



OFFICE OF THE STATE AUDITOR



July 18, 2018

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STATE AUDITOR

OFFICE OF FILM, TELEVISION AND MEDIA – STATUS REPORT

Members of the Legislative Audit Committee:

Attached is the status report from the Governor's Office of Economic Development and International Trade (OEDIT), on the implementation of recommendations in the Office of the State Auditor's (OSA) *Office of Film, Television, and Media Performance Audit*.

We reviewed supporting documentation from OEDIT, Office of Film, Television, and Media (Film Office) for each recommendation that it reported as having implemented, as follows:

- A list of qualified expenses eligible for the Film Office Incentive. The list includes payroll and workforce requirements, as well as qualified vendor expenses.
- The information the Film Office provides to the Certified Public Accountants (CPAs) approved to conduct reviews of production company expenses prior to the Film Office approving the incentive payment. This included training materials for the CPAs.
- Copies of all of the documents the Film Office received from production companies to verify that they met the requirements before paying the incentives for two projects the Film Office incentivized in Fiscal Year 2018. These documents included: residency forms, insurance forms, payroll reports, crew call sheets, crew and vendor lists, and receipts for expenses.

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- The Film Office’s project review template that its staff uses to review the projects and CPA reports and verify the production companies met all of the Film Office’s requirements before it pays the incentives. This includes a review and verification of the CPA report calculations, the production company’s qualified local expenditures, the percentage of Colorado resident cast and crew, and a checklist of the documents required before it pays the incentives.
- The Film Office’s Proof of Performance document that outlines what the production companies have to submit to the Film Office to substantiate the CPA review.
- OEDIT’s Grants and Procurement policies and procedures that includes requirements for encumbrances and contract execution.
- Updated Film Office policies and procedures that now includes a requirement to document all film incentive applications and reasons for approval or denial.
- The Film Office’s Incentive Scoresheet that outlines the criteria Film Office staff use to evaluate film incentive projects.
- Senate Bill 18-103 that changed the definition of an “in-state” production company to require production companies to submit specific documentation substantiating their “in-state status” to the Film Office during the film incentive application process.
- The templates the Film Office created to track production company FTE and income tax for those employed by incentivized productions.
- The Film Office’s content creation tracking worksheet which it uses to track the content created in Colorado that is not part of the film incentive program.

Based on our review, the supporting documentation substantiates OEDIT’s reported implementation status.



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Dianne E. Ray, CPA
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April 30, 2018

Dear Auditor Ray,

In response to your request, we have prepared the attached status report on the implementation status of audit recommendations contained in the Office of Film, Television and Media Performance Audit. The report provides a brief explanation of the actions taken by the Governor's Office of Economic Development and International Trade to implement each recommendation.

If you have any questions about this status report and the Governor's Office of Economic Development and International Trade's efforts to implement the audit recommendations, please contact Mariel Rodriguez-McGill at 303.592.4065 or mariel.rodriquezmcgill@state.co.us

Sincerely,

Stephanie Copeland
Executive Director
Colorado Office of Economic Development and International Trade



AUDIT RECOMMENDATION STATUS REPORT

AUDIT NAME	Office of Film, Television, and Media, Performance Audit
AUDIT NUMBER	1670P
AGENCY	Governor's Office of Economic Development and International Trade
DATE OF STATUS REPORT	April 30, 2018

SECTION I: SUMMARY				
REC. NUMBER	AGENCY'S RESPONSE	ORIGINAL IMPLEMENTATION DATE	CURRENT IMPLEMENTATION STATUS	CURRENT IMPLEMENTATION DATE
1A	Agree	July 2017	Implemented	July 2017
1B	Agree	April 2017	Implemented	July 2017
1C	Agree	April 2017	Implemented	April 2017
2A and B	Not applicable	Agency planned to implement Recommendation 1 A-C, instead.	N/A	N/A
3A	Agree	July 2017	Implemented	July 2017
3B	Agree	July 2017	Implemented	July 2017
3C	Agree	July 2017	Implemented	July 2017
4A	Agree	July 2017	Implemented	July 2017
4B	Agree	July 2017	Implemented	July 2017
4C	Agree	July 2017	Implemented	July 2017
4D	Agree	July 2017	Implemented	July 2017
5A	Agree	July 2017	Implemented	March 2018
5B	Agree	July 2017	Implemented	March 2018
6A	Agree	September 2017	Implemented	December 2017
6B	Agree	September 2017	Implemented	December 2017
6C	Agree	September 2017	Implemented	March 2018

