

## **Motion Picture Incentive: Audit Guidelines**

### **Purpose/Requirements:**

Prior to any final certification of the state-certified production, the motion picture production company shall submit to the Office an audit of the production expenditures, which must be performed by an independent certified public accountant selected and paid for by the motion picture production company. The motion picture production company would not be precluded from engaging its regular independent certified public accountant, if applicable, to perform these engagements.

It is the motion picture production company's responsibility to ensure that all of the required information is provided. Audited schedules that, minimally, do not conform to the guidelines outlined herein will not be accepted. Deficiencies in the audit may prevent credits from being issued.

### **General:**

- The following procedures set forth minimum standards for acceptability of the audit to be performed.
- The auditor is to make its certification on the basis of having performed, at a minimum, these procedures.
- The auditor must be a Certified Public Accountant licensed in the state of Louisiana and must be an independent third party
- The auditor's opinion must be addressed to the party that has engaged the auditor (e.g., Directors of the production company, producer of the production).
- The auditor's name, address, and telephone number must be evident on the report.
- The auditor's opinion must be dated as at the completion of the audit fieldwork.
- The audit must be performed in accordance with auditing standards generally accepted in the United States of America, as set forth in Generally Accepted Auditing Principles (GAAP) and Generally Accepted Auditing Standards (GAAS). The auditor must have sufficient knowledge of accounting principles and practices generally recognized in the film and television industry.

### **Identification of the Production:**

- The Production Title of the production and, when applicable, the episode numbers, must be disclosed.
- The period during which the costs were incurred must be disclosed.

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<sup>1</sup> See also La. R.S. 47:6007 and LAC Chpt 16 A, 1601-1613.

### **Cost Report of Direct Production Expenditures:**

- The cost report must be in US dollars.
- Only expenditures that were actually expended for the production can be recorded as production costs. These costs must be charged to the proper budgetary item. Examples of production costs that will qualify for the motion picture tax credit include: (1) set construction and operation, (2) wardrobes, makeup accessories, and related services, (3) payroll (salary, wages and other compensation, fringe benefits taxed, sourced or apportioned to Louisiana, and federal payroll taxes such as the employer's portion of FICA/FUTA), (4) payroll company's handling or processing fee provided that the payroll company has an office in Louisiana with posted/publicized business hours that is staffed by a full-time employee overseeing payroll administration for Louisiana productions, (5) workers' compensation insurance costs to the extent purchased from a source within the state, (6) costs associated with photography and sound synchronization, lighting and related services and materials, (7) editing and related services, (8) rental of facilities and equipment, including production worker "box rentals" provided they are included in the employee's gross compensation, or payable as a vendor expense and reported on the federal form 1099 and the "box rental" must be utilized on a state-certified production, (9) leasing of vehicles, (10) costs of food and lodging, and (11) if the service is performed in Louisiana, digital or tape editing, film processing, transfer of film to tape or digital format, sound mixing, special and visual effects; and other allowable expenditures as determined by rule.
- Refunds and credit notes received for discounts, rebates, invoicing errors, purchase returns and refundable deposits must be credited to the production costs; similarly, proceeds from the sale of props and other production assets must be deducted from the costs presented in the cost report. In cases where props and other production assets are kept in inventory for future productions, they must also be deducted, at fair market value, from the costs presented in the cost report.
- Completion bond expenditures must reflect any "no-claims rebate" received (the amount reported must be net after rebate).
- Amortization of series costs must be allocated to specific cost categories.

### **Cost Report of Direct Production Expenditures - Special Events:**

Clarification of Direct Production Expenditures: effective for initial certification letters issued on or after 1/1/12: Only costs incurred directly for film production (i.e. unique to the filming) are eligible to earn tax credits. Costs that are indirectly related to the film production, such as costs associated with events (*music festivals, concerts, documentary and reality television activities*, etc.) that would occur irrespective of filming are not eligible expenditures. Such ineligible costs may include artist compensation for festival or concert appearances, and costs associated with the usual activities of the subject of a reality show or documentary.

### **Notes to the Cost Report of Production:**

#### ***Sources of funds***

- All sources of funds that were used to finance the production must be disclosed, including any non-monetary transactions that were included in the cost of the production.
- Non-monetary transactions must be disclosed at fair market value. The nature of the services provided and the consideration given in exchange for the services must be disclosed.
- If there were no non-cash transactions, the cost report must include a note to that effect.

### ***Louisiana Yearly Expenditures & Louisiana Employee Payroll***

- The notes to the Cost Report of Production Expenditures must provide a breakdown of the amounts spent in each calendar year for both the overall expenditures and the Louisiana employee payroll.

