

TITLE 5 POST-SECONDARY EDUCATION
CHAPTER 5 POST-SECONDARY EDUCATIONAL PROGRAMS
PART 52 DEVELOPMENT PRE-EMPLOYMENT TRAINING FOR FILM AND MULTIMEDIA PRODUCTION COMPANIES

5.5.52.1 ISSUING AGENCY: New Mexico Economic Development Department
[5.5.52.1 NMAC - N, 6-16-2008]

5.5.52.2 SCOPE: New Mexico residents pursuing film and multimedia professions.
[5.5.52.2 NMAC - N, 6-16-2008]

5.5.52.3 STATUTORY AUTHORITY: Section 21-19-7.1.B NMSA 1978, established in 2003, directs the New Mexico film division of the economic development department to establish a film and multimedia pre-employment training program to furnish qualified manpower resources for the film and multimedia industry. The New Mexico film division has adopted rules implementing the pre-employment training program.
[5.5.52.3 NMAC - N, 6-16-2008]

5.5.52.4 DURATION: Permanent.
[5.5.52.4 NMAC - N, 6-16-2008]

5.5.52.5 EFFECTIVE DATE: June 16, 2008
[5.5.52.5 NMAC - N, 6-16-2008]

5.5.52.6 OBJECTIVE: The object of this rule is to establish standards for pre-employment development training for New Mexican residents through the job training incentive program (JTIP) for film and multimedia production companies. Pre-employment training program (PETP) is intended to furnish qualified manpower resources for the film and multimedia industry. The intention of PETP **class training** is to assist the development of New Mexico's economy by providing reimbursement funds to contractors facilitating short-term intensive courses, workshops or lectures that primarily relate to below-the-line film and television job positions. The intention of PETP **project training** is to assist the development of New Mexico's economy by providing reimbursement funds to contractors directly related to a production company's project for training in and exposure to primarily above-the-line film and television job positions. This program shall increase the hirability of New Mexico crew on film and television projects, increase economic status upon employment, and increase crew availability to productions. The PETP shall pertain to industry and production needs as determined by the New Mexico film division. Training shall provide measurable growth of the economic base of New Mexico
[5.5.52.6 NMAC - N, 6-16-2008]

5.5.52.7 DEFINITIONS: For use in this part, the following definitions apply.

A. "Above-the-line" is a film and television industry term derived from where the money is budgeted for creative talent, writers, directors and producers. This term means job positions that are associated with the creative or financial control of a film or multimedia project, not the technical aspects.

B. "Below-the-line" is a film and television industry term derived from where the money is budgeted for technical crew that shall work on a film or multimedia project as well as for costs related to the studio, equipment, travel, and location. In regards to job positions, this term means technical crew working in temporary positions and these individuals do not have creative or financial control of the project nor receive residuals.

C. "Craft" means the specialized area or department in which a film technician works.

D. "Credit" means the employee hired by a production company is officially acknowledged by name by the company either on a final list of employees (crew list) or on the actual screen as having worked in the hired position on their film or multimedia project.

E. "Film technician" means a crew member working in a below-the-line job position who often is a member of an international alliance of theater and stage employee (IATSE) film union or guild.

F. "JTIP" means job training incentive program.

G. "PETP" means pre-employment training program.

H. "Production company" means the entity creating a film or television project, which includes film or multimedia project preparation, principal photography and set break down periods.

I. “Resident” means an individual who is domiciled in New Mexico. This domicile is the individual's permanent home; it is a place to which the individual intends to return after any temporary absence. An individual shall have only one domicile. A change in domicile is established only by establishing a physical presence in a new location with intent to abandon the old domicile and make a home in the new location permanently or indefinitely.

J. “Trainee” means the class, course, workshop, lecture or project attendee participating in this program and who will be learning a new skill set or graduating to a higher job classification.

K. “Turn-around-time” means the time between leaving a project and returning to a project to continue training.

[5.5.52.7 NMAC - N, 6-16-2008]

5.5.52.8 PRE-EMPLOYMENT CLASS TRAINING:

A. The New Mexico film division of the economic development department shall contract a qualified contractor to provide venues, staff, equipment and materials to conduct short-term, intensive training New Mexicans in primarily below-the-line film and television crafts and that shall increase the employment opportunities of New Mexican crew on film and television projects.

B. Training course shall not exceed six days total. Exceptions may be made for certification courses directly related to a approved film craft as determined by the New Mexico film division.

C. Training course shall not exceed 10 hours in one day including a one hour break for lunch.

D. The potential contractor shall provide an outline of each training course, qualifications of instructors, and all relevant details, certificates and costs per the program application.