SECTION II: NARRATIVE DETAIL

RECOMMENDATION 1A			
<p>The Office of Economic Development and International Trade should strengthen its oversight of the CPA review process by:</p> <p>A) Establishing specific requirements in each project contract for the type of work production companies must require CPAs to conduct to provide adequate assurance that the project is qualified for the incentive payment. This should include defining the type of work, and the type of supporting documentation, (e.g., original receipts showing that the expenses were made in Colorado, and a complete list of production employees and residency documentation for all Colorado employees) that can be used to verify qualified local expenses and workforce figures.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<p><i>As of July 2017, OEDIT has added two exhibits establishing guidelines for CPA review to the Colorado Office of Film, Television, and Media (COFTM) contracts. "Exhibit B – Qualified Expenses Eligible for Colorado Incentive Rebate" outlines payroll and workforce requirements for in- and out-of-state cast and crew, in addition to qualified vendor expenses. "Exhibit C – Expectations for CPA Review of Performance-Based Film Incentive" outlines specific criteria in which a licensed CPA must verify qualified local expenditures including all backup documentation.</i></p>			
RECOMMENDATION 1B			
<p>The Office of Economic Development and International Trade should strengthen its oversight of the CPA review process by:</p> <p>B) Enforcing its policies that require production companies to submit specified documentation before paying the incentive.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<p><i>As of July 2017, COFTM's Proof of Performance document has been updated to list all documents that must be submitted to support the CPA Review. These documents include: Copy of CPA's written report verifying accuracy of submitted financial documents, written certification from production company, Colorado declaration of residency forms for all Colorado workforce, Copy of production insurance policy, Final budget and ledger listing qualified Colorado expenditures, Total payroll report, crew call sheets, List of Colorado filming locations, Final crew and vendor lists.</i></p>			
RECOMMENDATION 1C			
<p>The Office of Economic Development and International Trade should strengthen its oversight of the CPA review process by:</p> <p>C) Implementing reviews of the CPA reports to include reasonableness and general accuracy reviews of all reports and verification of the accuracy of at least some reports against underlying documentation.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	April 2017
AGENCY UPDATE			
<p><i>In April 2017, COFTM staff began reviewing CPA submissions and supporting documentation for accuracy. As of October 2017, COFTM hired a program analyst to review all submitted CPA reviews, along with supporting documentation.</i></p>			

RECOMMENDATION 2A AND 2B			
As an alternative to RECOMMENDATION 1, the Office of Economic Development and International Trade should evaluate the costs and benefits of the Office of Film, Television and Media contracting directly with a third party to verify qualified local expenditures and workforce figures and:			
A) Use the results of the review to seek legislative change, as appropriate.			
B) Establish specific requirements for the type and amount of work a third party must conduct to provide adequate assurance that the project is qualified for the incentive payment if the Office of Film, Television, and Media begins contracting for verification itself.			
CURRENT IMPLEMENTATION STATUS	Not Applicable	CURRENT IMPLEMENTATION DATE	Not Applicable
AGENCY UPDATE			
<i>In light of the implementation of Recommendation 1, Recommendation 2 is not applicable.</i>			

RECOMMENDATION 3A			
The Office of Economic Development and International Trade should improve its controls over film incentive funds and its compliance with requirements for encumbrances and contract execution by:			
A) Implementing controls, such as internal deadlines, that require incentive funds to be encumbered and a contract executed within a limited and specified time after EDC approval.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<i>COFTM will continue to follow the OEDIT Grants & Procurement Outlines, which reflect State Fiscal Rule 3-1 and Fiscal Rule 2-2. The procedure is further outlined in the COFTM Policies & Procedures document and COFTM Policies & Procedures Appendix. Information in this document highlight the General Accounting Encumbrance timeline in addition to the expected timeline for the OEDIT procurement team to create Purchase Orders and Contracts for each approved incentive project. Preparing a contract ahead of the EDC meeting (as mentioned in our previous response) is only necessary if the project start date is immediate. It is not necessary if it is starting after the expected 1-2 week timeline.</i>			

RECOMMENDATION 3B			
The Office of Economic Development and International Trade should improve its controls over film incentive funds and its compliance with requirements for encumbrances and contract execution by:			
B) Establishing controls to help ensure approved projects are completed in a timely manner. This may include stipulating timelines for applying for incentives, beginning and completing work on approved projects, unencumbering unneeded funds, and requiring reapplication for projects that are delayed beyond a specified deadline.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<i>COFTM is now using the Customer Relationship Management (CRM) software, Salesforce to document periodic check-ins with productions to ensure they remain on track to be completed in a timely manner, as identified on their incentive application. COFTM has established check-ins every sixty days and periodic probability assessments to determine whether a project is indeed moving forward. If other viable film projects are presented to COFTM, the Office may re-allocate funds from delayed projects.</i>			