### ***Non-Louisiana Costs***

- The notes to the Cost Report of Production Expenditures must provide a breakdown of all non-Louisiana costs and must include the budget item and the amount of the transaction.
- If there are no non-Louisiana costs, the cost report must include a note to that effect.

### ***Accounts Payable, Accrued Charges, and Deferrals***

- The amount of accounts payable, accrued charges and deferrals must be presented separately as of the ending date of the cost report.
- If there are no accounts payable, accrued charges or deferrals, the cost report must include a note to that effect.

### **Related Party Transactions – *disclosure and identification***

- The notes must provide a breakdown of all related party transactions (as defined GAAS and GAAP)), and include the following:
  - a. The name of the related party
  - b. The nature of the relationship between the related party and the motion picture production company
  - c. The nature of the transaction, and
  - d. The amount of the transaction.
- For further guidance on defining related parties and applicable procedures that should be considered by the auditor, *see* SAS No. 45 and AU Sec. 334 on related parties.
- If there are no related party transactions, the cost report must include a note to that effect.

### **Related Party Transactions – *verification of economic substance over form***

- GAAS and GAAP require the reporting of the economic substance of transactions regardless of their legal form. The auditor must satisfy himself or herself that any related party relationships and material transactions are properly accounted for and adequately disclosed in the notes. Mere disclosure of RPT's without further analysis and explanation will be considered insufficient by LED.

### **Related Party Transactions – *project cost accounting and reporting***

- Motion Picture Production Companies that enter into transactions with related parties shall report project costs as detailed below, unless LED approves in writing an exception for reporting at market rates.
- The Motion Picture Incentive Program is “project” based; therefore, to the extent that related party motion picture production companies are seeking tax credits for qualifying expenditures, they must capture and report “project” costs and revenues, not just functional expense classifications.
- Full project costing requires the creation and reporting of Labor and Facility/Equipment “charge rates” to properly account for Production company personnel and facility/equipment resources used to create the state certified production, ie the “project”.

## **Related Party Transactions – *limitations on certain types of expenditures***

### **I. Services**

#### **A. Above the Line (ATL) services provided by related parties - 12% limit (LA spend \$25,000,000 and lower); 8% limit (LA spend higher than \$25,000,000)**

- For productions where the Louisiana expenditures are \$25 million or lower and where above the line services (such as producer, executive producer, actor, director and other ATL services) are provided by a related party, qualifying expenditures for these services are limited to 12% of the total Louisiana production expenditures.
- For productions where the Louisiana expenditures are higher than \$25 million and where above the line services (such as producer, executive producer, actor, director and other ATL services) are provided by a related party, qualifying expenditures for these services are limited to 8% of the total Louisiana production expenditures.

#### **B. Below the Line (BTL); actual compensation**

- Where below the line services (such as production services) are provided by a related party, qualifying expenditures are limited to the actual compensation paid by the related party to its employee(s) actually performing the service (including employer-paid benefits), allocated to the production on an hourly basis.

### **II. Goods (equipment/supplies/studio rental/visual effects packages)**

#### **a. Fair Market Value (FMV)**

- Where goods are provided by a related party, qualifying expenditures are limited to fair market value, as established through the related party's historic dealings with unrelated parties, or actual transactions between other unrelated parties, for substantially similar goods. The comparable transactions must be substantially similar, considering the type of goods, the geographic market, and other pertinent variables.

For example:

- The production company has recently acquired the same type of goods in Louisiana at the same price from an unrelated third party;
- The studio-parent of the production company operates an equipment rental house that provided goods to the production company, and also recently provided the same type of goods at the same price to unrelated parties in Louisiana.

#### **b. Internal Cost Recovery Rate (ICRR)**

- If FMV cannot be established, qualifying expenditures will be limited to the internal cost recovery rate, consisting of actual acquisition cost, plus ongoing maintenance and upgrade cost, divided by anticipated utilization over the real useful life.

#### **c. Visual effects packages; ICRR or actual compensation**

- If FMV cannot be established for visual effects packages, qualifying expenditures will be limited to either (1) ICRR and/or (2) actual compensation paid by the related party employer to its employee(s) actually performing the service (including employer-paid benefits), allocated to the production on an hourly basis. LED will select the methodology it deems most appropriate under the circumstances.

### **III. Finance Fees / Interest**

- No tax credits shall be earned for finance fees, interest, or payments of a similar nature paid to related parties and/or investors in the production (i.e., entities or parties that reap increased financial rewards based on sales, exploitation of the product, or the success in lining up distribution agreements)

### **IV. Documentation**

- Related party transactions must be supported by an audit and documentation as requested by LED, which may include (but is not limited to) third-party contracts, notarized affidavits, tax records, and cancelled checks.