E. The approved contractor ensures that all trainees shall either be training in a new classification or are in need of additional training in this classification and that the trainee wage once employed shall be based upon this category.

F. Contractor requirements: Contractor shall meet the following requirements and submit this information to the New Mexico film division of the economic development department:

(1) upon approval of the New Mexico film division, contractor shall enter into an agreement as outlined by the New Mexico economic development department and shall return the contractual agreement to the department within 15 business days from the issue date; the approval from the New Mexico film division and the chairperson of the job training incentive program (JTIP) board shall grant funding to the contractor for the purpose of conducting this training; and

(2) the contractor agrees to provide the department with the W-9 specific to the state of New Mexico and shall include a copy of their CRS-1 business certificate as filed with the state of New Mexico taxation and revenue department or the contractor's federal employer identification number or the contractor's social security number; and

(3) the contractor ensures that all trainees are New Mexico residents and that trainees have completed a declaration of residency form (RPD-41271) and attached copies of their proof of residency; and

(4) the contractor shall provide the department with a completed trainee certification form for each trainee as of the commencement of training; and

(5) the contractor shall provide a copy of liability insurance; and

(6) the contractor shall provide a roster of all trainees who completed and passed training; and

(7) the contractor shall provide completed class evaluation forms to the New Mexico film division from all participating trainees.

G. The contractor is subject to compliance visits and program surveys at any time during the training class.

H. The contractors that fail to comply with all established operating requirements and closeout procedures are not eligible to apply for future participation.

I. Trainees qualifications and requirements: Class attendees shall meet the following qualifications to attend PETP class training:

(1) every trainee shall be a New Mexico resident in order to attend a class, workshop, course or lecture through PETP class training; and

(2) trainee shall attend, complete and pass the entire training course or their name shall not appear on the final roster; and

(3) trainee shall meet one of the following criteria to participate in this class:

(a) trainee is a member of a film industry union or guild; or

(b) trainee has completed work on a minimum of three commercials, shorts or documentaries pertaining to this pre-employment training class; and trainee has the intent to refine their skills in their primary craft to either work on features film and television productions or in a New Mexico film industry related business; or

(c) trainee has completed, passed and received a certification or degree from educational institution with a film concentration pertaining to this pre-employment training course or a related craft as determined by the New Mexico film division; or

(d) trainee has passed and completed one semester of the film technicians' training program (FTTP) with the intent to pursue the craft taught in this pre-employment training course and has a letter of recommendation from the FTTP head instructor; or

(e) trainee has worked or currently works for a film related industry or company as determined by the New Mexico film division for at least three months in a position that directly relates to this pre-employment training class thus having experience that would directly transfer onto a film production in conjunction with this course; and

(4) trainee shall be at least 18 years of age.

J. Instructors requirements: Instructors shall meet the following criteria and be certified as PETP instructor by the New Mexico film division:

(1) head instructors shall have worked within the film industry for a minimum of five years or have taught class subject for a minimum of five years; and

(2) head instructors that do not have a film vendor business shall have a minimum of five screen credits on feature films and five additional credits from film or television productions; therefore, head instructors shall have ten screen and film or television credits total in an advanced craft position relating to class subject; and

(3) head instructors shall specialize in advanced skill sets for film crafts; and

(4) assistants to head instructors shall have worked within the film industry for a minimum of two years and have a minimum of five credits on feature films or television productions in the craft department or craft departments related to class; and

(5) additional assistants may work as production assistants to help facilitate class and shall not instruct class; and these assistants shall be a New Mexico resident and they shall have worked in a film related business or be enrolled in a film technicians' training program class as administered by post secondary educational institutions in New Mexico.

K. Eligible costs for reimbursement:

(1) tuition and registration fees: tuition courses that meet the needs of training course in the most cost efficient manner; registration fees for annual meeting, conferences, or seminars are not eligible for funding; and

(2) certification and licensing fees for trainees are applicable when a copy of the certificate earned or license required is submitted with the final invoice; and

(3) instructional material such as training manuals, overheads, and photocopies; and

(4) supplies which include paper, pencils, highlighters, and expendable training materials apply however this program does not fund non-expendable property such as training equipment, tools, computer hardware, software, etc.; and

(5) instructor fees and their travel expenses where applicable where the instructor is not an employee of the contractor's business; and

(6) the cost of the facility where the training takes place and equipment rental may be reimbursed; and

(7) travel expenses for instructors which include transportation, lodging and meals per diem rules (DFA rule 95-1, department of finance and administrative regulations governing Per Diem and Mileage Act).

