty (30) days.
- 19.4. To meet the requirements of previously agreed procedures indicated by the Management Entity, on the aspects that are the subject of the audit.

**Article 20. Producer contract and audit.** The contract entered into by the producer with the auditing firm must include stipulations that guarantee the following:

- 20.1. The concept, certification or report referred to in the audit contract shall be issued by the auditing firm in the format established by the Management Entity and shall be sent to the latter.
- 20.2. The Management Entity may request clarification and have a reporting relationship with the auditing firm.
- 20.3. The auditing firm must provide the Management Entity with any explanations or clarifications it may require.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

20.4. It is understood that the producer does not have any kind of interference or control over the auditing firm.

**Article 21. FFC's counterpart.** Pursuant to Law 1556 of 2012, producers who comply with the requirements and procedures set forth in this Manual are entitled to a consideration equivalent to 40% of the expenses incurred in audiovisual services and 20% of the expenses incurred in audiovisual logistical services.

The Management Entity will disburse the FFC consideration upon receipt of all required accreditations to its satisfaction. It will make a single draft within two (2) months following the receipt thereof, in accordance with the FFC's cash flow. In the case of projects with production and post-production components, one draft may be made at the end of production, provided that the minimum expenditure requirements have been met or postulated, and another at the end of post-production.

**Paragraph One.** The disbursement does not remedy defects presented during the application or execution of the project, so that if at any time the Management Entity finds irregularities, it may resort to the pertinent contractual or legal channels.

**Paragraph Two.** Taxes or commissions derived from the transfer of the FFC consideration will be directly deducted from the FFC consideration.

**Article 22. Loss of FFC consideration.** The right to the FFC consideration is lost when:

- 22.1. The Colombia Filming Contract is not executed, or the trust is not incorporated as specified in this Manual.
- 22.2. Expenditure on audiovisual services or audiovisual logistic services is not developed for the minimum amount of one thousand eight hundred (1,800) SMLMV.
- 22.3. The disbursement request is not made with the required accreditations within the maximum period indicated in this Manual.
- 22.4. In cases of breach of contract as set forth in the Colombia Filming Contract or in any other case indicated in this Manual.

**Article 23. Proportional consideration.** Notwithstanding the provisions of the preceding article, in those cases in which the disbursement of the FFC consideration is appropriate, it shall only be made in full or proportionally in respect of the expenses that meet each and every one of the requirements established in this Manual.

**Article 24. Annual quota.** The CPFC may fix for each year, and modify if necessary, the maximum amount of the FFC consideration that may be allocated per project, based on the FFC budget, the types, or genres of works, existing or expected applications, among others.

Pursuant to Article 2.10.3.3.3.5. of Decree 1080 of 2015, as added by Decree 474 of 2020, not less than fifty percent (50%) of the FFC allocated each year for consideration, shall be allocated to feature films, unless there are insufficient nominations or endorsed by the

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

CPFC. This percentage will be determined by the CPFC within the first two (2) months of each year and may be modified during the course of the year according to the type of projects submitted or in the process of being submitted.

At the time of approval of this Manual, the minimum percentage described above is in effect, which means that in 2020 no less than 50% of the FFC is allocated to film projects.

## **CHAPTER III AUDIOVISUAL INVESTMENT CERTIFICATES IN COLOMBIA**

### **SECTION I PROJECT APPLICATION**

**Article 25° Certificate of Audiovisual Investment in Colombia (CINA).** Pursuant to Article 9 of Law 1556 of 2012, amended by Article 178 of Law 1955 of 2019, and Decree 1080 of 2015 amended by Decree 474 of 2020, producers who comply with the requirements and procedures indicated in this Manual and who apply to the tax incentive system, may receive Certificates of Audiovisual Investment in Colombia (CINA), which certify the right to a tax discount of 35% on the face value of the Certificate.

The right to receive CINA for those who use this system is subject to the CINA regulations.

**Article 26. Projects covered.** The Certificates of Audiovisual Investment in Colombia (CINA) are open to non-national audiovisual projects from:

- 26.1 Feature films.
- 26.2. Series.
- 26.3. Music videos.
- 26.4. Videogames
- 26.5. Advertising audiovisual production.