RECOMMENDATION 3C			
The Office of Economic Development and International Trade should improve its controls over film incentive funds and its compliance with requirements for encumbrances and contract execution by: C) Revising the policy and procedure manual to accurately reflect Fiscal Rule requirements to encumber funds at the time contracts are executed.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<i>COFTM will continue to follow the OEDIT Grants & Procurement Outlines, which reflect State Fiscal Rule 3-1 and Fiscal Rule 2-2. Additionally, program manager created an incentive procedure flowchart in November 2017 to reflect Fiscal Rule requirements.</i>			

RECOMMENDATION 4A			
The Office of Economic Development and International Trade should improve the incentive application process by: A) Implementing a documented application procedure that ensures that the Office of Film, Television, and Media collects comprehensive and consistent information on all prospective incentive projects.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<i>COFTM began tracking information on all prospective incentive inquiries using the Incentive Scoresheet in July 2018. In November 2017, the COFTM program analyst moved the incentive tracking process to Salesforce, a CRM software.</i>			

RECOMMENDATION 4B			
The Office of Economic Development and International Trade should improve the incentive application process by: B) Expanding the Office of Film, Television, and Media’s policy and procedure manual to include uniform criteria to be used in evaluating proposed projects and making recommendations to the Economic Development Commission. The criteria should include factors that reflect the production company’s capacity for the project, the expected economic benefit, and how the project furthers the Office of Film, Television, and Media’s strategic goals.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<i>In July 2017, COFTM began evaluating projects using the Incentive Scoresheet. In November 2017, the COFTM program analyst moved the incentive scoring process to Salesforce, a CRM software. The uniform criteria developed for evaluating all applications includes experience level of key crew members such as the producer, director and writer, in addition to project viability, benefits for Colorado, local crew focus and filming location (rural vs. metro area). This evaluation is taken into consideration when determining which projects are recommended to the Economic Development Commission. This information is included in COFTM process and procedures flowchart, which will guide future staff through the incentive scoring process.</i>			

RECOMMENDATION 4C			
The Office of Economic Development and International Trade should improve the incentive application process by:			

C) Implementing written policies and procedures to maintain documentation related to all potential incentive projects that includes the reasons why each project was denied or recommended for approval.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<i>In July 2017, COFTM began tracking approved and denied incentive applications using the Incentive Scoresheet. In November 2017, the COFTM program analyst moved this process to Salesforce, a CRM software. This process is now required in COFTM's written policies and procedures.</i>			

RECOMMENDATION 4D			
The Office of Economic Development and International Trade should improve the incentive application process by:			
D) Implementing a documented method of informing interested production companies of the reasons why the Office of Film, Television, and Media has denied a proposed project.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	July 2017
AGENCY UPDATE			
<i>In July 2017, COFTM began tracking approved and denied incentive applications using the Incentive Scoresheet. In November 2017, the COFTM program analyst moved this process to Salesforce, a CRM software. Qualified productions are invited in writing (email) to apply for the incentive program. This notification is accompanied by the COFTM Incentive Application for Conditional Approval. In the case that an application is denied after it is invited to apply, the production company will receive written notice. If during initial discussion with production company or the initial inquiry it is clear that a project does not qualify, COFTM staff will make note of this on the Salesforce inquiry record. This process is now included in COFTM's written policies and procedures.</i>			

RECOMMENDATION 5A			
The Office of Economic Development and International Trade should clarify how the requirements for in-state production companies are applied to the film incentive program by:			
A) Implementing policies and procedures that more narrowly define an in-state company. To maximize the value of the incentives, the definition should focus on companies that have, or plan to have, ongoing operations in the state. The Office of Economic Development and International Trade should work with the General Assembly, if needed, to seek statutory changes related to the definition of an in-state company.			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	March 2018
AGENCY UPDATE			
<i>In March 15, 2018, Governor John Hickenlooper signed SB18-103 into law, which defines a Colorado Company as follows: Section 2. (II) If the production company seeks an incentive specified in subsection (1)(a) of this section, the production company meets the definition of "originates" set forth in section 24-28.5-114 (4), including copies of income tax proof of voter registration, or copies of utility bills, to provide documentary evidence that as of the date of applying for a performance-based incentive: (A) The production company engaged in production activities in the state for other projects in the past twelve consecutive months; or (B) If the production company created a business entity for the sole purpose of conducting production activities in the state, the manager of the business entity is a resident in the state for the past twelve consecutive months.</i>			

