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Oklahoma Film Enhancement Rebate Program

Guidelines and
Instructions for Application

Rev. August 20, 2010

NOTE: The following guidelines and instructions are for the Oklahoma Film Enhancement Rebate Program only. If you are applying for the Oklahoma Tourism Development Act bricks and mortar tax credit or the Point-of-Purchase (POP) Sales Tax Exemption, **stop here**. Those two incentives are covered under separate application processes. *Please note that the POP sales tax exemption cannot be used in conjunction with the Oklahoma Film Enhancement Rebate Program*.

DISCLAIMER: These are intended to be **guidelines only**. They are subject to further revisions. Please check back with the Oklahoma Film & Music Office prior to submitting any applications to verify you are using the latest guidelines. All changes will be date stamped and posted at www.oklahomafilm.org under "Incentives" as they are implemented.

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SECTION 1. Eligibility Requirements

Film and television productions as well as television commercials with national advertising messages that are broadcast on a national affiliate or cable network (as defined in Oklahoma Statute, Title 68 § 3621-24 (Item 6A) filming in the state of Oklahoma with a minimum budget of Fifty Thousand Dollars ($50,000) and spending at least Twenty-five Thousand Dollars ($25,000) in Oklahoma, are eligible to apply for the rebate program.

SECTION 2. General Details of the Program

2A. Percentages and Cap

The Oklahoma Film Enhancement Rebate offers a Thirty-five percent to Thirty-seven percent (35% to 37%) cash rebate on Oklahoma expenditures to qualifying companies filming within Oklahoma. The base rebate of Thirty-five percent (35%) is increased to Thirty-seven percent (37%) if a production company spends a minimum of Twenty Thousand Dollars ($20,000) for the use of music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for the production.

The program is currently capped at Five Million Dollars ($5,000,000) per fiscal year (July 1 – June 30). If the amount of approved claim(s) exceeds Five Million Dollars ($5,000,000) within a fiscal year, payout will be made in the order in which the claims are approved by the Oklahoma Film & Music Office. If an approved claim is not paid in whole or in part within the designated time frame, the unpaid claim or unpaid portion may be paid in the following fiscal year, contingent upon the availability of funds.

2B. Qualifying Oklahoma Expenditures

The following is a list of qualifying expenditures:

- Below-the-line wages or salaries paid to Oklahoma residents
- Wages or salaries paid to *Oklahoma Expatriates (*as described in item 2C)
- Salaries for resident and non-resident above-the-line personnel paid to loan-out corporations or limited liability companies registered to do business with the Oklahoma Secretary of State's Office. **Note:** No more than Twenty-five percent (25%) of your total rebated amount can be comprised of qualifying above-the-line salaries
- Underlying rights for screenplay and novels paid to an Oklahoma entity or individuals with an Oklahoma tax liability (also subject to the twenty-five percent (25%) cap detailed above)
- The cost of construction and operations, wardrobe, accessories and related services procured in Oklahoma or paid to an Oklahoma company
- The cost of photography, sound synchronization, lighting and related services
- Rental of facilities and equipment paid to an Oklahoma company
- Other direct costs of pre-production, production and post production of a film to include:
    - Location scouting expenditures made in Oklahoma
    - Employer paid payroll taxes for Oklahoma employees, including SUI, FUI, FICA, Workers Comp
    - Union fringe paid to Oklahoma crew

- Shipping and postage for packages originating within and/or terminating in Oklahoma that are directly attributable to filming in Oklahoma
- Lodging costs
- Rental cars used by production in Oklahoma providing it is a taxable transaction in Oklahoma
- Box rental fees for Oklahoma crew
- Completion bonding if utilizing an Oklahoma-based bonding agent
- Production insurance if utilizing an Oklahoma-based insurance agent
- The purchase of airline tickets for the purposes of location scouting and production of the film if utilizing an Oklahoma-based travel agency. Flight must originate or conclude within Oklahoma
- Airline baggage fees: up to two per flight, per person for flights into or out of Oklahoma for cast and production personnel
- Per Diem paid to cast and crew for Oklahoma filming dates (both resident and non-resident)
- Third party final rebate reviews conducted by pre-certified Oklahoma accounting firms