**\*\* For further guidance on related party transaction questions, see [www.LouisianaEntertainment.gov](http://www.LouisianaEntertainment.gov) accounting section with example CPA notes, ICRR calculations and answers to FAQ's.**

#### **Reporting:**

The audit of the Cost Report of Production Expenditures and Infrastructure Expenditures, if any, must be conducted in accordance with auditing standards generally accepted in the United States of America. Once the audit engagement is completed, please submit one copy of the auditor's opinion to the motion picture production company and one copy to the Office of Entertainment Industry Development. The auditor's opinion should be accompanied by the Cost Report of Production Expenditures and Infrastructure Expenditures, if any, and the Notes to the Cost Report (a sample auditor's report with an unqualified opinion is included as Exhibit I and accompanying notes as Exhibit II).

#### **Report Deadline:**

The final auditor's opinion must be received by the Office of Entertainment Industry Development prior to any certification of expenditures.

**EXHIBIT I (letter format)**

**Independent Auditor's Report  
(Independent Certified Public Accountant's Letterhead)  
Motion Picture Production Company Name  
Address, City, State, and Zip**

We have audited the accompanying cost report of production expenditures<sup>1</sup> of **Motion Picture Production Company Name** for the period from **inception** through **completion** of the **State Certified Production (Unique ID#)**. The cost report of production expenditures<sup>1</sup> is the responsibility of the **Motion Picture Company Name's** management. Our responsibility is to express an opinion on this cost report of production expenditures based on our audit.<sup>2</sup>

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the cost report of production expenditures<sup>1</sup> is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the cost report of production expenditures<sup>1</sup>. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall cost report of production expenditures<sup>1</sup> presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the cost report<sup>1</sup> referred to above presents fairly, in all material aspects, the results of operation in Louisiana of the **Motion Picture Production Company Name** for the period from **inception** through **completion** of the **State Certified Production (Unique ID#)**, in conformity with the accounting and reporting requirements of Louisiana Revised Statute 47:6007 as described in the accompanying Foot Note 1.

Firm's signature / City, State  
Report Date

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<sup>2</sup> Reference to the schedule of infrastructure expenditures will also need to be included in this section of the report if infrastructure expenditures are not included in the cost report of production expenditures.

**EXHIBIT II (supporting)**

**Cost Report of Production Expenditures1:**

Attach the audited Cost Report of Production Expenditures detailing the motion picture production company name, State Certified Production (Unique ID#), and the period reviewed.

**Notes to the Cost Report of Production Expenditures:**

**1. General**

This cost report of production expenditures represents the production costs attributable to the production entitled "XYZ" produced by the Motion Picture Production Company Name during the period \_\_\_\_\_ to \_\_\_\_\_.

**2. Sources of funds**

As of \_\_\_\_\_ (insert the ending date of the cost report) the production entitled "XYZ" was financed from the following sources :

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The following non-monetary transactions were included in the cost of the production:

\_\_\_\_\_  
\_\_\_\_\_

Please disclose the nature of the services provided and the consideration given in exchange for the services for each non-monetary transaction.

**3. Louisiana Yearly Expenditures & Employee Payroll**

The production costs presented in this cost report include the following yearly Louisiana expenditures and employee payroll:

YEAR 1 Spend: \$_____	YEAR 1 LA Employee Payroll: \$_____
YEAR 2 Spend: \$_____	YEAR 2 LA Employee Payroll: \$_____

**4. Non-Louisiana Costs**

The production costs presented in this cost report include the following non-Louisiana costs:

Budget item: \$\_\_\_\_\_  
Budget item: \$\_\_\_\_\_

**5. Accounts Payable, Accrued Charges, and Deferrals**

As of \_\_\_\_\_ (insert the ending date of the cost report), the production costs presented in this cost report include the following:

Accounts payable: \$\_\_\_\_\_  
Accrued charges: \$\_\_\_\_\_  
Deferrals: \$\_\_\_\_\_  
Total: \$\_\_\_\_\_

\_\_\_\_\_

## **6. Related Party Transactions**

### ***Related Party Transactions – disclosure and identification***

The production costs presented in this cost report include the following related party transactions (as defined by the accounting standards):

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Disclose the following for each transaction:

- The name of the related party
- The nature of the relationship between the related party and the motion picture production company
- The nature of the transaction, and
- The amount of the transaction.

### ***Related Party Transactions – verification of economic substance over form***

- CPA notes on methods used, documents reviewed etc.

### ***Related Party Transactions – project cost accounting and reporting and possible limitations on qualifying expenditures***

- CPA notes on methods used, documents reviewed, calculations made, if any.