



## GUIDELINES

# NSW DIGITAL GAMES REBATE

### Program objectives

- To accelerate the growth of the NSW digital games sector
- To enable NSW games companies to be internationally competitive, attract investment and grow employment
- To encourage international or interstate developers to locate studios or work in NSW
- To promote investment in skills development and infrastructure
- To attract and retain talent in NSW

### What type of games are eligible?

Eligible games for the Rebate include:

- games for entertainment and serious games
- games for any platform including console, desktop, tablet, mobile, VR/AR
- multi-player and single-player games.

Games must generally be intended for public release.

A major update of an existing game is eligible if it meets the \$500,000 threshold.

Ineligible games include but are not limited to:

- games involving gambling, as defined in Clause 4 of the Commonwealth *Interactive Gambling Act, 2001*.
- games developed for advertising or corporate marketing
- games made for internal training purposes
- curriculum material
- games that are likely to be Refused Classification under the *Classification (Publications, Films and Computer Games) Act 1995*.

### Who can apply?

To be eligible for the Rebate the applicant must:



- have an Australian Business Number (ABN), and
- be the company that is either carrying out or is responsible for making the arrangements for the carrying out all the activities in NSW that are related to the production of the game.

The applicant may be:

- a fully or partly NSW based digital game development company, or
- an international or interstate developer engaging a fully or partly NSW based game developer

Only one company can apply for the Rebate for a particular game. If more than one NSW developer is working on the project then the company commissioning the work will generally make the application.

Other government departments and agencies are not eligible to apply.

The applicant must not be in breach of any obligation under any funding agreement it has with the NSW Government including under this Rebate program.

### **What is the minimum NSW spend per project?**

An eligible project must commit at the time of application to qualifying expenditure of at least AU\$500,000 on the project in NSW. The spend may occur over several years. Multiple projects cannot be bundled to achieve the AU\$500,000 threshold.

A project that does not meet the minimum qualifying NSW expenditure threshold of AU\$500,000 at the time of acquittal will not qualify for any of the Rebate.

(If contracts are issued in foreign currencies the applicable exchange rate for determining whether the threshold has been met will be the exchange rate for the day on which PDV activity commenced on the project in NSW)

### **What counts as qualifying NSW digital games expenditure?**

- Qualifying NSW games expenditure must be on activities carried out in NSW related to production of the launch version of the game. The pre-development stage, being activities that are usually undertaken with the aim of determining whether a digital game is commercially feasible, is excluded.

The following expenditures qualify for the Rebate:

- salaries and associated payments employees and independent contractors including developers, designers, artists, animators, writers, performers, music, sound design. (Interstate or overseas personnel must remain in NSW and work on the project in NSW for at least two consecutive calendar weeks for expenditure attributable to their stay to qualify for the rebate. Each visit is considered separately).
- NSW workers compensation payments and payroll tax
- payments to suppliers whose principal place of business is in NSW or that have an office or branch in NSW that is supplying the goods or services
- acquisition/licensing of additional material, such as music, used in the game where the material is NSW?held copyright or created by a NSW supplier. (These fees will generally be limited to 20% of qualifying NSW expenditure).
- testing and marketing costs up to the public launch (including in house marketer salaries, trailer, convention registration). A limited amount of post-launch development and live



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- services, including patches and updates, may be claimed in the year following the launch.
- depreciation of assets, to the extent the assets are used in the production of the game
  - attributable rent, rates and utilities
  - business expenses that relate to the production of the game such as some insurances, legal, accounting and auditing expenses.

The following expenditure is specifically excluded:

- capital expenditure
- hosting and distribution costs
- payments for activities or services undertaken outside NSW
- expenditure on international or interstate travel or freight
- deferred fees which are payable out of future revenue or profits
- payments to service providers which are offset by a reinvestment or any other financial contribution to the project
- any expenditure that precedes the date of application for registration
- expenditure prior to 1 October 2021

Where production of the game commenced prior to 1 October 2021, eligible expenditure that occurs after 1 October 2021 is eligible provided that it meets the minimum threshold of \$500,000.

The expenditure must be incurred by the applicant. Transactions with interested or related parties must be on an arms-length basis.