2C. Oklahoma Expatriate Program

Included in the definition of qualifying "crew" are wages and salaries paid to an individual registered as an Oklahoma Expatriate by the Oklahoma Film & Music Office. The Expatriate roster consists of Oklahoma below-the-line crew not currently residing in Oklahoma, who have pre-registered with the Oklahoma Film & Music Office, by first meeting all requirements. That roster will be made available to producers in an effort to supplement Oklahoma's existing crew base. If a producer chooses to hire one of the qualifying crew members whose name appears on that roster, wages and salaries paid to that person will qualify as an Expenditure or Production Cost and count towards the minimum requirement of Twenty-five Thousand ($25,000) in Oklahoma expenditures. Before rebate payment can be made, producer must provide proof to the Oklahoma Film & Music Office that the individual has filed (or has agreed in writing to file) an Oklahoma income tax return for the year services were rendered on the production to the Oklahoma Film & Music Office.

If the production would like to hire Oklahoma Expatriates not currently registered with the Oklahoma Film & Music Office, the potential hire must take the necessary steps to register at www.Oklahomafilm.org and provide required documentation prior to the start of production. Additionally, for each expatriate, the production is required to submit a fully-executed Form E.

A further requirement is that in exchange for utilizing a crew member from the Expatriate Roster as a qualifying local expenditure, the production must accept assignment of an intern provided by an Oklahoma institution of higher education or Career Tech for an agreed upon length of time during the course of the production (to be assigned to the expatriate or other appropriate personnel).

2D. Third Party Final Rebate Review Requirement

In order to be eligible to receive rebate monies, the production must retain the services of an independent certified public accountant to serve as a Third Party Reviewer. In order for this to be a rebatable expenditure, the production must retain a Third Party Reviewer who is licensed to do business in the state of Oklahoma and who shall not be related to the producer or anyone on the production.

The Director of the Oklahoma Film & Music Office must be provided with the name, address and telephone number of the independent reviewer proposed by the producer in order to make contact prior to beginning the review process.

The review shall be performed in accordance with review standards generally accepted in the United States of America and the reviewer shall have sufficient knowledge of accounting principles and practices generally recognized in the film and television industries.

The reviewer shall present a final report based on Agreed Upon Procedures for Third Party Reviews provided in **SECTION 8**.

2E. End Credit Requirement

The following screen credit, logo and written confirmation thereof **(Form H)** must be included in the end credit crawl of all release prints of a completed short or long-form film or episodic television program:

"Filmed in Oklahoma utilizing the Oklahoma Film Enhancement Rebate Program"

2F. Rebate Review and Payout Timeline

Pending receipt of results and supporting documentation of Third Party Review described in 2D, the Oklahoma Film & Music Office will approve or disapprove each claim within a period of thirty (30) days. The Oklahoma Tax Commission shall, upon notification of approval from the Oklahoma Film & Music Office, issue payment for all approved claims.

Only one rebate claim shall be processed per production. Once the production company has been paid for its rebate claim, no amendments for that claim are allowable.

Note: Productions have one opportunity to resubmit a corrected claim to the Oklahoma Film & Music Office. This must occur within a period of ten (10) calendar days of receipt of disapproval.

2G. Child Pornography/Obscenity Restrictions

Productions deemed as child pornography in subsection A 1024.1 of Title 21 of Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of section 1024.1 of Title 21 of Oklahoma Statutes, do not qualify for the Oklahoma Film Enhancement Rebate Program.

2H. Sunset Date for the Oklahoma Film Enhancement Rebate Program

July 1, 2014.

