To: XXXXXXXX

**From:** Katherine Brim

**Subject:** New Mexico Film Investment Loan Program

**Date:** 26 February 2010

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# **INTRODUCTION**

You have asked me to research the New Mexico Film Investment Loan Program ("Program"). New Mexico offers qualifying feature films or television projects (including animation) a 0% loan with backend participation in lieu of interest for up to \$15 million per project (which can represent 100% of the budget). Terms are negotiated and the budget must be at least \$2 million. Projects may apply for both the Program and the 25% Tax Rebate offered by the New Mexico Film Office ("NMFO"). Loan approval power is totally discretionary and vested solely in the New Mexico State Investment Council ("SIC"). Commercial viability is the most significant factor examined by the SIC. Although there are multiple steps to the Program application process ("Process"), it can be broken down into four basic stages.

The first stage ("Preliminary Approval") involves approval of the key factors the SIC is statutorily obligated to consider for Program approval. These factors include the project's guarantor, distribution, and script. At this stage there's no requirement that the project be fully developed beyond those factors. The NMFO offers no time frame for giving notice of approval or rejection, and there's no time frame imposed on the project to submit these factors for consideration.

After Preliminary Approval, the second stage ("Package Preparation") involves sending all approval documentation as well as other materials necessary to complete the package to the NM Film Advisor ("FA"). If the submitted materials are complete, the FA will write a Recommendation and help

prepare the final package for presentation during stage three (Hearing Stage"). Package Preparation generally takes around 30 days.

During the Hearing Stage, the application is first presented at a hearing before the Private Equity Investment Advisory Council ("PEIAC"). The PEIAC hearing must be attended by the producer and/or the director of the project. After presentation, the PEIAC immediately votes on the project. If approved, the package is presented approximately two weeks later at a hearing before the SIC. The SIC hearing must also be attended by the producer and/or director and follows the same format as the PEIAC hearing. If the SIC approves the project for the Program, the project moves on to the fourth stage ("Negotiation").

During Negotiation the project must submit detailed documentation regarding all aspects of the production company and project. The SIC will retain counsel at the project's expense, and all details of the loan will be negotiated. In addition to the unconditional and irrevocable guarantee of repayment, the SIC typically requires the loan agreement to grant a security interest in the film collateral and a credit for the SIC in the main/end titles. Beyond those already mentioned, there are no specific requirements for the loan agreement; the SIC's back-end participation is negotiated on a deal-by-deal basis.

Below I have provided Issues and Short Answers, a detailed outline of the application, approval, and negotiation processes, discussions regarding distribution and the hearing process, and a contact list.

# **ISSUES and SHORT ANSWERS**

# I. How much Loan Funding is Available?

**ANSWER:** The lesser of 100% of the budget or \$15 Million.

# II. What Size Projects are Eligible for the Loan?

**ANSWER:** The budget must be at least \$2 million, but there is no cap.

## **III.** What is the Interest Rate on the Loan?

**ANSWER:** 0%, with backend participation in lieu of interest.

# **IV.** How will NM's Back-End Participation be Determined?

**ANSWER:** 1. Back-end participation is negotiated on a deal-by-deal basis. Since the loan doesn't bear interest the State takes a piece of the post-breakeven revenues. Factors affecting the negotiation of upside in exchange for forgone interest include (per Peter Dekom, FA):

**a.** The ratio the foregone interest (in projected dollar value) bears to the true expected equity risk born by the production company and its investors (the SIC

does look at revenues that are extremely probable - e.g., the value of the refundable tax credit, minimum presale projections, etc.).

- **b.** Quality of the distribution arrangements.
- **c.** Probability of recouping the lost interest based on the reasonable performance projections submitted to and accepted by the SIC.

# V. When Must the Loan be Re-paid?

**ANSWER:** The loan's outside date for payback cannot exceed 4-5 years from funding for animated films and TV series, and normally not more than 3 years for live action films.

**Note:** the State can recoup behind the distributor and the equity investors (where there is equity in addition to the loan), but if it does not recoup its principal, then the guarantee of principal is called.