**Paragraph One.** A non-national audiovisual work is considered to be that defined in section 4.18 of this Manual.

Only the foreign contribution component that enters the country and is applied for through the NAIC instrument regulated in this Chapter, will be covered by the tax discount.

**Paragraph Two.** In the case of feature films, a non-national work is considered to be that defined in section 4.13 of this Manual.

**Article 27. Components.** Applications can be in the following components:

- 27.1. Audiovisual production. In the case of the video game, the development of the prototype is contemplated.
- 27.2. Production and post-production component of the respective audiovisual.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

### 27.3. Postproduction.

**Article 28. Applicants.** *Modified by article 3 of Agreement 86 of 2022. The new text is as follows:* Legal entities that are foreign producers of the respective audiovisual project and are not tax filers in Colombia may apply for the CINA tax credit.

All the necessary steps, from the application to the issuance of the CINA, may be taken through (a) the national co-production company, or (b) the project's film services company, under a power of attorney or mandate, always in the name and on behalf of the foreign producer.

**Paragraph:** The power of attorney or mandate document must correspond to the format established by the Management Entity.

**Article 29. Minimum investment or expenditure in the country.** *Modified by article 5 of Agreement 86 of 2022. The new text is as follows:* By applying for the tax discount instrument under the CINA, the producer undertakes to make separate or joint expenditures for audiovisual services and/or audiovisual logistics services in Colombia, subject to the procedures and consequences set forth in this manual, for a minimum amount of:

- 29.1. Feature films: one thousand eight hundred (1,800) SMLMV (minimum legal monthly salaries), including taxes.
- 29.2. Series: one thousand eight hundred (1,800) SMLMV, including taxes. This minimum expenditure may be distributed in up to four (4) episodes. If the series will have a total expenditure in the country equal to or greater than nine thousand (9,000) SMLMV, the minimum expenditure may be distributed in a greater number of episodes. In the case of short series content for web and 100% animated series, it can be presented within a minimum package of up to twenty (20) episodes.
- 29.3. Music videos. Two hundred (200) SMLMV, including taxes. This expenditure should be made on one (1) music video.
- 29.4. Videogames. One thousand two hundred and fifteen (1,215) SMLMV, including taxes. This expenditure must be made on one (1) video game, video game prototype or video game expansion.
- 29.5. Advertising audiovisual production. Four hundred (400) SMLMV, including taxes. This expense must be incurred in one (1) audiovisual advertising work. At a minimum, eighty percent (80%) of this expenditure must be on audiovisual (non-logistical) services. The work or works will be evaluated if they have a local creative component.

**Paragraph:** projects that only include a post-production component, without prejudice to the type of audiovisual work to which they correspond, must spend a minimum of three hundred and sixty (360) SMLMV, including taxes.

**Article 30. Restrictions.** *Modified by article 7 of Agreement 86 of 2022.* They are not eligible to apply to the CINA:

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

- 30.1. Projects that have any economic or patrimonial participation (producers, investors, sponsors, financiers in any capacity), artistic or technical (the list of artistic and technical personnel according to decree 1080 of 2015 is taken as a reference), authorial (authors of script, pre-existing work, music, designs) of a member of the CPFC.
- 30.2. Projects in which the executive personnel of the production company, the film services company or the national co-production company has a relationship with a member of the CPFC: spouse or permanent partner, or kinship up to the second degree (parents, children, siblings, cousins, uncles, aunts, uncles, spouse, permanent partner).
- 30.3. Projects that have previously obtained FFC or CINA counterpart funds.
- 30.4. Projects related to legal entities subject to any of the restrictions of this article. This includes (a) those who have the status of producer, co-producer, investor, sponsor (or financier in any capacity) or Film Services Company, of the project; or (b) members of the same corporate group of the applicant producer.
- 30.5. Projects whose producers, co-producers, partners, or investors had omitted credit from the CINA system in previously benefited projects.
- 30.6. Projects that are in the process of applying to, or have been recipients of:
  - 30.6.1. Incentives from the Film Development Fund (Law 814 of 2003).
  - 30.6.2. National project resolution for tax deduction (law 814 of 2003).
  - 30.6.3. Audiovisual Investment Certificates in Colombia (law 1955 of 2019, article 178).
- 30.7. Producers that in a previous opportunity had not established the trust required by Law 1556 of 2012 within the term and conditions set forth in this manual. In this case, they may not apply for projects within a period of two (2) years from the date of approval of the respective project.
- 30.8. Producers who in a previous opportunity have failed to comply with the minimum expenditure foreseen in this manual, once the Colombia Filming Contract has been executed. This restriction will operate during the year following the maximum date for the realization and accreditation of the expense established in the previous project.
- 30.9. Producers who have breached the Colombia Filming Contract on any occasion.
- 30.10. Producers who fail to sign the Colombia Filming Contract within the stipulated term. In this case, projects may be submitted after two (2) years from the maximum date for signing the Colombia Filming Contract.



