Garden State Film and Digital Media Jobs Act Film Tax Act
NJEDA Agreed Upon Procedures Requirements- Digital Media Content Tax Credit

An Independent Certified Public Accountant (CPA) shall perform the following procedures and produce an Agreed Upon Procedures report. This AUP report must be prepared following completion of the Digital Media Content and submitted to NJEDA ("New Jersey Economic Development Authority") no later than 12 months from the date the last Total Digital Media Content Production Expense was incurred and must include the name and contact information for the CPA responsible for the review and final sign off of this report, the name of the production and the date that the agreed upon procedures were completed. All determinations must be made in consideration of the Garden State Film and Digital Media Jobs Act, supporting administrative rules, and the specific project Approval Letter.

Eligibility:

1. Obtain the following documents from the Production Company ("the Company") relating to the production of digital media content for which the Company was approved for a tax credit by the NJEDA:

   a. Detailed production expenditure ledgers

   b. Payroll register(s) from the 3rd party payroll company

   c. New Jersey Digital Media Content Tax Credit Program Production Cost Certification including:

      1. Cost Certification Report
      2. Total Digital Media Content Production Expenses – All
      3. Qualified Digital Media Content Production Expenses – Vendors Authorized to do Business in New Jersey
      4. New Jersey Qualified Digital Media Content Production Expenses from Vendors with Primary Places of Businesses in Targeted Counties.
      5. Payroll certification report
      6. Qualified New Jersey Vendor listing
      7. Digital Media Content Tax Credit Application, including budget and production schedule, and diversity bonus materials (e.g., Form A - diversity plan, Form B - diversity tracking sheets, 3rd party payroll company reports, diversity goal tracker, etc.)
      8. Executed Approval letter between the Company and the NJEDA
      9. Listing of loan out companies and independent contractors

2. Obtain the production company's documentation to support the basis for eligibility based on the below criteria:

   a. At least $2,000,000 of the Total Digital Media Content Production expenses were incurred for services performed, and goods purchased through vendors authorized to do business in New Jersey, or

   b. At least 50 percent of the Qualified Digital Media Content Production Expenses of the Company are for wages and salaries paid to full-time and full-time equivalent employees in New Jersey.

3. Obtain a copy of the vendors Business Registration Certificate in order to determine that the vendor from whom the purchase was made is registered for sales tax by the Division of Taxation. Inquire with a responsible official at the Production Company that Business Registration Certificates have been downloaded from the New Jersey Division of Revenue On-Line Registration Service website by the Company and have been retained by the Company in the event NJEDA staff request that it be provided.

4. Obtain documentation evidencing that the approved Digital Media Content production meets the definition of "Digital Media Content" in the Garden State Film and Digital Media Jobs Act (the "Act") by comparing the approved digital media content to the definition of "digital media content" in the Act.

5. Document the date the approved digital media content was completed.

6. Identify the start and end dates in which the Company had Digital Media Content Production Expenses for which it is seeking to receive Digital Media Content tax credits based on dates Digital Media Content Production Expenses were paid.

If the Company has not met eligibility standards as noted above, there is no need to continue with the AUP. The CPA should notify the Company management to inform NJEDA that they are ineligible for the credit.

Non-Payroll Expenditures

1. Inspect the non-payroll expenditures in the detailed production expenditure ledgers for non-qualified expenses. Deduct any errors from the Digital Media Content Production Expenses and remove them from the population to be sampled. Attach a detail listing of exceptions to the AUP Report. Non-qualified expenses are including but not limited to:

    a. Marketing, promotion or advertising

    b. Cell phone reimbursements

    c. Airfare not purchased in New Jersey (NJ) airport or through NJ travel agent

    d. Costs related to the acquisition or licensing of digital media content by the production company for distribution or incorporation into the production company's digital media content