# **VI.** How Long Does the Application Process Take?

ANSWER: Anywhere from 5 months to over a year, depending on when everything is submitted for approval, when the PEIAC meetings are scheduled, and how long the negotiations take. Once approved the project has six months to complete the loan process. Except for the usual two week span between the PEAIC and SIC hearings, none of the steps in the process promise any sort of time frame for the NMFO to complete their obligations.

# VII. Will New Mexico Have Script Approval?

**ANSWER:** Yes, but only in terms of two factors:

- **1. Content:** The incentive program is limited by statute and regulation to avoid excessive/gratuitous sex or violence, severe language, drug abuse, and culturally sensitive material. That said, projects approved for the Program include *Book of Eli, In the Valley of Elah*, and a Coen Bro's film in production, *True Grit*, suggesting that the NMFC is not overly restrictive in this area.
- 2. Viability of Project for New Mexico.

# VIII. How Much of the Project Must take Place in New Mexico?

**ANSWER:** 85% of principal and second unit photography must be shot in New Mexico, and animated projects must spend 85% of their budget in New Mexico.

# IX. How Many Crew Members Must be New Mexican?

**ANSWER:** 60% of "below the line" ("BTL") payroll and body count must be allocated to New Mexico residents.

# X. Must Any Key Positions be Held by New Mexicans?

**ANSWER:** No. As long as the project meets the minimum 60% BTL payroll requirement it doesn't matter what positions are held by New Mexicans.

## XI. Must the Project be Fully Developed Before Beginning the Application Process?

**ANSWER:** No. Many key details, such as final cast, crew, and other key information is not required until Package Preparation (See §§XII, XIII).

## XII. What Project Details Must be in Place BEFORE Starting the Application Process?

**ANSWER:** 1. A Guarantor for the principal amount of the loan must be in place who is willing to do the following:

- **a.** Submit a letter of intent to the SIC stating that the Guarantor has reviewed the project and underlying collateral and is prepared to issue the requisite Guarantee.
- **b.** Issue one of the following types of requisite guarantee (letter of credit) to the state of NM once the project receives SIC approval:
  - i. Irrevocable Letter of Credit from a U.S. based bank having a credit rating of "A" or better by either Moody's Investor Services or Standard & Poor's.

OR

- **ii.** A corporate guarantee by a corporate entity having at least an investment grade credit rating ("BBB" or better) by either Moody's Investor Services or Standard & Poor's.
- **2. Basic plan** for the project including:
  - a. Name of project.
  - **b.** Type of project (feature film, television series, etc.).
  - c. Projected shooting dates or months.
  - **d.** Amount (\$) requested.

# XIII. What Details of the Project DO NOT Have to be in Place to Begin the Application Process?

#### ANSWER: 1. The Script:

The script doesn't have to be finished to begin the process. It must be submitted for review along with the Guarantor approval letter, so it can't even be submitted until after the application process is underway.

#### 2. Distribution:

Although distribution (along with the Guarantor) is the most critical factor in the evaluation of whether the project will be put on track for SIC consideration, it can be submitted for approval at any time up until Package Preparation. In other words, it can be the very last piece of the puzzle that falls into place before the final package is prepared.

# The following DO NOT need to be approved/submitted until Package Preparation:

#### 3. Marketing Plan:

This can be part of the Distribution plan or it can be separate, but either way it's not required until the Guarantor, Distributor, and script are approved and everything is in the hands of the FA to prepare the final package.

#### 4. Shooting days and locations:

85% of principal and second unit photography must take place in NM, but any days and locations outside NM don't have to be determined/submitted until the FA is preparing the final package.

- **5.** Cast list (with credits)
- **6. Producers and Executive Producers** (with credits)
- **7. Director** (with credits)
- 8. Crew List

#### XIV. What is the Basic Order of the Process?

**ANSWER:** 1. Submit Guarantor and Basic Plan (See §XII,1-2).

**2. Script:** If Guarantor is approved, attach approval letter to script and submit for review (content, suitability for NM, etc).

#### The following can be done IN ANY ORDER prior to Package Preparation:

- **3. Contact IATSE Local 480 Business Agent ("BA")** to contract for local crew. A letter from the BA confirming compliance with the 60% BTL crew requirement must be submitted to the NMFO in conjunction with Package Preparation.
- **4.** Submit full **Budget and Production Schedule** (subject to change until loan is approved).