**Article 31. Opportunity.** *Modified by article 9 of Agreement 86 of 2022. The new text is as follows:* Applications must be submitted to the Management Entity through the technological platform determined by it. If corrections are required, they will be managed through the communications channel and deadlines determined by such entity.

**Paragraph.** The Management Entity will only inform the CPFC of projects that, within five (5) working days prior to the date of the session, comply with all of the application requirements, including clarifications, corrections, and/or corrections.

**Article 32. Application requirements.** *Modified by article 11 of Agreement 86 of 2022. The new text is as follows:* The project must be submitted on the platform provided, including a digital copy of all of the following documents and information.

### **32.1. Documents of the applicant producer:**

32.1.1. Application form signed or electronically accepted by the legal representative of the production company.

32.1.2. Citizenship card, foreigner's identification card, passport or equivalent document that allows the identification of the legal representative of the applicant production company.

32.1.3. The following documents, with respect to the legal entities related to the project:

A) For national co-production companies and film service companies: certificate of existence and legal representation issued by the Chamber of Commerce, with an issue date not exceeding thirty (30) calendar days.

B) For foreign applicant producers: document(s) issued by an entity, institution or authority sufficiently empowered in the country of origin, stating, at least, the following: (i) that the company has an active, qualified, current, or equivalent status; (ii) the current name or corporate name of the company; and (iii) which persons may represent the company.

This document(s) must have an issue date of no more than thirty (30) calendar days. The document(s) issued by a public authority must be legalized by consulate or apostille.

For the purposes of this paragraph, the Management Entity may determine which documents are acceptable in each jurisdiction; this information must be made available to the applicants.

32.1.4. Curricular description of the production company with details of other audiovisual activities, audiovisual services work or, in general, management or performance in creative, technical or production fields in these activities.

- 32.1.5. Certification, under oath, according to the pre-established format, that the audiovisual project applied for did not opt for or receive compensation from the Colombia Film Fund or incentives under Law 814 of 2003.
- 32.1.6. Certification, according to a pre-established format, that the company applying for the project is a producer of the project. This is irrespective of the existence of co-producers.
- 32.1.7. Certification, under oath and according to a pre-established format, that the foreign producer applying for the tax discount under the Audiovisual Investment Certificates in Colombia is not an income tax filer in Colombia. For this purpose, the necessary crosschecks of information may be made with the Special Administrative Unit of the National Tax and Customs Directorate (DIAN).
- 32.1.7. Identification of the corporate or business group to which the company applying for the project belongs, and its relationship with it, if applicable.

**32.2. Project information:** the information required for each type of project will be published in an annex and will be updated by the Management Entity, taking into account the specificities of each audiovisual genre or type.

**32.3. Spending in Colombia:**

- 32.3.1. Total spending budget in the country.
- 32.3.2. Budget of expenses subject to consideration.
- 32.4. Letter of commitment from the film services company or national co-production company, signed by its legal representative. There may be several, in which case a letter of commitment from each one is required.
- 32.5. Explanatory document of the project's financing plan where its financial consistency can be determined. It should contain, at a minimum, the following information:
  - 32.5.1. A comprehensive list of the sources of financing of the total expenditure budget in the country, other than those based on the CINA system, with their respective values in Colombian pesos and identification of the reference date of the applicable exchange rate.
  - 32.5.2. Description of the legal instruments, financial vehicles, mechanisms and/or relevant documents that support the sources described above.