SECTION 3. Pre-Qualifying and Final Application Processes

3A. When, Where and How to Apply for the Rebate

When to Apply:

Applications must be submitted at least sixty (60) calendar days but no more than one hundred eighty (180) calendar days prior to the start of production. *Applications submitted more than 180 calendar days or less than 60 days prior to the scheduled start of production will not be accepted.*

Where to Apply:

The Oklahoma Film & Music Office
120 North Robinson Avenue
Suite 600
Oklahoma City, OK 73102
(405) 230-8440
www.oklahomafilm.org

How to Apply:

1. Complete, sign and submit hard copies of Form A, Form B, Form C and Form D, as provided in Section 4, along with the latest version of the shooting script and production budget.

2. Production will receive written notice of either pre-approval or disapproval of eligibility application (see details below).

3. *Once production has received written notice of pre-approval, an interview must be scheduled to discuss your application with the Oklahoma Film & Music Office by calling (405) 230-8440. The meeting must be attended by a producer or a line producer, unit production manager or production accountant or their designee, subject to the approval of the Director of the Oklahoma Film & Music Office.*

Notice of Pre-Approval/Disapproval of Eligibility Application

If the Eligibility Application is approved, you will receive a letter of prequalification signed by the Director of the Oklahoma Film & Music Office listing the items provided on the application and any supporting documentation currently on file with the office along with the projected amount of rebate pending the production meeting all requirements under the Oklahoma Film Enhancement Rebate Program. At that point, the projected rebate amount, *and only that specific amount*, will be earmarked for your production, providing you meet all benchmarks in the application process as described in Section 3C.

Receipt of the prequalification letter *does not* guarantee receipt of rebate monies. Final eligibility and the amount of the rebate will be determined after submission and review of the final application, the results of a Third Party Review and all required supporting documentation.

If the Eligibility Application is not approved, the Oklahoma Film & Music Office shall provide the applicant with a notice of disapproval which shall state the reasons therefore.

As specified in Oklahoma statute, *no more than one (1) application per fiscal year per specific production (based on production title, script and budget) will be accepted.*

3B. Required Benchmarks for Rebate Eligibility Process

- **180 Calendar Days (and no sooner) Prior to Production** you may submit an Eligibility Application for the Oklahoma Film Enhancement Rebate Program signed by authorized production personnel along with all other required documentation.

- **60 Calendar Days (minimum) Prior to Production**, a production must show proof that fifty percent (50%) of the production budget is in place by providing one or more of the following forms of documentation:
    - Signed letter of intent from Production Financier(s) on their letterhead
    - Signed letter from Production Entity's bank to include account number and contact information stating that funds are available for production
    - Fully executed equity investor agreement(s)
    - Fully executed foreign pre-sales agreement(s) to include written confirmation therein of intent to advance funds to production

  Note: Sixty (60) days prior to production is the last point at which a production may revise their Eligibility Application to increase their projected rebate amount and have monies earmarked in advance, subject to availability of funds.

- **30 Calendar Days (minimum) Prior to Production,** a production must show proof of ability to cash flow the production in full (via same methods described for Fifty percent (50%) verification above).

  Also required **at least 30 Calendar Days Prior to Production**:
    - Copy of one-line shooting schedule and inclusion on revisions distribution list (or as soon as available prior to principal photography).
    - Latest version of production budget and signed Statement of Budget (Form D)
    - Latest version of the script and inclusion in revisions distribution list
    - Latest version of Crew List tagged for resident and non-resident hires
    - Latest version of Cast List tagged for resident and non-resident hires
    - Location list complete with addresses and contact information
    - Copy of the completion bond (where applicable, see Guidelines, Item 6A, D3)
    - Copy of the Certificate of General Liability, carrying a minimum of One Million Dollars ($1,000,000) (USD) in coverage
    - Proof of Workers Compensation Policy pursuant to Oklahoma State law
    - Legal Counsel name and contact information for producers and financiers
    - Additional documents as may be requested by the Oklahoma Film & Music Office