#### **6.** Submit **Distribution** for approval.

# After 1-6 are Complete/Approved:

- **7. Submit all approval letters to FA** along with the following information for **Package Preparation:** 
  - **a. Top sheet** from the **budget**.
  - b. Shoot days/locations in NM
  - c. Synopsis.
  - d. Cast list (with credits).
  - e. Producers and Executive Producers (with credits).
  - f. Director (with credits).
  - **g.** Writer (with credits and underlying source material, if any).
  - **h.** A viable **completion bond** commitment (if applicable).
  - i. Information about the **production company applicant** (ownership, assets, etc.).
  - j. Information regarding the Guarantor's financing.
  - k. Material terms of distribution and written confirmation from Distributors.
  - **l. Marketing plan** (which may be subsumed under the distribution agreement).
  - m. Substantiated low, medium and high projections.
  - **n. Years from funding** you are requesting the loan's outside date for payback.
- **8. Hearing #1:** If the FA determines the materials are complete and that the project meets the investment requirements of the SIC, he writes a Recommendation document and prepares the final package which is then presented to the Private Equity Investment Advisory Committee ("PEIAC") in Santa Fe, NM.
  - a) Producer and/or Director MUST attend this hearing.
  - **b)** The council will vote on the project that day, in your presence.
- **9. Hearing #2:** If the PEIAC approves the project, Producer and/or Director must attend a hearing with the SIC (usually about 2 weeks later), which will be the same basic format as the PEIAC Hearing.

# After the SIC approves the Loan:

**10. Payment of Legal Fees:** Immediately following SIC approval **applicants must fund at least half the estimated \$25K-\$45K State legal fee commitment** required in connection with the expected implementing paperwork (under the direction of the FA). Loan negotiation will not begin until these fees are paid (so the SIC can retain counsel).

- **11. Loan Negotiation:** After SIC approval and payment of legal fees, negotiation and preparation of final loan documents will take between 5-8 weeks depending on the complexity of the deal and how responsive you and your counsel are in providing the necessary documents and negotiating the agreement.
- **12. Loan Disbursement:** Funds become available within 2-3 days after the loan closing, depending on the funding schedule negotiated in the loan agreement.

# XV. Must the Production Company be Legally Formed to Begin the Application Process?

**ANSWER:** No. The production company doesn't have to be legally established until Package Preparation.

# XVI. If Rejected, May the Production Re-submit any Key Application Materials?

**ANSWER:** Possibly. This is subject to the discretion of the NMFO and will depend on the overall package (ex: the Guarantor is rejected, but the Distribution is amazing, A-list talent attached, etc.).

# XVII. Can the Budget be Increased if the Project Secures Additional Equity BEFORE the Loan is Approved?

**ANSWER:** Technically yes. Nothing prevents a project from increasing the budget under these circumstances. However, Peter Dekom, the New Mexico FA, suggests that increasing the budget mid-application may reflect poorly on the project by creating the perception that the film is insufficiently budgeted for its target audience.

# XVIII. Can the Budget be Increased if the Project Secures Additional Equity AFTER the Loan is Approved or Executed?

ANSWER: Yes. Since the terms of the loan are negotiated up front and on a deal by deal basis, the project may negotiate terms allowing for the acquisition of additional equity, but the state's percentage would remain the same. As noted above however, there is danger in proposing that additional equity might be added later, since this could be viewed as otherwise funding an undercapitalized motion picture.

# XIX. Will the Project Incur Financial Liability if it Decides Against the Loan?

ANSWER: Yes and No. Yes, if this occurs after the Loan has been approved. In that case, the Production is responsible for any legal fees incurred by NM subsequent to loan approval. No, if the production backs out prior to loan approval. The services provided by the FA are at no cost to the production, so if the project backs out before approval there should be no fees involved.

# XX. Is the Production Legally Bound to Accept the Loan, if Approved?

**ANSWER:** No. Once the approval is issued, the filmmaker has 6 months to complete the loan

process; the loan is not legally binding until that process is complete.