For the purposes of this requirement, the following rules apply:

- A) The sources of financing must be fully confirmed and secured by the producer.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

- B) Sources in a preliminary or negotiation stage (such as memoranda of understanding or letters of intent) are not acceptable for purposes of this paragraph.
- C) The Management Entity may adopt formats for the provision of the required information.
- D) The Management Entity may request copies of the legal instruments, financial vehicles, mechanisms and/or relevant documents, if deemed necessary for the analysis of the project.
- E) If, due to circumstances justified to the CPFC, the document explaining the financing plan cannot be accredited at the time of application, it may be submitted to the CPFC prior to the opening of the trust provided for in this manual. In this case, prior to the opening of the trust, the Management Entity must notify the applicant producer of the approval of the financing plan. The Colombia Filming Contract will state that the Contract will terminate if the consideration is negative.

32.6. Bid bond: consignment receipt in the name of the Management Entity, for the amount of forty (40) SMLMV, as a commitment to perform the obligations of the producer. The following rules apply:

32.6.1. The value of the bid bond shall only be reimbursed in full to the producer (a) in the event that the project is not approved by the CPFC, or (b) if the project is withdrawn prior to the CPFC's evaluation, except for the case provided for in the fourth paragraph of this article. This reimbursement will be made without yields or indexation.

32.6.2. The value of the bid bond will remain for FFC purposes as of the approval of the project by the CPFC, regardless of what happens subsequently in relation to the project.

32.6.3. There will be no reinstatement of coverage for applications withdrawn where there have been circumstances that have cast doubt on the veracity of the documents submitted, or that have been framed in any of the grounds for restriction in force, regardless of the time of withdrawal.

**Paragraph one:** the documents must be submitted in their original language and translated into Spanish, with the exception of the identity document.

**Paragraph two:** all documents and requirements set forth in this manual are considered substantial for the consideration of applications.

## **SECTION II PROJECT APPRAISAL**

**Article 33. Evaluation procedure.** The following procedure will be followed in the evaluation of the projects:

- 33.1. Within ten (10) days of receipt, the Management Entity will verify compliance with the requirements established for the application of the projects.
- 33.2. Within the same period, the Management Entity shall inform the producer of the need to supplement documents or contents, specifying the term for doing so. If the requirements are not met, the project will not be evaluated and will remain at the disposal of the producer at the Management Entity.
- 33.3. Once the application is complete, the Management Entity will prepare a concept for the CPFC regarding the verification of the requirements and the relevance of the project, in accordance with the criteria of Law 1556 of 2012 (promotion of the national territory for filming and audiovisual works; promotion of tourism, the country's image and the development of the national film and audiovisual industry). The concept does not bind the CPFC.
- 33.4. Qualified projects will be presented to the next CPFC session in a general package. The order will depend on the date on which they have satisfied all the application requirements, without prejudice to their initial date of receipt.

**Article 34. Project approval.** The CPFC will decide on the approval or disapproval of projects, for reasons related to compliance with the purposes set forth in Law 1556 of 2012 (promotion of the national territory for filming and audiovisual works; promotion of tourism, the country's image and the development of the national film and audiovisual industry), for which it may define processes, instructions, evaluation parameters that serve as input in the preliminary evaluation of the Management Entity, or internal guidelines.

With the approval of a project by the CPFC, the country's budget for spending on audiovisual services and audiovisual logistics services and the maximum amount of CINA for the respective initiative are set. Likewise, the execution of the Colombia Filming Contract is ordered. Decisions shall be recorded in agreements.

**Article 35. Grounds for non-approval.** Projects will not be approved when:

- 35.1. There are reasons to doubt the veracity of the documents submitted.
- 35.2. It is verified that any of the documents and requirements presented do not comply with the requirements established in this Manual.
- 35.3. The applicant producer or the project is in any of the cases listed in Article 30 of this Manual.
- 35.4. The CPFC considers that the project is not relevant for the purposes set forth in Law 1556 of 2012 (promotion of the national territory for audiovisual filming; promotion of tourism activity, the country's image, and the development of the national film industry).

The Management Entity will inform the applicant about these situations.