- **10 Calendar Days (minimum) Prior to Production**, producers and/or unit publicist will work with the Oklahoma Film & Music Office to develop a press release announcing the production in Oklahoma. This release is to be approved by all parties and released prior to the first day of principal photography.
  Important Benchmark Rules:

1. Production is allowed ten (10) calendar days after missing a benchmark to declare, in writing, to the Oklahoma Film & Music Office the new start date. Failure to do so will result in the production being removed from the queue
2. If a production delays the start of Production more than ten (10) calendar days as provided in the eligibility application process, it is deemed a push of production date. For the first push, the production's rebate eligibility will be pushed the same length of time between its initial start date and its newly revised start date. Any productions behind it in the eligibility queue with start dates within this window of time will move ahead, thereby having first claim to rebate funds
3. Should a production push the start of production a second time, it will move to the back of the eligibility queue
4. Should a production push its start of production a third time, its Eligibility Application becomes null and void. A subsequent re-application will be delayed until the next fiscal year
5. Eligibility is non-transferable**.** Each Eligibility Application shall be filed under the title of the screenplay submitted to the Oklahoma Film & Music Office. Projects deemed eligible for the rebate under each application shall only be eligible to the extent that project is substantially based on the screenplay previously submitted and on file with the Oklahoma Film & Music Office and supporting budget submitted for said project title

3C. Oklahoma Production Services Entities

Oklahoma's production industry is currently in a growth phase. As such, certain equipment and services may not be readily available within the state. In an effort to grow local support service companies while still being able to service the needs of incoming productions, the Oklahoma Film & Music Office is currently making an allowance for the use of Oklahoma Production Services Entities. This allows for incoming productions to contract with local vendors, pre-approved by the Oklahoma Film & Music Office, to procure specific equipment, raw stock and expendables not readily available in the state, therefore qualifying those purchases and rentals as Oklahoma expenditures. This does ***not*** include labor of any kind.

The definition of an "Oklahoma Production Services Entity" is a company or sole proprietorship established within Oklahoma and with an Oklahoma income tax liability that is registered with the Oklahoma Film & Music Office to offer its services to incoming productions. Further requirements are as follows:

1. Must have filed the necessary paperwork with the Office of the Oklahoma Secretary of State to be recognized as a Corporation or Limited Liability Company. (Sole Proprietorship is also acceptable. See 2.)
2. All Production Services Entities are required to file the Oklahoma Business Registration Packet with the Oklahoma Tax Commission
3. Must have met with the Oklahoma Film & Music Office in person to provide copies of the Secretary of State paperwork and/or to Oklahoma Tax Commission Business Registration Packet, as well as a valid Federal Identification Number (FEIN) and to discuss the requirements of the program in advance

4. Must be registered in Reel-Crew, Oklahoma's official online production guide at www.oklahomafilm.org. Note: a listing in Reel-Crew will not be approved until all documentation has been provided to the Oklahoma Film & Music Office and is deemed satisfactory per the requirements of the program
5. Purchase or rental of products or services made through an Oklahoma Production Services Entity must be those items that Entity is routinely engaged in the business of providing. (Ex: it is not allowable to contract with a sound equipment vendor for the purposes of renting a camera package, etc.)
6. Items cannot be currently available within the state from Oklahoma vendors. Proof of at least three unsuccessful attempts to rent or purchase from Oklahoma vendors must be provided in order for the production services transaction to be approved by the Oklahoma Film & Music Office
7. The Production Services Entity must charge the production a mark-up and Oklahoma sales tax for its transaction with the production
8. Entity must utilize detailed invoices to back up all transactions (no blanket invoices will be accepted as qualifying spend)
9. Transactions between Production and Oklahoma Production Services Entity must be included in final ledgers submitted to the Oklahoma Film & Music Office with the Final Rebate Application