2. Business Registration Certificates should be downloaded from the New Jersey Division of Revenue On-Line Registration Service website by the Company and must be retained by the Company in the event NJEDA staff request that it be provided. Verification of Vendor Registration must be performed based upon the criteria listed below:
    - Digital Media Content Credit Awards less than $2.5 million – Select all expenses greater than $1,000
    - Digital Media Content Credit Awards $2.5 million to $5.0 million – Select all expenses greater than $2,500
    - Digital Media Content Credit Awards greater than $5.0 million – Select all expenses greater than $5,000

    Deduct any errors from the Digital Media Content Production Expense and remove them for the population to be sampled below. Attach a detail listing of exceptions to the AUP Report. Expenses below the stated thresholds should not be considered for Procedure 3 immediately below.

3. Select a sample, excluding any known errors noted above in Non-Payroll Expenditures, Procedure 1 of all non-payroll Digital Media Content Production Expense items according to the sampling methodology below:

    - All items greater than or equal to $20,000
    - 100 randomly selected items greater than $2,500, and less than $20,000
    - 100 randomly selected items less than or equal to $2,500

4. For each expenditure item selected in the sample, perform the following procedures:

    a. Determine if the expenditure is an eligible cost (incurred within NJ and directly related to the production). "Incurred in New Jersey" means, a service performed within New Jersey and tangible personal property used or consumed in New Jersey. A service is performed in New Jersey to the extent that the individual performing the service is physically located in New Jersey while performing the service. Notwithstanding where the property is delivered or acquired, rented tangible property is used or consumed in New Jersey to the extent that the property is located in New Jersey during its use or consumption and is rented from a vendor authorized to do business in New Jersey. Purchased tangible property is not used and consumed in New Jersey unless it is purchased from a vendor authorized to do business in New Jersey and is delivered to or acquired within New Jersey; provided, however, that if a production is also located in another jurisdiction, the purchased tangible property is used and consumed in New Jersey if the acquisition and delivery of purchased tangible property is located in either New Jersey or another jurisdiction where the production takes place.

   b. Inspect invoices and proof of payment (i.e., canceled checks, check images, check copies, bank statements, credit card statements, or equivalent documents.). and determine the expenditure was paid for expenditures incurred in New Jersey.

   c. Determine that the use portion in New Jersey was appropriately pro-rated to reflect usage in New Jersey of rented tangible personal property and tangible personal property that is purchased in New Jersey or another jurisdiction where the production takes place.

   d. Determine that the expenditure was recorded net of any refunds, discounts, rebates, sale proceeds, invoicing errors, and purchase returns, as recorded in the detailed production expense ledgers.

   e. Determine that the expenditure was not for in-kind services or any other activities specifically excluded by NJEDA.

5. For non-qualified costs noted in the expenditure test for the sample identified above, any exceptions should be noted in the AUP and the related costs disallowed.

6. Adjust the Digital Media Content Production Expenses for known errors noted during the expenditure test. Calculate the rate of misstatement from the expenditure test by dividing the dollar amount of the misstated items by the dollar amount of the strata sample population.

7. Perform the following procedures based upon the results of the calculation of the rate of misstatement:

   a. If the rate of misstatement does not exceed 1%, no further action is required.

   b. If the rate of misstatement exceeds 1%, adjust the Digital Media Content Production Expenses for known errors AND adjust the untested expenses by projecting the rate of misstatement to the remainder of the untested expenses in each strata.

   c. Attach a listing of any exceptions noted to the AUP Report. If a projected misstatement is calculated, attach a detail of the calculation and adjustment to the AUP Report.

Payroll Expenditures:

1. Obtain a listing of all Loan Out Companies and/or Independent Contractors paid through both payroll and accounts payable. For all Loan Out Companies and Independent Contractors determine that the payments have withholding of at least 6.37%. Deduct any errors from the Digital Media Content Production Expenses for amounts without proper withholding and remove them from the population to be sampled. Attach detail listing of exceptions to the AUP Report.