### SECTION III

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

## COLOMBIA FILMING CONTRACT; PROJECT EXECUTION

**Article 36. Contract and commitments.** Once the project is approved, the producer must comply with the following:

- 36.1. Enter into the Colombia Filming Contract with the Management Entity within a maximum term of twenty (20) days following the communication sent by the Management Entity. If the producer fails to do so within this period, it is understood that they withdraw from the project, and the CINA quota is immediately released for other projects.
- 36.2. Establish a trust for the administration and payment of the resources to be spent on audiovisual services and audiovisual logistic services, identified for this purpose, within a term no longer than three (3) months from the execution of the Colombia Filming Contract.

In the event that the producer does not establish the trust in the required time implies that the project is abandoned, even if the trust is established ultimately, not timely. CINA resources are immediately released for other projects.

- 36.3. To contract through one or more of the film service companies or co-producers indicated in the project application, or through a local co-producer.

When one or more of the nominated film service companies or the local co-producer intends to change, the prior approval of the CPFC must be requested. Expenses that do not comply with this procedure will not be accepted to receive the CINA.

- 36.4. Develop in-country filming activities or production work. The Management Entity may designate a person to accompany the filming of the work and verify the filming of scenes in Colombia, or the corresponding in other types of works covered by the CINA.
- 36.5. *Modified by article 18 of Agreement 86 of 2022. The new text is as follows:* Once the work receiving the CINA tax credit has been completed, a credit must be incorporated in the project to allow public communication of the support received. The Management Entity may define and approve different schemes, forms, formats, media and/or characteristics for this credit, depending on the type of audiovisual work derived from the project.
- 36.6. Provide the reports established in this Manual, as well as those required by the CPFC or the Management Entity with respect to the project.
- 36.7. Any others stipulated in the Colombia Filming Contract.

**Article 37. Execution of the expenditure budget subject to CINA.** The execution of the expenditure budget subject to the tax credit under CINA must comply with the following parameters and requirements:

- 37.1. The total expenditure on audiovisual services and audiovisual logistics services must comply with the minimum established in Article 29 of this Manual, including taxes, subject to the parameters of

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

this Manual. In any case, the CINA will only be recognized up to the quota approved by the CPFC.

- 37.2. Payments from the in-country expenditure budget for audiovisual services and audiovisual logistics services must be made from the trust entity. The latter may make advances to the producer, which must be legalized and subject to the accreditations required in this Manual.

The respective resources coming from abroad must enter through the exchange system and in compliance with the legal regulations; this must be accredited by the producer before the financial entities or competent authorities.

- 37.3 For the purposes of the CINA, expenses must be incurred within the following deadlines as of the date of execution of the Colombia Filming Contract:

a. Feature films: Nine (9) months. If the project has production and post-production activities, the period described above is extended to eighteen (18) months.

b. Series: Twelve (12) months. If the project has production and post-production activities, the period described above is extended to twenty-four (24) months.

c. Animation and video game projects: Forty-eight (48) months.

c. Music videos and advertising works: Eighteen (18) months for production and post-production.

d. Projects that only perform post-production in Colombia: 18 months

It is understood that the expense has been incurred with the transfer by the trustee to the final recipient.

**Paragraph One.** Expenditures that do not comply with the provisions of this article shall not be subject to the CINA.

**Paragraph Two.** *Modified by article 13 of Agreement 86 of 2022. The new text is as follows:* During the execution of the project, during the course of the Colombia Filming Contract, the producer may request one or more extensions to the budget for expenses in the country, up to a maximum of twenty percent (20%) of the initial amount presented in Colombian pesos, stating the details of the additional expenses to be incurred.

The CPFC may favorably consider or deny such a request based on priorities, projects, availability of resources or appropriateness of the extension. Likewise, it may request the documentation deemed necessary to support the extension.

If the decision is favorable, the Colombia Filming Contract must be added to the amount corresponding to the CINA that may be assigned, and the producer must administer the resources through the trust fund already established. In this case, it is not obligatory to extend the bid bond.

\*Includes the amendments and additions provided for in Agreement 86 of 2022.

With respect to the addition, the parameters defined in this Manual for initially approved expenditures will be followed. This does not imply an addition to the term of the Colombia Filming Contract.