3D. Requirements after Principal Photography

No more than Ninety (90) calendar days after the payment of all Oklahoma expenditures, the production must submit the following to the Oklahoma Film & Music Office:

- Final Rebate Application (Form I)
- Final budget and signed statement of budget (Form D)
- Amount of wages and qualifying expenditures
- Final payroll report provided directly to the Oklahoma Film & Music Office from production payroll entity
- Final cast list with local hires annotated
- Final crew list with local hires annotated
- Aggregate alphabetical list of qualifying cast, crew and extras
- Final vendor list, alphabetical, including contact information
- Final location list including contact information
- Daily production reports for all Oklahoma filming days
- Completed Summary of Local Expenditures (Form F)
- Final accounting ledger (all supporting documentation and receipts must be kept by the production company of record for a period of three (3) years)
- The production company has filed or will file any Oklahoma tax return or tax document which may be required by law
- Final production one-line shooting schedule
- Results of Third Party Review conducted by an accounting firm that has been mutually agreed upon in advance. Third Party Review will be at the expense of the production. This is deemed a qualifying expenditure if certified Oklahoma accounting firm is used
- Certification of Information, signed by producers and notarized before submission, stating among other things, that all information provided to the Oklahoma Film & Music Office for the purposes of qualifying for the Oklahoma

Film Enhancement Rebate program are true and correct and that there are no unpaid salaries, invoices, reimbursements for damages or liens against the production entity in the State of Oklahoma. No rebate money will be released until this notarized documentation is on file with the Oklahoma Film & Music Office (Form G)

- End Credit Requirement as described in Item 2E

Failure to provide the final information according to the time frame provided above may result in a loss of the credit. Within Thirty (30) days of all requirements being met, the Oklahoma Film & Music Office will issue a letter to Oklahoma Tax Commission, requesting rebate payment, copying production company contact.

SECTION 4. Required Forms

Form A - Project Information
Form B - Application of Eligibility
Form C - Filming Permit
Form D - Statement of Budget
Form E - Expatriate Program Registration
Form F - Summary of Local Expenditures
Form G - Certification of Information
Form H - Confirmation of End Credit Inclusion
Form I - Final Rebate Application

SECTION 5. Requesting Exemptions to Open Records Act

The Oklahoma Film & Music Office is subject to the State of Oklahoma Open Records Act, which governs public access to the records of government agencies. Under **Title 74 O.S. § 2231** of Oklahoma State Law, the following information provided to the Oklahoma Film & Music Office as a Department of the Oklahoma Tourism & Recreation Department, by a person or entity seeking economic advice from the Oklahoma Film & Music Office and any information compiled by us in response to submissions, may be kept confidential:

- Prospect Lists
- Booking Lists
- Subscriber Lists
- Permission Marketing Lists
- Personal Information

The Oklahoma Film & Music Office is also subject to **Title 51 O.S. § 24A.10C** that allows:

- Business Plans
- Feasibility Proposals
- Financing Proposals
- Marketing Plans
- Financial Statements
- Trade Secrets

Please note that in order to protect confidentiality of the above referenced items, *you must submit a request in writing to the Oklahoma Film & Music Office along with your Eligibility Application requesting that the information be withheld from disclosure on the grounds that it constitutes trade secrets, proprietary information or that the information, if disclosed, would cause substantial injury to the competitive position of the applicant.* Please specify the information for which you are seeking protection along with clearly stated reasons for the requested exception.

The Oklahoma Film & Music Office reserves the right to determine whether the information submitted by the applicant will be withheld from disclosure. The Oklahoma Film & Music Office will notify the applicant of any requests for disclosure and notify the applicant as to whether the information will be disclosed.

SECTION 6. Oklahoma Statutes

6A. Oklahoma Film Enhancement Rebate Program Statutes

Title 68. Chapter 1, Article 36A – Compete with Canada Film Act, **Section 3624**

A. There is hereby created the Oklahoma Film Enhancement Rebate Program. A rebate in the amount of up to thirty-five percent (35%) of documented expenditures made in Oklahoma directly attributable to the production of a film, television production, or television commercial, as defined in Section 3623 of this title, in this state, may be paid to the production company responsible for the production.

