

3. Project costs ineligible for award funds include, but are not limited to: trainee wages and fringe benefits, employee handbooks, food and refreshments, costs associated with infrastructure upgrades or renovation of office space necessary to accommodate new equipment or technology, or any other costs LED determines to be ineligible.

4. Award funds will be disbursed to the applicant on an as-needed reimbursement basis following submission of required documentation to LED or its third party administrator, sufficient to demonstrate compliance, as set forth in the award agreement between the parties.

5. In the event a party to the award agreement fails to meet its performance objectives as specified in its award agreement with LED, LED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the applicant in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state, as determined by LED.

6. In the event an applicant knowingly files a false statement in its application or in subsequent compliance documentation, the applicant may be guilty of the offense of filing false public records, and may be subject to the penalty provided in R.S. 14:133.

7. LED shall retain the right, for itself, for the Legislative Auditor, and for the Division of Administration, to require and/or conduct financial and performance audits of a project, including all relevant documents of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1078 (August 2020).

Subchapter B. Louisiana Filmmaker Matching Grants—Reserved.

Subchapter C. Loan Guarantee Program—Reserved.

Subchapter D. Deal Closing Fund—Reserved.

Anne G. Villa
Undersecretary

2008#027

RULE

**Department of Economic Development
Office of Entertainment Industry Development**

Louisiana Entertainment Development Fund—Filmmaker
Matching Grants (LAC 13:III.Chapter 21)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has enacted program rules for issuance of awards from the fund known as the Louisiana Entertainment Development Fund created by Act 223 of the 2017 Regular Session of the Louisiana Legislature. This Rule is hereby adopted on the day of promulgation.

Title 13

ECONOMIC DEVELOPMENT

Part III. Financial Assistance Programs

**Chapter 21. Louisiana Entertainment Development
Fund**

Subchapter B. Louisiana Filmmaker Matching Grants

§2125. Preamble and Purpose

A. Film festivals, fellowships, filmmaking labs, and other entertainment initiatives designed to champion indigenous filmmaking talent provide vital opportunities for new and aspiring filmmakers to showcase their work and receive feedback, and support the state's long-term goal of achieving an independent, self-supporting filmmaking industry.

B. The purpose of the program is to support filmmakers statewide by providing matching funds to existing arts and film organizations with film festivals, film grant programs, fellowships, filmmaking labs, and other entertainment initiatives designed to champion indigenous filmmaking talent as approved by LED, as a means of ensuring a high-quality filmmaker matching grant program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1079 (August 2020).

§2127. Definitions

Applicant—the arts or film organization requesting a matching award from LED under this program.

Award—funding approved under this program for eligible matching funds.

Award Agreement—that agreement or contract hereinafter referred to between the training provider and LED, through which, by cooperative endeavor agreement or otherwise, the parties set forth the amount of the award, the terms, conditions and performance objectives of the award provided pursuant to these rules.

LED—Louisiana Department of Economic Development, or their designee, including any third party administrator engaged by LED.

OEID—Office of Entertainment Industry Development.

Program—the Education Development Grant Program.

Secretary—Secretary of the Department of Economic Development, or designee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1079 (August 2020).

§2129. General Principles

A. The following general principles will direct the administration of the program.

1. Awards are not to be construed as an entitlement for companies, and the secretary has the sole discretion to determine whether or not each particular applicant is eligible and meet the criteria for the award, and in all such circumstances, the exercise of that discretion shall be deemed to be a final determination of the applicants' award status.

2. Award amounts may vary at the discretion of LED, up to a maximum of \$100,000 per applicant, per year.

3. LED shall negotiate with each applicant seeking an award based on the individual merits of each project.

4. Contracts for awards shall contain “clawback” (or refund) provisions to protect the state in the event of a default.

5. Award funds shall be used for the approved project only.

6. Awards may be administered by LED through OEID, or LED may use funds to contract with a third party administrator to undertake such activities.

7. Applications will be accepted on a year round basis, subject to availability of funding in any given year, or as otherwise determined by LED.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1079 (August 2020).

§2131. Eligibility

A. An eligible applicant is a non-profit arts or film organization approved by LED, with a proven track record of organizing film festivals, film grant programs, fellowships, filmmaking labs, or other entertainment initiatives designed to champion indigenous filmmaking talent as approved by LED.

B. Applicants must demonstrate a track record of successful organization and operations that have been in effect for at least two years. Start-up companies or training providers with less than two years of documented program history or performance shall be ineligible for this program, unless evidence of funding can be provided from established arts, film or entertainment organizations, as approved by LED.

C. An applicant shall be considered ineligible for this program if it has pending or outstanding claims or liabilities relative to its failure or inability to pay its obligations; including state or federal taxes, or bankruptcy proceedings, or if it has pending, at the federal, state, or local level, any proceeding concerning denial or revocation of a necessary license or permit, or if the company has a previous contract with LED in which the company is in default and/or is not in compliance.