# XXI. May the Project Change the Terms of the Loan After Execution?

**ANSWER:** No. Changing the terms of the loan requires a resubmission through the approval

process.

# DETAILED OUTLINE of APPLICATION, APPROVAL and NEGOTIATION PROCESSES

**NOTE:** Sections I-VIII outline the application process.

Section IX outlines the hearing process.

Section X outlines the post-approval process and negotiations.

#### I. STEP ONE:

Email the following five items to Lisa Strout, Director of the New Mexico Film Office: <a href="mailto:lisa@nmfilm.com">lisa@nmfilm.com</a>, and Jennifer Schwalenberg, Deputy Director <a href="mailto:jennifer@nmfilm.com">jennifer@nmfilm.com</a>

Use the subject line: Film Loan Step One:

- **1.** Name of project.
- **2.** Type of project (feature film, television series, etc).
- 3. Projected shooting dates or months.
- **4.** Amount (\$) requesting.
- **5.** Name and contact information.

#### II. STEP TWO:

- **1.** Email Greg Kulka of the SIC, **greg.kulka@state.nm.us**, the name, address, and contact information of the project's guarantor.
- **2.** Provide Mr. Kulka with a letter of intent from the guarantor stating they have reviewed the project and underlying collateral and are prepared to issue the requisite guarantee (letter of credit) to the State of New Mexico pending SIC approval.
- **3.** The guarantee must be one of the following and is callable upon the first to occur of default or maturity:
  - **a.** An irrevocable Letter of Credit from a U.S. based bank having a credit rating of "A" or better by either Moody's Investor Services or Standard & Poor's.

**b.** A corporate guarantee by a corporate entity having an investment grade credit rating ("BBB" or better) by either Moody's Investor Services or Standard & Poor's.

NOTE: DO NOT proceed to Step Three until Mr. Kulka has approved the guarantor.

#### III. STEP THREE:

- 1. Submit the script to the New Mexico Film Office with Mr. Kulka's approval of the guarantor.
  - **a.** Preferred method for sending script: Final Draft or PDF via email to **jennifer@nmfilm.com** OR
  - **b.** Hard copy (to support NMFC's Green efforts, printing double-sided is appreciated), including all contact information, to:

Jennifer Schwalenberg, Deputy Director New Mexico Film Office 418 Montezuma Ave. Santa Fe, NM 87501

- **2.** Scripts are read only to determine the following:
  - **a. Eligibility requirement:** The State of New Mexico's incentive program is limited by statute and regulation to avoid excessive or gratuitous violence or sexual content, severe language, drug abuse, culturally sensitive material (glorification of drugs, suicide, irresponsibility with racial or religious subject matter, etc...) or a combination of some of the above. The NMFO will determine eligibility based upon these elements.
  - **b. Viability of project for New Mexico:** We will assess whether there are suitable locations (storyline does not need to be New Mexico specific we can double for many locations), as well as a budget that will reasonably cover the scope of the project.
- **3.** After reviewing the script and determining if it meets the Eligibility requirement referenced above, the Film Office will contact the production.

## IV. STEP FOUR:

- **1.** Contact Jon Hendry, Business Agent for IATSE Local 480: <u>ba480@hotmail.com</u> or (505) 670-7381, and all other unions and guilds associated with the project to determine the availability of NM crew during your proposed production schedule.
- **2.** You may be in touch with Jon Hendry at any point during this process, but it is imperative to make contact as soon as possible to ensure the 60% minimum New Mexican BTL crew members are secured.
- **3.** You must submit a Letter from Mr. Hendry confirming that the 60% minimum is met along with the other information required in Step 8 (See § VIII).

#### V. STEP FIVE:

1. Submit full budget and production schedule to Lisa Strout:

- **a.** It is understood that the budget and schedule are preliminary and subject to change until loan approval.
- 2. Preferred method for sending budget & schedule: Movie Magic via email to <u>lisas@nmfilm.com</u>.

#### VI. STEP SIX:

**1.** When **DISTRIBUTION** is in place, contact the FA via email for acceptability:

#### filmadvisor@state.nm.us.

**2.** Unless the distributor is well known in the industry, the FA requires the distributor's track record and financial information along with the distribution and/or marketing plan.