2. Select a sample of payroll expenditures according to the methodology described below:

   - The 15 employees, independent contractors, or loan out companies with the highest qualified wages (exclusive of box rental, car allowances, per diems, and fringe benefits)
   - 35 additional randomly selected employees, independent contractors, or loan out companies

3. For each item selected in the sample perform the following procedures:

   a. Inspect the payroll records and other accounts payable documentation to determine that each such expense meets the definition of a Qualified Digital Media Content Production

Expense in accordance with the Garden State Film and Digital Media Jobs Act.

b. Inspect timecards, call sheets, production reports, or other equivalent documentation to determine that work was performed in New Jersey. Determine that qualified wages do not include compensation for any work performed out of the State.

c. Inspect and reconcile the Digital Media Content Production Expenses for each employee per the detailed production expenditure ledger with the payroll report from the 3rd party payroll provider. Investigate variances and determine adjustments to the Digital Media Content Production Expenses.

4. For non-qualified costs noted in the payroll test in Procedure 4 above, any exceptions should be noted in the AUP and the related costs disallowed.

5. Adjust the Digital Media Content Production Expenses for known errors noted during the expenditure test. Calculate the rate of misstatement from the expenditure test by dividing the dollar amount of the misstated items by the dollar amount of the strata sample population.

6. Perform the following procedures based upon the results of the calculation of the rate of misstatement:

   a. If the rate of misstatement does not exceed 1%, no further action is required.

   b. If the rate of misstatement exceeds 1%, adjust the Digital Media Content Production Expenses for known errors AND adjust the untested expenses by projecting the rate of misstatement to the remainder of the untested expenses in each strata.

   c. Attach a listing of any exceptions noted to the AUP Report. If a projected misstatement is calculated, attach a detail of the calculation and adjustment to the AUP Report.

Insurance Claims

1. Inquire with a responsible official at the Company that any Digital Media Content Production Expenses included in insurance claims have been credited from the Digital Media Content Production Expenses. If the Company filed an insurance claim and received funds, the CPA is to inspect the supporting documentation of the claim to ensure the expenditures were properly credited to the correct accounts in the Ledger.

Wrap Up Procedures

1. Obtain the following application materials from the Company:

   a. Digital Media Content Tax Credit Program Production Cost Certification Workbook, including Schedules 1-3 as applicable, which reconciles to the unadjusted detailed expenditure ledgers prior to any exceptions noted in this AUP report.

   b. Vendor Listing for those Qualified to Do Business in NJ

2. For those projects that applied **before January 12, 2022,** prepare a NJ Qualified Cost Summary with the adjustments for non-qualified costs (Exhibit A). Calculate the tax credit utilizing a base credit of 20% and 25% for services and purchases in Targeted Counties. If the Company was approved by the NJEDA for an additional 2% tax credit for having a diversity plan, the tax credit percentages shown above increase to 22% and 27% respectively. Compare the product of the tax credit calculations to the amount of tax credit approved by the NJEDA for the Digital Media Content and show the lower amount as the recommended final tax credit amount.

3. For those projects that applied **on or after January 12, 2022,** prepare a NJ Qualified Cost Summary with the adjustments for non-qualified costs (Exhibit A). Calculate the tax credit utilizing a base credit of 30% and 35% for services and purchases in Targeted Counties. If the Company was approved by the NJEDA for an additional 2% tax credit for having a diversity plan, the tax credit percentages shown above increase to 32% and 37% respectively. Compare the product of the tax credit calculations to the amount of tax credit approved by the NJEDA for the Digital

Media Content and show the lower amount as the recommended final tax credit amount.

4. Include the following in the AUP report:

    a. NJ Qualified Cost Summary with adjustments for non-qualified costs.

    b. Detail listing of exceptions.

Note that projects that were approved before July 1, 2021 may choose not to perform Non-Payroll Expenditures Procedures No. 2. CPAs should anticipate questions of clarification from NJEDA staff regarding the AUP report. NJEDA will not recommend Digital Media Content Tax Credits be issued based upon an unsatisfactory AUP report.