RECOMMENDATION 5B			
<p>The Office of Economic Development and International Trade should clarify how the requirements for in-state production companies are applied to the film incentive program by:</p> <p>B) Implementing and enforcing requirements that applicants seeking in-state status provide evidence that they meet the definition established in response to PART A. This could include requiring submission of proof of business operations such as business tax records, worker's compensation insurance coverage, employee payroll tax records, or utility bills.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	March 2018
AGENCY UPDATE			
<p><i>In March 15, 2018, Governor John Hickenlooper signed SB18-103 into law, which defines a Colorado Company as follows: Section 2. (II) If the production company seeks an incentive specified in subsection (1)(a) of this section, the production company meets the definition of "originates" set forth in section 24-28.5-114 (4), including copies of income tax proof of voter registration, or copies of utility bills, to provide documentary evidence that as of the date of applying for a performance-based incentive: (A) The production company engaged in production activities in the state for other projects in the past twelve consecutive months; or (B) If the production company created a business entity for the sole purpose of conducting production activities in the state, the manager of the business entity is a resident in the state for the past twelve consecutive months. As a result, COFTM updated its Application for Colorado Companies to include the documents listed above as a requirement for demonstrating that a company has engaged in production activities for 12 months prior to applying for an in-state incentive.</i></p>			

RECOMMENDATION 6A			
<p>The Office of Economic Development and International Trade should implement policies and procedures to expand its data collection and reporting on the benefits the State receives from the incentive program by:</p> <p>A) Collecting and reporting on FTE jobs created by incentivized projects. This could involve either requiring the reporting of days or hours worked by each Colorado resident on each incentivized project so that the Office of Film, Television, and Media can calculate the FTE, or requiring production companies to calculate and report the FTE for their incentivized projects using a formula determined by the Office of Film, Television, and Media.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	December 2017
AGENCY UPDATE			
<p><i>COFTM Program Analyst created templates in December 2017 to distribute to incentivized productions to submit with their CPA Reviews. This template will gather additional information such as days and hours worked in an effort to aid in tracking FTE. COFTM began distributing the templates to EDC-approved projects in December, and will collect and analyze periodically as projects reach completion.</i></p>			

RECOMMENDATION 6B			
<p>The Office of Economic Development and International Trade should implement policies and procedures to expand its data collection and reporting on the benefits the State receives from the incentive program by:</p> <p>B) Expanding the information it collects on each incentivized project to include detailed data on the amount of income tax withheld for employees and compiling, analyzing, and reporting the data as part of the benefits of the Office of Film, Television, and Media.</p>			
CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	December 2017

IMPLEMENTATION STATUS		IMPLEMENTATION DATE	
AGENCY UPDATE			
<i>COFTM Program Analyst created templates in December 2017 to distribute to incentivized productions to submit with their CPA Reviews. This template requires production companies to specify tax amounts withheld, allowing COFTM to gather additional information in an effort to aid in tracking income tax. COFTM began distributing the templates to EDC-approved projects in December, and will collect and analyze periodically as projects reach completion.</i>			

RECOMMENDATION 6C			
The Office of Economic Development and International Trade should implement policies and procedures to expand its data collection and reporting on the benefits the State receives from the incentive program by:			
C) Including statewide industry data in evaluating and reporting about the Office of Film, Television, and Media’s activities and comparing the Office of Film, Television, and Media’s information when possible with statewide data. For example, this should include collecting, analyzing, and reporting the total number of productions each year, and the number of film industry jobs in Colorado each year along with the FTE jobs created through the Office of Film, Television, and Media’s activities.			

CURRENT IMPLEMENTATION STATUS	Implemented	CURRENT IMPLEMENTATION DATE	March 2018
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AGENCY UPDATE			
<i>COFTM Program Analyst is tackling this data evaluation as an ongoing project. We are working with industry organizations such as IATSE Local 7 (International Alliance of Theatrical Stage Employees), Colorado Film and Video Association (CFVA), Women in Film and Media Colorado (WIFMCO) and COFTM’s Regional Film Commissions to track film, television, commercial and video game production that occurs across Colorado outside of the incentive program.</i>			