#### **SECTION IV ACCREDITATIONS; CERTIFICATE OF AUDIOVISUAL INVESTMENT IN COLOMBIA (CINA)**

**Article 38. Accreditations.** Once the expenditure budget has been executed in the country (this is the minimum expenditure), the producer may apply to the Management Entity for the processing of the Certificate of Audiovisual Investment in Colombia (CINA), upon accreditation of the following:

- 38.1. Request addressed to the Management Entity, indicating the amount actually spent in the country and the value of the CINA requested.
- 38.2. Certification issued by the fiduciary entity, stating the date of entry of the resources provided for in the Colombia Filming Contract, coming from abroad, and their expenditure in the items of the expenditure budget in the country subject to consideration, with the following characteristics:
  - 38.2.1. Invoice numbers, identification of the equivalent documents in tax matters, their issuers, dates of issuance of each one and dates of payment must be discriminated in the certification.
  - 38.2.2. Expenses for audiovisual services accredited by means of equivalent documents in tax matters are accepted only if the issuer is an individual under the simplified regime and they correspond to artistic or technical personnel positions, or in the case of work related to script writing or editing.
  - 38.2.3. All other audiovisual services and audiovisual logistics services must be invoiced. The receipts (invoices or equivalent documents in tax matters, as the case may be) cannot be dated prior to the date of incorporation of the trust.
  - 38.2.4. In the event that general payments are made to film service companies, these must be invoiced. In this eventuality, the producer is obliged to submit to the Management Entity an itemized list of each of the audiovisual services and audiovisual logistics services, audited in accordance with the following paragraph. The Management Entity may request from the trustee or the producer information on the detail of expenses.
- 38.3. Concept, certification, or report issued by the external auditor linked by the producer, which meets the requirements of previously agreed procedures indicated by the Management Entity, and includes at least the following aspects:
  - 38.3.1. Compliance with each and every one of the aspects set forth in the preceding paragraph, except for the dates of payment made by the trustee.

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38.3.2. That the invoices or equivalent documents in tax matters that support the fiduciary certification meet the legally demanded requirements.

38.3.3. Compliance with obligations derived from the Integral Social Security System for Colombian employees.

38.4. Certification issued by the Colombian film services company or the Colombian co-producing legal entity, evidencing: (a) which of the expenses certified by the trustee were incurred through such entities; (b) whether the applicant producer made all payments for the project. The CINA issuance process cannot be conducted until such payments have been made.

38.5. *Added by article 16 of Agreement 86 of 2022. The new text is as follows:* Certification, contract or other document that sufficiently demonstrates the link between the foreign producer and the direct depositor in Colombia designated for the dematerialized issuance of the CINA. This document will be required only in the case of dematerialized issuance of the CINA.

**Paragraph.** The CINA application, together with all the certifications described in this article, must be submitted to the Management Entity within a maximum term of three (3) months from the expiration of the deadline for making the expenditure in the country, as established in this manual.

If this deadline expires without all the accreditations being presented, it is understood that the CINA application has been withdrawn and, consequently, this quota will be released for other projects.

**Article 39. Audit firms' linkage.** The auditing firms authorized to issue the certification, opinion or concept described in the preceding article must be legal entities that meet at least the following requirements:

39.1. Experience greater than ten (10) years in auditing or tax audit.

39.2. Accredited experience in internal or external auditing of public or private companies that are large taxpayers.

39.3. Registration before the Board of Accountants, with certification of disciplinary records, with a date of issue not exceeding thirty (30) days.

39.4. To meet the requirements of previously agreed procedures indicated by the Management Entity, on the aspects that are the subject of the audit.

**Article 40. Producer contract and audit.** The contract entered into by the producer with the auditing firm must include stipulations that guarantee the following:

40.1. The concept, certification or report referred to in the audit contract shall be issued by the auditing firm in the format established by the Management Entity and shall be sent to the latter.



- 40.2. The Management Entity may request clarification and have a reporting relationship with the auditing firm.
- 40.3. The auditing firm must provide the Management Entity with any explanations or clarifications it may require.
- 40.4. It is understood that the producer does not have any kind of interference or control over the auditing firm.