L. Total course cost shall not exceed twenty thousand dollars (\$20,000.00) regardless of the number of contractors.

M. Trainees may be required to pay a nominal fee to the contractor for supplies per the application and approval of the New Mexico film division.

N. Mandatory or regulatory training is allowed if required for employment on a film and approved by the New Mexico film division of the economic development department.

O. The term of the contract shall be based on a time period, which shall allow the contractor to complete its obligation to facilitate and provide training classes for the qualified individuals and complete the paper-work involved.

P. Reimbursement of training costs: Reimbursement amount shall be made to the participating contractor in accordance with the terms of the training contract. Funds from the state shall be based on the negotiated contractual agreement as outlined in the contract:

- (1) funds shall be based upon the costs to facilitate the training course(s) and to pay additional instructors when applicable; and
- (2) the rate established in the contract shall remain the same for the length of the agreement; and
- (3) the invoice shall include contractor name, address, and phone contact; and one original signature of contractor is preferred; and
- (4) the invoice shall include all costs accepted and stated in the contract.

Q. Reporting: The following established records, reports, forms and agreements shall be submitted to the New Mexico film division are subject to review during compliance visits and program surveys:

- (1) original proposal of class; and
- (2) New Mexico tax information form; and
- (3) film and multimedia pre-employment training application and supporting documents noted within; and
- (4) film and multimedia pre-employment agreement; and
- (5) trainee certification form for each trainee prior to class commencement; and
- (6) declaration of residency forms for each trainee (with a copy of the proof of residency); and
- (7) copy of liability insurance and any other applicable insurance; and
- (8) final roster of trainees that have passed the course with individual's contact information; and
- (9) instructor class evaluation forms; and
- (10) receipts for pre-approved rentals; and
- (11) proof of instructor payments; and
- (12) a dated invoice:
 - (a) contractor name and address, state vendor number; and
 - (b) course title and dates; and
 - (c) names of additional instructors their hours and costs; and
 - (d) name and cost of facility and locations used for training; and
 - (e) number of trainees and payment by trainees when applicable; and
 - (f) receipts for pre-approved rentals; and
 - (g) contractor rate and costs per application and agreement; and
 - (h) total amount requested; and

(13) the mailing address to submit paperwork including the invoice is to the development training program administrator, New Mexico film division of the economic development department, 418 Montezuma Avenue, Santa Fe, New Mexico, 87501, 505-476-5600.
[5.5.52.8 NMAC - N, 6-16-2008]

5.5.52.9 PRE-EMPLOYMENT PROJECT TRAINING:

A. Project training shall assist the development of New Mexico's economy by providing reimbursement funds to contractors directly related to a production company's project for training in and exposure to primarily above-the-line film and television job positions. This program shall increase the hirability of New Mexico crew on film and television projects, increase economic status upon employment, and increase crew availability to productions. Pre-employment project training shall pertain to industry and production needs as determined by the New Mexico film division of the economic development department.

B. Production company qualifications and requirements:

- (1) the production company shall provide an outline of each training concept with the NMFO proposal form to be considered for approval; and
- (2) the production company shall be required to provide qualifications of instructors and mentors, all relevant details, certificates and costs per the program application; and upon approval of the New Mexico film division shall enter into the film and multimedia pre-employment project training agreement as outlined by the New Mexico film division of the economic development department; and the approval from the New Mexico film division shall grant training funds to the production company for the purpose of conducting this training; and

(3) the production company entering into a contractual agreement with New Mexico economic development department shall return the contractual agreement to the department within 15 business days from the issue date or commencement of project whichever date comes first; and

(4) the production company ensures that all trainees shall receive specialized training to work in the film industry; and

(5) the production company agrees to provide the department with a W-9 specific to New Mexico and include either a copy of its CRS-1 business certificate as filed with the state of New Mexico taxation and revenue department or production company's federal employer identification number; and

(6) the production company ensures that all trainees are New Mexico residents and that trainees have completed a declaration of residency form (RPD-41271) and have attached copies of their proof of residency; and

(7) the production company shall provide the New Mexico film division with a completed project trainee certification form for each trainee by the commencement of training; and

(8) the production company shall provide a copy of production's liability insurance and the trainee shall be covered under production insurance; and

(9) the production company shall provide a roster of all trainees who completed and passed the training; and

(10) the production company shall provide completed evaluation forms to the New Mexico film division; and

(11) the production company is subject to compliance visits and program surveys at any time during the training; and

(12) the production company shall only interview and consider trainees endorsed by the New Mexico above-the-line mentorship panel (NM AMP) for this training; and

(13) the production company shall not train more than eight participants at one time; however, exceptions may be made by the NMFO when a request is submitted in writing to the director of the New Mexico film division; and

(14) the production company shall not have more than two trainees per mentor or instructor; and

(15) breaks and meals per film industry standards shall apply to participants training on production project; and

(16) a minimum turn-around-time of eight hours shall apply to all training participants.