D. Applicants must be in full compliance with all state and federal laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

§2133. Criteria

A. LED will consider various factors when determining which proposal will be funded. Among the factors which may be taken into account in the review of the award requests are the following:

1. needs of the entertainment industry;
2. disbursement of funding statewide;
3. unique or innovative nature of the proposed project;
4. availability of other federal, state, local or private funding programs for the project;
5. the terms of the “clawback” (or refund) provisions, in the event of a default;

6. evidence of likely success of project;

7. availability of funding; and

8. best interest of the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

§2135. Application Procedure

A. The applicant(s) must submit an application to LED, or if a third party administrator has been engaged, as otherwise directed by LED, which may be in letter form or in a more formal application format, as directed by LED, which shall contain, but not be limited to the following:

1. an overview of the arts organization, its history, and the business climate in which it operates;
2. a preliminary budget, overall description of the proposed film initiative, and funding to be provided;
3. information evidencing eligibility;
4. an articulation of any relevant factors in §2133; and
5. any additional information required to make a determination of qualification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

§2137. General Award Provisions

A. In the event the secretary determines, in his discretion, that an award would be appropriate, an award agreement shall demonstrate the intent and commitments of the applicant and LED to enter into an award agreement consistent with the Constitution and laws of the state of Louisiana and with these rules.

1. The award agreement will specify the amount of the award, the terms and conditions of the award, the performance objectives expected of the applicant and the compliance requirements in exchange for the award. Under the agreement, LED or its designated third party administrator will oversee the progress of the project.

2. Award funds will be disbursed to the applicant on an as-needed reimbursement basis following submission of required documentation to LED or its third party administrator, sufficient to demonstrate compliance, as set forth in the award agreement between the parties.

3. In the event a party to the award agreement fails to meet its performance objectives as specified in its award agreement with LED, LED shall retain the rights to withhold award funds, modify the terms and conditions of the award, and to reclaim disbursed funds from the applicant in an amount commensurate with the scope of the unmet performance objectives and the foregone benefits to the state, as determined by LED.

4. In the event an applicant knowingly files a false statement in its application or in subsequent compliance documentation, the applicant may be guilty of the offense of filing false public records, and may be subject to the penalty provided in R.S. 14:133.

5. LED shall retain the right, for itself, for the Legislative Auditor, and for the Division of Administration, to require and/or conduct financial and performance audits of a project, including all relevant documents of the applicant.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6007.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1080 (August 2020).

Subchapter C. Loan Guarantee Program—Reserved.

Subchapter D. Deal Closing Fund Reserved.

Anne G. Villa
Undersecretary

2008#026

RULE

Department of Economic Development Office of Entertainment Industry Development

Sound Recording Investor Tax Credit Program (LAC 61:I.Chapter 65)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Economic Development has amended the Sound Recording Investor Tax Credit Program (R.S. 47:6023) to align the rules with current statutory provisions and administrative practices. This Rule is hereby adopted on the day of promulgation.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 65. Louisiana Sound Recording Investor Tax Credit Program

§6531. Purpose and Description

A. The purpose of this program is to encourage development in Louisiana of a strong capital and infrastructure base for sound recording productions in order to achieve an independent, self-supporting sound recording industry, and to encourage investments in multiple state-certified sound recording production projects.

B. Approvals and certifications as to whether a project qualifies as a state-certified production as required for Sound Recording Investor Tax Credits are not to be considered as entitlements for sound recording production companies, and the Louisiana Department of Economic Development shall have the discretion to determine whether or not each particular sound recording, meets the criteria for such qualification as provided herein.

C. These rules implement the Louisiana sound recording investor tax credit pursuant to R.S. 47:6023.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, and the Department of Revenue, LR 34:1347 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:304 (February 2010), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:881 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1081 (August 2020).

§6533. Definitions

A. The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Base Investment—the actual investment made and expended in the state by a state-certified production as production expenditures incurred in this state that are directly used in state-certified production or productions.

* * *

Investor—any individual or entity that makes an investment in a state-certified production, including but not limited to any individual or entity that is identified as a source of funds for a state certified production on its expenditure verification report, or any tax credit broker, individual or entity identified as an irrevocable designee for receipt of tax credits.

* * *

Project Completion—completion or end date outlined in the project application, or as otherwise approved in writing by LED.

Qualified Music Company or “QMC”—an entity authorized to do business in Louisiana, engaged directly or indirectly in the production, distribution and promotion of music, certified by the secretary as meeting program eligibility criteria, and executing a contract providing the terms and conditions for its participation.

* * *

Resident Copyright—the copyright of a musical composition written by a Louisiana resident or owned by a Louisiana-domiciled music company as evidenced by documents of ownership such as registrations with the United States copyright office or performing rights organizations which denote authors and music publishing entities.

* * *

State-Certified Musical Recording Infrastructure Project—repealed.

* * *

Source within the State—a physical facility in Louisiana, operating with posted business hours and employing at least one full-time equivalent employee.

State-Certified Production—a sound recording production or a series of productions occurring over the course of a 12-month period, including but not limited to master and demonstration recordings, and costs related to such production or productions that are approved by the Louisiana Department of Economic Development.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6023.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development and the Department of Revenue, LR 34:1347 (July 2008), amended by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 36:304 (February 2010), LR 42:37 (January 2016), repromulgated by the Department of Economic Development, Office of Business Development, LR 45:881 (July 2019), amended by the Department of Economic Development, Office of Entertainment Industry Development, LR 46:1081 (August 2020).

§6535. Rules of Application

A. The sound recording investor tax credit authorized by R.S. 47:6023(C) may be earned and claimed as follows.