B. The amount of rebate paid to the production company as provided for in subsection A of this section shall be increased by an additional two percent (2%) of documented expenditures if a production company spends at least Twenty Thousand Dollars ($20,000.00) for the use of music created by an Oklahoma resident that is recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production.

C. The rebate program shall be administered by the Office of the Oklahoma Film and Music Commission and the Oklahoma Tax Commission, as provided in the Compete with Canada Film Act.

D. To be eligible for a rebate payment:

1. The production company responsible for a film, television production, or television commercial, as defined in Section 3623 of this title, made in this state shall submit documentation to the Office of the Oklahoma Film and Music Commission of the amount of wages paid for employment in this state to residents of this state directly relating to the production and the amount of other production costs incurred in this state directly relating to the production;

2. The production company has filed or will file any Oklahoma tax return or tax document which may be required by law;

3. Except major studio productions, the production company shall provide the name of the completion guarantor and a copy of the bond guaranteeing the completion of the project or if a film has not secured a completion bond, the production company

shall provide evidence that all Oklahoma crew and local vendors have been paid and there are no liens against the production company pending in the state;

4. The minimum budget for the film shall be Fifty Thousand Dollars ($50,000.00) of which not less than Twenty-five Thousand Dollars ($25,000.00) shall be expended in this state.

5. The production company shall provide evidence of financing for production prior to the commencement of principal photography; and

6. The production company shall provide evidence of a certificate of general liability insurance with a minimum coverage of One Million Dollars ($1,000,000.00) and a workers' compensation policy pursuant to state law, which shall include coverage of employer's liability.

E. A production company shall not be eligible to receive both a rebate payment pursuant to the provisions of this act and an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title. If a production company has received such an exemption from sales taxes and submits a claim for rebate pursuant to the provisions of the Compete with Canada Film Act, the company shall be required to fully repay the amount of the exemption to the Tax Commission. A claim for a rebate shall include documentation from the Tax Commission that repayment has been made as required herein or shall include an affidavit from the production company that the company has not received an exemption from sales taxes pursuant to the provisions of paragraph 21 of Section 1357 of this title.

F. The Office shall approve or disapprove all claims for rebate and shall notify the Tax Commission. The Tax Commission shall, upon notification of approval from the Office of the Oklahoma Film and Music Commission, issue payment for all approved claims from funds in the Oklahoma Film Enhancement Rebate Program Revolving Fund created in Section 3625 of this title. Provided, no claims for rebate expenditures made on or after July 1, 2009, shall be paid prior to July 1, 2010. The amount of payments in any single fiscal year shall not exceed Five Million Dollars ($5,000,000.00). If the amount of approved claims exceeds the amount specified in this subsection in a fiscal year, payments shall be made in the order in which the claims are approved by the Office. If an approved claim is not paid in whole or in part, the unpaid claim or unpaid portion may be paid in the following fiscal year subject to the limitations specified in this subsection.

6B. Rebate Definitions

Title 68. Article 36A, Section 3623 of the Oklahoma State Statutes

As used in the Compete with Canada Film Act:

1. "Crew" means any person who works on preproduction, principal photography, and post production, with the exception of producers, principal cast, screenwriters, and the director. The qualifying salary of producers, principal cast, screenwriters, and the director, also known as "above-the-line personnel", may be included as crew if the salaries are paid to loan-out corporations and limited liability companies registered to do business in the State of Oklahoma or the salaries are paid to Oklahoma-based above-

the-line personnel. The qualifying salary of above-the-line personnel shall not comprise more than twenty-five percent (25%) of total expenditures as defined in paragraph 2 of this section. For purposes of this paragraph, "Oklahoma-based" means a company or individual with an Oklahoma income tax requirement;