**Article 41° Procedure for the issuance of Audiovisual Investment Certificates in Colombia.** For the issuance and delivery of CINAs to the recipient producer, the following shall be taken into account:

- 41.1. Once all the required accreditations have been satisfactorily received, the Management Entity shall issue an accreditation certificate to the Ministry of Culture. The term for this purpose shall not exceed fifteen (15) days from the time of verification.
- 41.2. *Section modified by article 19 of Agreement 86 of 2022. The new text is as follows:* Within the period established in the preceding paragraph, the producer receiving the CINA must deposit on behalf of the Management Entity an amount equivalent to five percent (5%) calculated on the face value of the CINA to be issued.

This amount corresponds to the coverage of administrative costs of the system regulated in this Chapter.

Its collection will be used for the relevant costs in the percentage defined by the CPFC in accordance with the contract entered into between the Management Entity and the Ministry of Culture; training activities of the audiovisual sector in the country, knowledge transfer; sector organization, and others that may contribute to the promotion of the national territory as a scenario for audiovisual works, all, or any of the above, as determined by the CPFC.

From this amount, the amount previously consigned as bid bond will be deducted.

- 41.3. If all the requirements of the project have been met by the applicant producer, the Management Entity will inform the applicant that the amount corresponding to the previously deposited bid bond will be deducted from the above amount.
- 41.4. Based on the above certification, the Ministry of Culture will issue the CINA in the name of the producer who applied for the project. The term shall not exceed fifteen (15) days from the date of receipt of the certification issued by the Management Entity. The contract between the latter and the Ministry of Culture defines the obligations of each entity.
- 41.5. A project may receive one or more CINAs at the request of the applicant producer. For the issuance of the first CINA (if applicable), at least the minimum investment or expenditure per project must have been met in accordance with Article 29 of this Manual.

**Paragraph One.** The CINA issued does not remedy defects presented during the application or execution of the project.

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If the Management Entity finds irregularities, it may resort to the pertinent contractual or legal channels.

**Paragraph Two.** The decision and management of the negotiation of the CINA by the receiving producer with respect to individuals or legal entities reporting income in Colombia, are of its exclusive competence, responsibility, and autonomy.

**Article 42° Loss of the CINA.** The right to receive the CINA is lost when:

- 42.1. The Colombia Filming Contract is not executed, or the trust is not incorporated as specified in this Manual.
- 42.2. Expenditure on audiovisual services or audiovisual logistic services is not developed for the minimum amount established in Article 29.
- 42.3. The application for the issuance of the CINA with the required accreditations is not made within the maximum term indicated in this Manual or the percentage established in numeral 41.2. of the previous article is not deposited.
- 42.4. In cases of breach of contract as set forth in the Colombia Filming Contract or in any other case indicated in this Manual.

**Article 43. Proportionality.** Notwithstanding the provisions of the preceding article, in those cases in which the issuance of the CINA is appropriate, it shall be made proportionally with respect to the expenses that meet each and every one of the requirements established in this Manual. One or more CINAs may be issued for each project, as the case may be, and once the minimum expenditure in Colombia has been met.

**Article 44. Annual quota.** The CPFC is responsible for setting the total quota of CINA that may be issued for each fiscal year for that period. Likewise, if indispensable, it may determine maximum quotas of CINAs per project.

## **CHAPTER IV COMMON PROVISIONS**

**Article 45. Formats.** The Management Entity may adopt formats or forms for any of the documents, requirements or accreditations established in this Manual. These will be modified by the Management Entity in accordance with any changes to this Manual.

Likewise, the Management Entity may inform the applicants about documents or requirements that, in accordance with the typology or genre of the projects or the characteristics of any of the projects contemplated herein that incorporate animations, are framed, or correspond to those required in a general manner in this Manual.

The Management Entity will inform the applicants of this situation.

**Article 46.** *Modified by article 14 of Agreement 86 of 2022. The new text is as follows:* **Acting through an attorney-in-fact or representative.** The foreign producer may conduct all actions and formalities related to the incentive instruments of Law 1556 of 2012 (including, but not limited to, all those described in this manual), through

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intermediary of the film services company or the national co-production company of the project. In this case, the designated company will act under the figure of power of attorney or mandate, always in the name and on behalf of the foreign producer, and all relations, obligations and rights will be understood exclusively with respect to the latter.

**Article 47. Autonomy of will.** By applying for a project, the producer declares that he/she is aware of the FFC and CINA regulations and that they are willing to comply with them.