#### VII. STEP SEVEN:

- **1.** If the prior six steps are complete and the FA approves distribution, the following materials must be submitted to the FA in order to complete the package:
  - **a. Top sheet** from the budget.
  - **b.** The **number of shoot days and locations in New Mexico** (if shooting takes place elsewhere, the Film Advisor needs to know where and how many days).
  - c. Synopsis.
  - **d.** Cast list (with credits).
  - e. Producers and Executive Producers (with credits).
  - **f. Director** (with credits).
  - g. Writer (with credits and underlying source material, if any).
  - **h.** A viable **completion bond** commitment (if delivery is a precondition to payment by the guarantor).
  - i. Information about the production company applicant (ownership, assets, etc.).
  - j. Information about how the guarantee's supporting financing works and its supplier.
  - **k. Material terms of distribution and written confirmation** from relevant distributors that they are distributing the project.
  - **l.** Marketing plan (which may be subsumed under the distribution agreement).
  - m. Substantiated low, medium and high projections:
    - **i.** These must be based on some meaningful, objective basis, preferably by the relevant sales agent or distributor as to the film's performance.
    - **ii.** The entire world does not have to be accounted for; the SIC can make approval contingent on securing a limited number of identified elements.
    - **iii.** The FA needs to see what the production company receives and what it is required to pay out before recoupment or profits are generated.
    - iv. Revenues and costs in a mini-spread sheet.
  - n. How many years from funding you are requesting the loan's outside date for payback
    - i. Not to exceed 4-5 years for animated films and television series,
    - **ii.** Typically not more than 3 years for live action feature films
  - **o.** If applicable, source of **additional equity**.

- **3.** If the FA determines the submitted materials are incomplete he will notify the applicant and provide a list detailing the missing items.
  - **a.** The applicant will then have ten business days to submit the requested information.
- **4.** If materials are complete the FA will write a Recommendation and help the applicant prepare the final package which, will be presented at two hearings you must attend in Santa Fe, NM.
  - **a.** The first hearing is before the Private Equity Investment Advisory Committee (PEIAC), the second before the State Investment Council (SIC). The PEIAC meets approximately six times per year, and the two hearings are generally two weeks apart.
- **5.** The FA must complete and submit his Recommendation eight days prior to each hearing. A Recommendation document takes approximately 25 50 hours of work to complete; therefore full package requirements must be submitted to the FA at least 30 days prior to the next scheduled meeting of the PEIAC.
  - **a.** PEIAC meetings do not take place on a regular, predictable basis. Contact the FA to determine when the next meeting is scheduled.
- **6.** The FA determines what month the project will be presented.
- **7.** Services of the FA are provided at no cost to the production.

#### VIII. STEP EIGHT (To be completed in concurrence with Step 7):

- **1.** The NMFO must receive the following to complete the package:
  - a. Full budget.
  - b. Full shooting schedule.
  - **c.** One or two sentence **synopsis** of story.
  - d. First New Mexico prep date.
  - e. First New Mexico shoot date.
  - f. Total NM shooting days.
  - g. City where production will be based
  - **h. New Mexico Locations**: the NMFO must to verify that the production (principal & second unit photography) will take place "wholly or substantially" (at least 85%) in New Mexico, broken down by cities or regions.
  - i. Non-New Mexico Locations: locations outside New Mexico and number of shooting days.
  - **j. Estimated expenditure in New Mexico** (include pre & post).
  - **k.** The **unions and guilds** to which the project is signatory (IATSE, WGA, DGA, SAG, Teamsters).
  - **l. Key positions held by New Mexicans** (or those you believe will be held by New Mexicans).
  - **m.** Crew Spreadsheet: a Below-the-Line spreadsheet, including rates and total salary for each BTL crew member for the run of the production. (We will also require a spreadsheet and crew count information after wrap to ensure compliance with the 60% BTL requirement.) *New Mexico hires, including their full names, must be clearly indicated.*

#### n. Crew Count:

- i. Total number of BTL Crew members,
- ii. Total number of BTL New Mexico Crew,
- iii. Total number of BTL Distant Hire Crew,
- iv. Total BTL Payroll: \$
- v. Total BTL New Mexico Crew Payroll: \$
- vi. Total BTL Distant Hire Payroll: \$
- vii. Total Percentage BTL New Mexico Crew Payroll: %
- viii. Total Percentage BTL Distant Hire Payroll: %
- **o. Local 480 Crew Letter:** After the project's contract is completed with Jon Hendry, Business Agent for IATSE Local 480, he will write the Film Office a letter stating that he believes the project will make the 60% of BTL New Mexico crew requirement. As the IATSE technicians make up the bulk of crew, no other union or guild letters are required for the package.