2. "Expenditure" or "production cost" includes but is not limited to:

(a) wages or salaries of persons who are residents of this state and who have earned income from working on a film in this state, including payments to personal services corporations with respect to the services of qualified performing artists, as determined under Section 62(a)(A) of the Internal Revenue Code,

(b) the cost of construction and operations, wardrobe, accessories and related services,

(c) the cost of photography, sound synchronization, lighting and related services,

(d) the cost of editing and related services,

(e) rental of facilities and equipment,

(f) other direct costs of producing a film, and

(g) the wages and salaries of persons who are defined and registered as an Oklahoma Expatriate by the Office of the Oklahoma Film and Music Commission;

3. "Film" means a professional single media, multimedia program or feature, which is not child pornography as defined in subsection A of Section 1024.1 of Title 21 of the Oklahoma Statutes or obscene material as defined in paragraph 1 of subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes, including, but not limited to, national advertising messages that are broadcast on a national affiliate or cable network, fixed on film or digital video, which can be viewed or reproduced and which is exhibited in theaters, licensed for exhibition by individual television stations, groups of stations, networks, cable television stations or other means or licensed for home viewing markets; and

4. "Production Company" means a person or company who produces film for exhibition in theaters, on television or elsewhere.

6C. Child Pornography

A project that depicts or describes any child pornography, as defined in **Title 21, Subsection A 1024.1** of Oklahoma Statutes, shall not be eligible to receive assistance under this section.

6D. Obscenity

A project that depicts or describes any obscene material, as defined in **Title 21, Subsection B of Section 1024.1, Paragraph 1** of Oklahoma Statutes, shall not be eligible to receive assistance under this section.

6E. Open Records

As provided in **Title 51, Section 24A.2,** The Oklahoma Film & Music Office is subject to the Oklahoma Open Records Act. The Oklahoma Film & Music Office has certain exemptions as outlined previously in Section 5 of these Guidelines. To be exempt under the statutes in Section 5, a production must elect to be exempt by providing a written request to the Oklahoma Film & Music Office.

SECTION 7. Oklahoma Film & Music Office Administrative Rules

Please visit the Oklahoma Secretary of State's Office:
https://www.sos.ok.gov/oar/online/viewCode.aspx

The Oklahoma Film & Music Office's rules are contained in **Title 725, Chapter 35**.

SECTION 8. Agreed Upon Procedures for Third Party Rebate Reviews

1. Approved CPA Reviewer will read the regulations and compliance requirements of the Oklahoma Film Enhancement Rebate Program and perform a review in accordance with generally accepted accounting standards in the United States of America. We will present a final report based upon agreed-upon procedures:

(a) Only actual paid expenditures clearly and demonstrably in Oklahoma for the qualified production may be recorded and certified as direct production expenses or qualified personnel expenditures.

(b) The costs to be recorded are actual costs and shall not include any mark-ups or profit additions on the part of the production entity receiving the rebate. These costs must (1) be incurred in Oklahoma, (2) be directly attributable to the production or distribution of the qualified production which is the subject of the Oklahoma Film Enhancement Rebate Program and (3) be subject to taxation in Oklahoma.

(c) The cost report must be in US dollars and the period during which the expenditures were incurred must be disclosed.

(d) It is the eligible production company's responsibility to ensure that all of the required information is provided.

(e) For payments made to loan out companies or limited liability companies, the reviewer must verify that the loan out or LLC is registered with the Oklahoma Secretary of State's Office to do business in the state of Oklahoma.

(f) Reviewer must ensure that salaries for both resident and non-resident above-the-line personnel paid to loan-out corporations or limited liability companies registered to do business in Oklahoma do not comprise more than Twenty-five percent (25%) of the total amount being submitted for rebate.