C. The production company that fail to comply with all established operating requirements and close-out procedures are not eligible to apply for future participation and may not receive the training reimbursement.

D. Trainee qualifications:

(1) trainee shall be a New Mexico resident; and,

(2) trainee shall complete all training or their name shall not appear on the final roster or crew list;

and

(3) trainee has been endorsed by the New Mexico above-the-line mentorship panel (NM AMP) and shall provide the production company with a copy of their endorsement; and

(4) trainee shall be at least 18 years of age.

E. Instructors and mentor qualifications:

(1) instructors and mentors shall have worked in the film industry for a minimum of five consecutive years; and

(2) instructors and mentors shall have a minimum of five screen credits on films that had a budget over one million dollars and five additional credits from film or television productions; therefore they shall have ten screen and film or television credits total in an advanced craft position relating to this training; and

(3) instructors and mentors shall specialize in advanced skill sets for film crafts.

F. Eligible costs:

(1) percentage of the mentor rate for each day of training as explained in next section; and

(2) a maximum of 60 days on a given production company's project per trainee; however, exceptions may be made by the director of the New Mexico film division when a request is submitted in writing to this director.

G. Funds shall not be used to purchase equipment, software, non-expendable supplies.

H. Reimbursement:

(1) total training cost shall equate to twenty-five percent (25%) of daily compensation for director, producer and writer mentors; and

(2) total training cost shall equate to fifty percent (50%) of daily compensation for mentors in specialized crafts including but not limited to production designer, sound looping, editor, script supervisor, unit production manager, production supervisor, casting director, and story board artist.

I. Mandatory or regulatory training is allowed if required for employment on a film and approved by the New Mexico film division of economic development department.

J. Duration of contract: the term of the contract shall be based on a time period, which shall allow the production company to complete its obligation to facilitate and provide training classes for the qualified individuals and complete the paper-work involved.

K. Reimbursement of training costs shall be made to the participating production company in accordance with the terms of the training contract. Funds shall be based upon the costs to facilitate training. The rate established in the contract shall remain the same for the length of the agreement.

L. The invoice shall include production company's name, address, representative's name and contact, one original signature of production company official representative. The invoice shall include all costs accepted and stated in the contract.

M. The mailing address to submit the invoice and all required information is development training program administrator of the New Mexico film division of the economic development department, 418 Montezuma Avenue, Santa Fe, New Mexico, 87501, 505-476-5600.

N. Funds from the state shall be based on the negotiated contractual agreement as outlined in the contract.

O. Required forms and reporting:

- (1) original proposal for pre-employment project trainees; and
- (2) New Mexico tax information form; and
- (3) film and multimedia pre-employment project training application and supporting documents noted within; and
- (4) film and multimedia pre-employment project agreement; and
- (5) project trainee certification form for each trainee prior to commencement of training and supporting documentation noted within; and
- (6) declaration of residency form for each trainee (with a copy of the proof of residency); and
- (7) copy of production insurance and any other applicable insurance; and
- (8) final roster of trainees that have completed the training with individual's contact information; and
- (9) call sheet or equivalent documentation as determined by the New Mexico film division for each day of training; and
- (10) time cards or equivalent documentation as determined by the New Mexico film division from each week participant was trained on a production company's project; and
- (11) evaluation forms provided by the New Mexico film division; and
- (12) invoice:
 - (a) production company name, address, contact number and state vendor number; and
 - (b) production title and dates of training; and
 - (c) list of mentors and instructors and their contact information; and
 - (d) facility and locations used for training; and
 - (e) total number of trainees and their training dates; and
 - (f) production company costs per application and agreement; and
 - (g) total reimbursement amount requested.

P. All records shall be submitted to the New Mexico film division of the economic development department and they are subject to review during compliance visits and program surveys.
[5.5.52.9 NMAC - N, 6-16-2008]

5.5.52.10 OTHER PROGRAM INFORMATION:

A. The pre-employment training program through the job training incentive program for film and multimedia was created by the New Mexico film division of the economic development department of state of New Mexico.

B. Public or private entities outside the state of New Mexico shall contact the New Mexico film division of the economic development department for consideration to obtain permission to use any part of this program content at 505-476-5600.

[5.5.52.10 NMAC - N, 6-16-2008]

HISTORY OF 5.5.52 NMAC: [RESERVED]