#### IX. STEP NINE

- **1.** Producer and/or director must attend the PEIAC hearing in Santa Fe, NM where they will speak briefly regarding the creative aspects of the project.
  - **a.** The PEIAC will vote on the project in the presence of the producer and/or director.
- **2.** If the project is approved at the PEIAC hearing, the producer and/or director must attend the SIC hearing two weeks later in Santa Fe, NM where they will again speak briefly regarding the creative aspects of the project.
  - **a.** The SIC will vote on the project at the conclusion of the hearing.

#### X. STEP TEN

- **1.** Immediately following loan approval and under the direction of the FA, the project must provide at least 50% of the \$25K-\$45K estimated state legal fees that will be incurred in loan negotiations and document preparation.
- 2. The project must submit the following due diligence materials to the SIC's counsel:
  - **a.** Chain of title for the picture.
  - **b.** Documents involving **any dispute or claim** alleging infringement of intellectual property rights.
  - c. All sales agency and distribution agreements.
  - **d.** All key **cast** and key **crew** agreements.
  - e. All production agreements.
  - **f.** All material **agreements related to production** of the picture.
  - **g.** All **documents related to borrowings**, guarantees of debt, or similar arrangements by any entities involved in production of the picture.
  - **h.** All **security agreements relating to assets** involved in the Film.
  - i. All **documents relating to any liens**, claims, pledges, etc. on property owned or **leased by any entities involved** in the production of the picture.
  - j. UCC and copyright searches.
  - k. Copies of insurance policies.
  - **l.** Information **concerning litigation**.

- **m.** The following for all entities involved in production:
  - i. Charter documents.
  - ii. Jurisdiction where each entity is organized.
  - iii. List of jurisdictions where each entity is qualified to do business.
  - iv. List of officers, directors, shareholders, managers and/or members.
  - v. Location of books and records.
  - vi. Bank names and account numbers.
- **n.** Organizational chart showing ownership relationship of all entities involved in production.
- **o.** Description of **transactions and agreements between** any **entities involved in production** and their **owners, officers and directors**.
- **p.** Financial statements for the past 3 years (as available).
- **q.** Tax returns filed for the past 3 years (as available).
- **r.** Other due diligence materials as requested by SIC's counsel.
- **3.** The project must provide an opinion of outside counsel in connection with the delivery of the loan agreement.
- **4.** The project's counsel must negotiate in good faith with SIC counsel to determine the terms of the loan and the SIC's backend participation.
- **5.** In addition to the required unconditional and irrevocable guarantee of repayment, the SIC typically requires the loan agreement to grant a security interest in the film collateral and a credit for the SIC in the main/end titles.

# **DISCUSSION: Distribution**

#### I. COMMERCIAL VIABILITY:

Because the Program dispenses statutorily allocated funds, the SIC requires assurance that the contemplated motion picture is a viable and commercial production. There must be a signed distribution agreement in place involving media and/or territories of sufficient economic significance to reasonably infer that the film in question is clearly a viable commercial product. This means the distribution agreement must cover a significant territory supporting revenue estimates covering a substantial part of the budget. Having foreign distribution in place and shopping domestic distribution after completion of the film will generally not suffice unless the project produces tangible evidence that the film will generate its economic viability from revenues generated outside the domestic marketplace (i.e. the domestic marketplace can only enhance the international success). Under current market conditions, assumptions that a film can be placed directly into the

DVD market without an up-front agreement or that "new media" will provide significant revenues and marketing support are not viewed as tenable.

## II. DISTRIBUTOR QUALIFICATIONS:

The distribution agreement must be with an appropriate, experienced, and economically stable distributor. The distributor must be approved by the FA and, unless they are well known in the industry, the distributor's track record and financials will be reviewed by the FA prior to approval. The same process is required for any sales agent who may count as a distributor.