2. Approved CPA Reviewer will test, on a sample basis, payments to individuals (payroll), whether they were made to an individual or a loan-out company, and verify the agreement of: the date the expense was incurred, the indiviudal/loan-out company name and the amount of the expense to supporting records. Reviewer will also inspect the invoice (or equivalent documentation) to verify that the expense was incurred in Oklahoma if such invoice has been included in the report as a Qualified Oklahoma Expense in accordance with the Oklahoma Film Enhancement Rebate Program Guidelines. The sample will be selected in the following manner:

   (a) Reviewer will select all employees whose total earnings were in excess of Seventy-five thousand dollars ($75,000) ("Top Strata")

   (b) Reviewer will haphazardly select twenty-five (**25)** employees whose total earnings were less than or equal to seventy-five thousand dollars ($75,000) ("Strata 1").

3. Approved CPA Reviewer will test, on a sample basis, all expenses other than payments to individuals (non-payroll) from the list included in the Report of All Production Expenses and All Qualifying Oklahoma Expenses of the Project (Bible) and agree the vendor and the amount of the expense from the Bible to supporting documents. Reviewer will also inspect the invoice (or equivalent documentation) to verify that the expense was incurred in Oklahoma if such invoice has been included in the report as a Qualified Oklahoma Expense in accordance with the Oklahoma Film Enhancement Rebate Program Guidelines. The sample will be selected in the following manner:

   (a) Reviewer will select all non-payroll expenditures in excess of twenty-thousand dollars ($20,000) from the Bible ("Top Strata").

   (b) Reviewer will haphazardly select fifty (**50)** non-payroll expenditures greater than five hundred dollars ($500) and less than or equal to $20,000 ("Strata 1").

   (c) Reviewer will haphazardly select twenty-five (**25)** non-payroll expenditures less than or equal to five hundred dollars ($500) ("Strata 2").

4. Approved CPA Reviewer will apply the rate of misstatement of the exceptions identified in Strata 1 of procedure #2 and Stratas 1 and 2 of procedure #3 above, if any, to the respective populations tested. The rate of misstatement will be calculated by: the total value of the exceptions identified, divided by the total dollar value tested, and multiplied by the respective populations tested. In the event that there is a high rate (defined below) of misclassified expenses (i.e., non-qualified expenses categorized as qualified), Reviewer will notify the Oklahoma Film & Music Office and request that the Production Company carefully review and revise the schedules of Qualified Expenses unless the Production Company elects (with concurrence of the

Department) to forego this revision and accept a lower calculated credit based on the application of the error rate as outlined below:

(a) If the Company, with the concurrence of the Oklahoma Film & Music Office elects to revise the schedules, Reviewer will then perform the above procedures on the revised schedules. (Note: If this step is necessary, the additional time required to perform these procedures will be billed at standard hourly billing rates.)

(b) "High rate of misclassified expenses" - If the total population error (aggregate error of all populations tested), after applying the rate of misstatement to the respective populations tested, is equal to or greater than the greater of a) fifty thousand dollars ($50,000) or b) one percent (1%) of total Qualified Expenses submitted for each period.

(c) To the extent that exceptions are found that are not subject to a revision of schedules as discussed above (i.e., less than a “high rate of misclassified expenses”), the total of all calculated misstatements for each population tested will be deducted from the original schedules of Qualified Expenses to arrive at a revised amount for Oklahoma Qualified Expenses.

5. Approved CPA Reviewer will calculate the amount of credit at thirty-five percent (35%) of the Qualified Oklahoma Expenses.

6. Approved CPA Reviewer will verify that the Company spent in excess of twenty thousand dollars ($20,000) for the use of music created by an Oklahoma resident that was recorded in Oklahoma or for the cost of recording songs or music in Oklahoma for use in the production and Reviewer will calculate the amount of the supplemental credit at two percent (2%) of the Qualified Oklahoma Expenses, if applicable.

7. In all instances where a procedure is noted as agreement of amounts, such agreement is defined as being within one dollar ($1.00).