### **When should I apply?**

When the game is production-ready, with confirmed budget, schedule and funding arrangement (e.g. agreement with publisher) or realistic projections of future revenue that ensure the game can be developed to completion.

### **What is the application process?**

An applicant must submit an application with Screen NSW prior to the commencement of any eligible work for which the Rebate is sought. If production has already commenced on the project, only work carried out on or after the date of application will be eligible for the Rebate. [Applications must be made online here.](#)

### **What material do I need to include with my application?**

Applicants are required to complete an application form and submit requested information, which will include the games development budget for NSW, quotes from NSW suppliers and evidence the project is fully financed or can be financed using projected future revenue streams.

### **What is the assessment process?**

The Rebate is discretionary, subject to availability of Rebate funds, the track record of the applicant and team and the extent to which the project furthers the objectives of the fund (as set out in Clause 1).

### **Letter of Offer**

After an assessment of eligibility, Screen NSW will provide a Letter of Offer based on the information and projected expenditure presented in the application.





The Letter of Offer will set out the qualifying NSW expenditure amount that the applicant will be required to substantiate at acquittal, subject to the permitted variation set out in Clause 8.

### **What if my anticipated NSW spend varies after the time of application?**

If the qualifying NSW expenditure advised at the time of application varies by more than 10% or \$5 million, the applicant must request a variation to the Letter of Offer. Requests should be made in writing to Screen NSW within 15 business days of the change. Variation requests will be subject to availability of Rebate funds.

Where the final qualifying NSW expenditure is less than the amount advised at application, pro-rata payments will only be processed if the minimum NSW spend threshold of AU\$500,000 has been achieved.

### **What are the reporting and acquittal requirements?**

Reporting requirements will be set out in full in the Letter of Offer and will include:

- an audited ledger/expenditure statement of qualifying NSW development expenditure with contracts, invoices, purchase orders and change orders. Where personnel are engaged across more than one project, applicants will need to keep records of attributable person days for the project.
- number and category of local jobs generated by the project and attributable person days
- full credit list of eligible personnel
- a statutory declaration supporting the data provided
  
- a statement confirming that all services were provided in NSW or, if not, the amount attributed to non-NSW services.

Each applicant must participate in any reasonable survey or feedback requests made by Screen NSW, both during the application phase and up to two years following acquittal.

When the applicant is not the games company the applicant must include the reporting obligations contained in this clause in its contract with each NSW games supplier it engages for the project.

### **Is there a time limit for making a claim?**

Applicants must specify anticipated dates for commencement and completion of qualifying games development work and final claim in their application. The qualifying game development related activities need to commence within three months of the nominated start date unless otherwise agreed in writing with Screen NSW. Claims should be made within six months of project completion, unless otherwise agreed.

All claims must be made within three years of a Letter of Offer. For projects with a production duration of more than three years, applicants must contact Screen NSW at least six months before the three-year deadline to discuss.

### **What are the required delivery items?**

Applicants must provide a copy of or access to the completed project and all delivery items specified in the Letter of Offer. Delivery items will include a link to the launch version of the game and agreed marketing material. Delivery items will be used by the NSW Government to promote the State's digital games industry. The NSW Government may publish the title and brief description of the project.





## Public announcement

The NSW Government reserves the right to make a public announcement for any project which receives the Rebate. Any public announcement will be made in consultation with the applicant.

## When are claims paid?

Screen NSW will process a Rebate final claim within six months of receiving an acquittal that is fully compliant with the project's registration, inclusive of all required delivery items. Milestone payments may be agreed on a case by case basis.

## What acknowledgement of funding is required by the NSW Government?

The State must receive the following end credit in the version of the project intended for release: **DEVELOPED IN [city] NEW SOUTH WALES, AUSTRALIA, WITH THE ASSISTANCE OF THE NEW SOUTH WALES GOVERNMENT** and include the NSW Government logo. Suitable placement of the credit will be negotiated on a case by case basis.

The Digital Games Rebate [Guidelines](#) are not intended to be a legal document.

## Contact for further information

**Sue McCreadie**

Email: [sue.mccreadie@create.nsw.gov.au](mailto:sue.mccreadie@create.nsw.gov.au)