**Article 48. Reporting of information.** The CPFC, the Management Entity, the Ministry of Culture or any other entity participating in the incentive systems of Law 1556 of 2012, as amended by Law 1955 of 2019, may report information on expense credits to the National Tax and Customs Directorate (DIAN), the Financial Investigation and Analysis Unit (UIAF), or any other administrative or judicial authority that requires it.

**Article 49. Applications in progress.** Projects in the process of application and evaluation are subject to the provisions of this manual.

**Article 50. Meeting schedule.** The CPFC shall annually publish its meeting schedule on the Management Entity's website, which shall be subject to adjustment as defined by the Management Entity.

**Article 51. Knowledge transfer.** The CPFC may determine, by means of an agreement, the requirements for the transfer of knowledge to the audiovisual community by the producers applying for any of the incentive instruments of Law 1556 of 2012.

Likewise, it may establish, if deemed necessary, minimum hiring of national human talent.

**Article 52. General obligations.** The producer applying for any of the incentive systems regulated in this Manual is subject to the following conditions:

1. Allow, for strictly cultural, non-commercial purposes, the use of images of the work receiving the incentive, with a duration of up to five (5) minutes, in order to conduct promotional activities of the Colombian territory for audiovisual work. This authorization is granted for public institutional materials and Film Commission purposes for all territories, media, and formats. For this purpose, the Technical Secretariat may edit and reproduce such images, as well as distribute them directly or through the aforementioned instances. The provisions of this paragraph also apply to images of the audiovisual testimonials on the making of the work, behind the scenes and trailer of the work. The Colombia Filming Contract will establish stipulations in this regard, in order not to affect the release of the works, and to reconcile such provision with the power of the national authorities to use such images.
2. *Added by article 15 of Agreement 86 of 2022. The new text is as follows:* Deliver in a timely manner to the Management Entity the copies required to apply out the use referred to in the previous paragraph, in optimum technical quality under industry standards.

Failure to comply with the obligations set forth in paragraphs 1 and 2 of this article entitles the Management Entity to suspend the issuance of the

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- compliance certification for the last CINA to be issued, or the disbursement of the FFC consideration, as applicable.
3. Agree that the film commission may hold a press conference or press launch confirming the production in the country no later than the start of production in the country.
  4. Ensure collaboration in national and international media relations for the marketing of the film commission and the country.
  5. Arrange for five (5) government representatives to visit the set with at least one person from the main cast and one person from the main technical or artistic team. The Technical Secretariat may invite media representatives for this visit.
  6. Provide a list of locations indicating: the scene in which it was used, the address and contact information of the person who owns or is in charge of the location. This information is required prior to the completion of production.
  7. Provide the Technical Secretariat with a list of contact information for all Colombian members of the artistic and technical team. For actors and actresses, the contact information of their representatives.
  8. Submit at least six (6) still photos of the production in full color and high resolution. These photos must show the cast (actresses or actors) on location, studios or constructions and using prosthetics and animatronics if applicable. Cast publicity photos are not sufficient to meet this requirement.
  9. Submit at least two (2) high quality photos of each department head showing them at work during production.
  10. Submit at least two (2) video testimonials (the film commission will organize the filming) and two written testimonials from senior members of the international technical and artistic team regarding the experience of producing in Colombia. The crew members for these testimonials are: director, executive producer, art producer, costume designer.
  11. At least one senior crew member (non-local) must attend a Q&A session with local industry and/or students during the pre-production or production stage. This session will be organized and moderated by the Technical Secretariat, in order to ensure greater exposure to industry and to facilitate knowledge transfer.

**Paragraph.** The producer and the Technical Secretariat may establish specific parameters for the producer's compliance with these obligations.

**Article 53. Validity and repeal.** This agreement is effective as of the date of its publication and repeals the previous Resource Allocation Manual, adopted by Agreement 038 of 2017.

Publish and comply,

**Julián Guerrero Orozco**  
Deputy Minister of Tourism  
Ministry of Commerce, Industry and  
Tourism  
President of the Colombia Film Promotion Committee

**Silvia Echeverri Botero**  
Secretary

**Note:** Agreement 86 of 2022 was published in the Official Gazette 52.155 of September 12, 2022.

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