#### III. PRIMARY APPROVAL FACTORS:

Two main factors influence the FA's decision regarding distribution. First, binding contractual commitments from established domestic distributors/telecasters sufficient to ensure the economic success of the project have a high probability for approval. Second, if the Distributor itself is not particularly strong, this may be offset by the attachment of high production/talent (including director) value and filmmakers with a clearly established and consistent track record of achieving successful domestic distribution on recent films.

In the absence of A-list attachments, the more thoughtful and well-planned the distribution and marketing plan, and the more concrete and verifiable the financial numbers and projections on which they're based, the higher the probability for approval.

# **DISCUSSION: Hearings**

#### I. WHEN:

Once the FA determines the package is complete and issues a Recommendation, he will determine what month he will present your project at the two hearings the producer and/or director must attend. The hearings typically take place two weeks apart. Hearings are generally held at 9:00 am so it's recommended to arrive in NM the evening prior to the hearing.

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#### II. WHERE:

Both hearings take place in Santa Fe, NM. The first, held before the PEIAC, takes place at the SIC which is located at 41 Plaza La Prensa, Santa Fe, NM, 87507, tel: (505) 476-9500, fax: (505) 424-2510. The second, held before the SIC, takes place in the Governor's Cabinet Room in the State Capitol Building, Old Santa Fe Trail at Paseo de Peralta, Santa Fe, NM.

#### III. WHAT HAPPENS AT THE HEARINGS:

The process is basically the same for both proceedings. The FA represents the project and describes the financials and structure of the deal. Lisa Strout, Director of the NMFO, testifies as to the rating, the 60% BTL crew requirement, the "wholly or substantially shot in NM" requirement, affiliations with unions, and number of shoot days, etc. Greg Kulka of the SIC may answer questions from Council Members about the project. The attending producer and/or director will speak briefly on behalf of the project: story line, creative elements, and so forth. Council Members will vote in the presence of the producer and/or director as to the approval/disapproval of the loan. If the loan is approved at the PEIAC hearing the producer and/or director will attend the SIC hearing two weeks later.

These are public hearings and members of the press are likely to attend.

# **CONTACT LIST, by Name**

Film Advisor: <a href="mailto:filmadvisor@state.nm.us">filmadvisor@state.nm.us</a>; Distribution Approval, Package Preparation.

Hendry, John: <u>ba480@hotmail.com</u>, (505) 670-7381; Business Agent for IATSE Local 480.

Kulka, Greg: greg.kulka@state.nm.us; Guarantor Approval.

**Schwalenberg, Jennifer**: <a href="mailto:jennifer@nmfilm.com">jennifer@nmfilm.com</a>, Jennifer Schwalenberg, Deputy Director, New Mexico Film Office, 418 Montezuma Ave, Santa Fe, NM 87501; Step 1 info, Script Approval.

**State Investment Council (SIC):** 41 Plaza La Prensa, Santa Fe, NM, 87507, telephone: (505) 476-9500, fax: (505) 424-2510; Final Loan Approval.

Strout, Lisa: <a href="mailto:lisa@nmfilm.com">lisa@nmfilm.com</a>, Step 1 info.

Strout, Lisa: <u>lisas@nmfilm.com</u>, Budget and Schedule submission (this is not a typo, the NMFC website lists

her with a different email address for the two different functions she performs.).

# **CONTACT LIST, by Role in the Process**

Budget and Schedule Submission: Lisa Strout, lisas@nmfilm.com.

Business Agent, Local 480: John Hendry, ba480@hotmail.com, (505) 670-7381.

**Distribution Approval:** Film Advisor, filmadvisor@state.nm.us.

Final Loan Approval: State Investment Council (SIC), 41 Plaza La Prensa, Santa Fe, NM, 87507

telephone: (505) 476-9500, fax: (505) 424-2510.

Guarantor Approval: Greg Kulka, greg.kulka@state.nm.us.

Package Preparation: Film Advisor, <a href="mailto:filmadvisor@state.nm.us">filmadvisor@state.nm.us</a>.

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