



# West Virginia Film Industry Investment Act



## AGREED UPON PROCEDURES FOR EXPENSE VERIFICATION REPORT

To ensure compliance with W.Va. Code § 11-13X-1, et seq., the West Virginia Tourism Office requires an expense verification report be prepared by a licensed certified public accountant to certify that Qualified Expenditures were incurred in the State of West Virginia by an Eligible Company producing an approved Qualified Project. An Eligible Company must retain the services of an independent certified public accountant, as defined under generally accepted auditing standards, to render an expense verification report.

These Agreed Upon Procedures are to be followed in order for an Eligible Company to qualify for tax credits under the WV Film Industry Investment Act. Any fees or expenses incurred by an Eligible Company in order to follow these procedures is the responsibility of Eligible Company.

### **Accountant agrees to perform the following procedures:**

1. We will read the regulations and compliance requirements of the West Virginia Film Industry Investment Act (W.Va. Code §11-13x-1, et. seq. and W.Va. CSR §110-13X-1, et. seq.)
2. We will read Eligible Company's Application for Tax Credit Voucher (Form FIIA-05) and agree the creditable expense amount to trial balance detail provided by the Eligible Company.
3. We will obtain from the Eligible Company, documentation (such as, production reports, call sheets, trailers, etc.) supporting that the making of a Qualified Project requirement has been met in accordance with the requirement under W.Va. Code §11-13X-4.
4. We will obtain a schedule from the Eligible Company listing any company or person having a greater than 25% ownership interest, affiliation with or controlling interest in the Eligible Company. Compare this schedule to the legal, organizational or corporate documents of the Eligible Company and/or its owners, affiliates or controllers (such as stockholders agreements, limited liability company operating agreements, corporation agreements, etc.) for completeness. Document owners in the report and obtain a schedule from the Eligible Company listing payments between the Eligible Company and such owners.
5. We will obtain documentation of all production expenses for the Qualified Project and total principal photography days for the Qualified Project during the production period and obtain a schedule or analysis of total principal photography days filmed in West Virginia during the production period.
6. We will review the financial records to determine that the Eligible Company has incurred a minimum of \$25,000 of West Virginia "direct production expenditures" and "post-production expenditures" on a Qualified Project in accordance with the requirement under W.Va. Code §11-13X-3(b)(8), and that said expenditures occurred during the eligible company's production period(s) (including pre or post) in West Virginia.
7. We will:
  - a. Inspect payments (using the criteria in 7b. below) to individuals, whether they were made to an individual or any other entity, from the list of West Virginia Qualified Expenditures, and agree (i) the date the expense was incurred; (ii) the entity/individual paid; (iii) the amount of the expense; (iv) that appropriate West Virginia withholding was made; and (v) inspect the invoice (or equivalent documentation) to verify that the expense was incurred in West Virginia or with a West Virginia entity, and that the expense occurred during the eligible company's production period(s) (including pre or post) in West Virginia.
  - b. Apply the above procedures to (i) all individuals whose total earnings were in excess of \$100,000 and (ii) to a haphazard selection of 25 individuals whose total earnings were less than or equal to \$100,000.

**Accountant agrees to perform the following procedures, continued:****8. We will:**

- a. Inspect expenses other than payments to individuals (using the criteria in 8b. below) from the list included in the report of Qualified Expenditures, compare to the supporting invoices, and agree (i) the date the expense was incurred; (ii) the vendor; (iii) the amount of the expense; and (iv) inspect the invoice (or equivalent documentation) to verify that the expense was incurred in West Virginia or with a West Virginia entity, and that the expense occurred during the eligible company's production period(s) (including pre or post) in West Virginia.
- b. Apply the above procedures to (i) all non-payroll expenditures in excess of \$20,000; (ii) to a haphazard selection of 50 non-payroll expenditures between \$501 and \$20,000; and (iii) to a haphazard selection of 25 non-payroll expenditures less than or equal to \$500.

**9. We will apply the rate of misstatement of the exceptions identified in procedures in sections 7 and 8 above, if any, to the respective populations tested. The rate of misstatement will be calculated by: the total value of the exception identified, divided by the total dollar value tested, and multiplied by the respective population tested.****10. In the event that there is a high rate (defined below) of misclassified expenses (i.e., non-qualified expenses categorized as qualified), we will notify the Eligible Company and request that they carefully review and revise the schedules of Qualified Expenditures unless the Eligible Company elects to forego this revision and accept a lower calculated credit based on the application of the error rate as outlined below.**

If the Eligible Company elects to revise the schedules, we will then reperform the above procedures on the revised schedules.

“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) \$50,000 or b) 1% of total Qualified Expenditures submitted.

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 Expenditures to arrive at a revised amount for West Virginia Qualified Expenditures.

**11. We will determine the owner of the copyright to the Qualified Project. In the event the Applicant Company is not the copyright owner, Applicant Company must provide evidence that the copyright owner has contracted for the Qualified Project with the Applicant Company. Collaborating evidence regarding copyright ownership includes, but is not limited to: (a) fully executed contracts, (b) other written agreements, or (c) memorandums of understanding.****12. We will calculate the amount of credit at 27% for Qualified Expenditures incurred, plus an additional 4% if 10 or more West Virginia residents (crew or talent) were employed full time, shown in the trial balance provided to the West Virginia Film Office and compare such calculation to the amount stated on the Eligible Company's Application for Tax Credit Voucher (Form FIIA-05).**

If an Eligible Company takes the additional 4% credit for employing West Virginia residents, we will determine whether there were 10 or more West Virginia residents (crew or talent) that an Eligible Company employed as part of its full-time employees working in the state and confirm their residential status by verifying their West Virginia addresses.