

## Nonresident Crew Exceptions

### APPROVAL PROCESS

Nonresident Crew Exceptions will only be considered by the film division if (1) the service provided by a crew member is a specialty skill that does not exist in the state; or (2) there is a high level of production activity in the state and resident crew is determined as unavailable at the time needed.

Do not request the following positions as they will not be considered: nonresident Writer, Director, Producer, Associate Producer, Co-Producer, Executive Producer, Production Supervisor, Director of Photography, Production Designer, Costume Designer, Set Designer, Still Photographer, Drivers (sole responsibility is driving), Propmaker/Carpenter, Utility Technician, Personal Assistant, Production Assistant or Personal Support Service Assistant.

Positions requested must have been initially intended for resident crew and the production must provide documentation in support of these requests.

Prior to submitting any requests to the Film Division:

- A. Request a roster from any industry guild or union with whom the production has contractual obligations and when the positions sought after fall under their jurisdiction. (Note: union obligations that relate to local, near-by or distant hires will not be a determinant for resident crew availability.)
- B. Submit to the film division an email which will be sent to our local list for a crew call. (Consider using the same template used by a film union if applicable.) As an example, the email could include following: "There is a television series seeking resumes for the following positions ..." and (1) the types of credits or particular skills being sought, (2) an email address to send in their resume and (3) whether the production has or will have contractual obligations with industry unions.

### Submission Requests to the NMFO for Positions

*(Note: a request may be submitted for each hiring phase.)*

1. In an Excel format, please alphabetize requested positions per department. Provide the following information in separate columns: the position being requested, start date for position, specialty skills or specific types of credits needed, union affiliation if applicable, the date union roster was received by production, the date that the search for a local resident began, the number of resident resumes reviewed, the number of interviews with local crew that occurred (in-phone and in-person), and the number of qualified crew that declined. A last column may be added to elaborate upon how the production determined a local resident was not available to fill this position.
  - Request must be provided before the start date of the nonresident.
  - Do not include individual names of local crew that were considered; however, backup documentation for any of the information provided on this submission may be required after its initial review.
  - Provide emails from any unions or guilds responding to the roster request and their current member availability.
  - If available, attach any additional emails (or equivalent) from local organizations that confirm a lack of available services at the time needed.
2. Submit this list to the Senior Manager of Production's attention ([tobi@nmfilm.com](mailto:tobi@nmfilm.com)), copied to the Director of the NMFO ([nick@nmfilm.com](mailto:nick@nmfilm.com)). Production representative will receive confirmation of receipt.
3. Production representative will receive a response as soon as possible as to which positions are approved, unapproved or where more information is required. You may provide a one-time justification for unapproved

positions to be reconsidered. A final list will be emailed to the production representative (which will be included by the film division with the tax credit application after production).

#### QUALIFYING NONRESIDENT CREW EXCEPTIONS

Payments for services must be subject to GRT and services must be provided by an in-state vendor of a related business (e.g. a qualifying producing services company).

The qualifying vendor must hire the non-resident crew member providing the services. The start paperwork from the employee must explain the details of the services. The vendor may be required to have a similar deal memo to the production company based on the contract.

The New Mexico Film Office does not review any expenditures submitted by a project that is applying for the Film Production Refundable Tax Credit. Below are a list and a graph for consideration when qualifying approved nonresident crew; however, please contact the New Mexico Tax & Revenue Department for tax-related questions.

#### Considerations:

The contracted vendor supplying nonresident crew services, referred to here as a New Mexico Production Services Company (NMPSC), must qualify as a local vendor (meeting physical presence requirements) and as a provider of these services.

The NMPSC must be considered a contractor of the filing entity for these services to be considered for the incentive.

The NMPSC would most likely charge a fee for this service.

The contract between the NMPSC and the Film Production Company (FPC) would describe the services that will be provided and identify what's included in the payment of services.

The FPC would likely request the NMPSC to have their own contract with the same payroll company as the FPC for this project.

The FPC would likely request the NMPSC to have or establish the necessary relationships with film union or guilds for this project (if applicable).

The invoice (based on the contract terms) from the NMPSC to the FPC would be subject to Gross Receipts Tax (GRT).

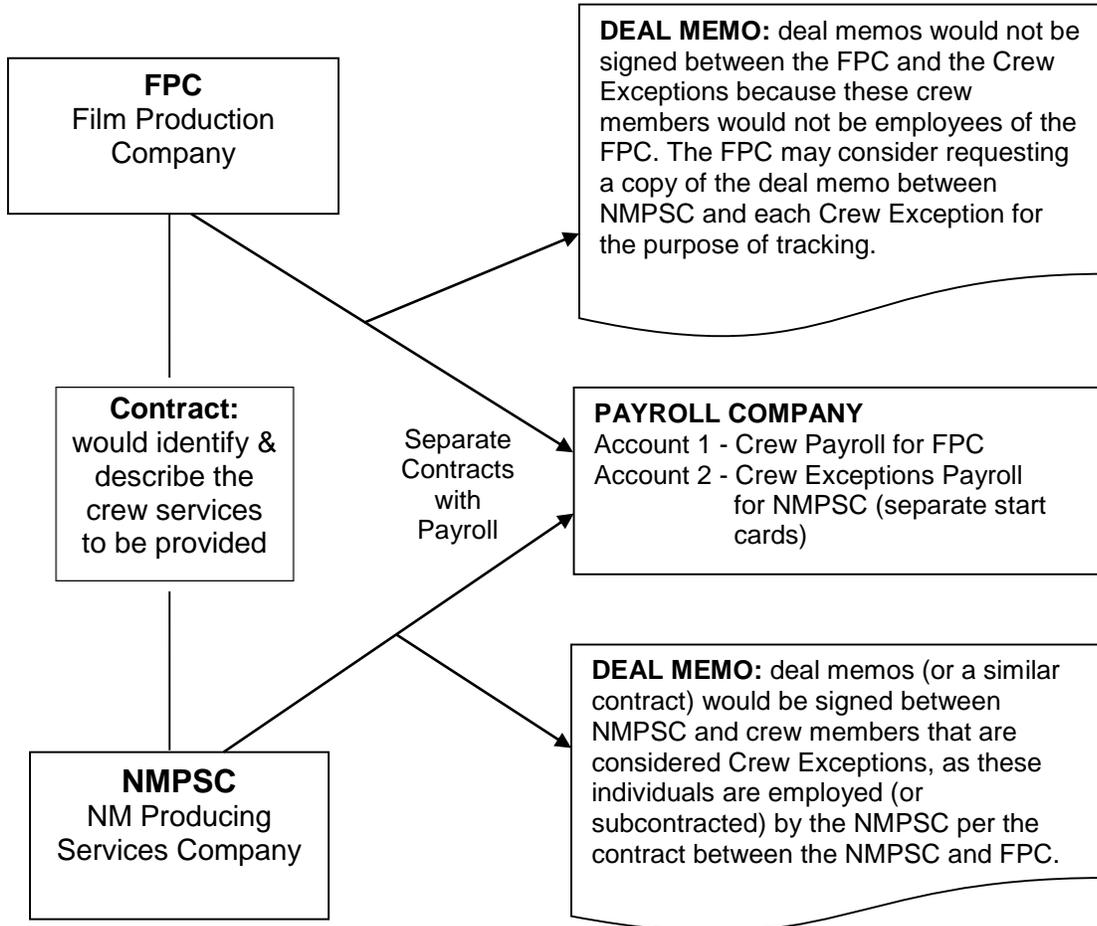
The NMPSC would be a vendor and therefore payment would be booked in the FPC's accounts payable - individuals in approved positions would not be in the FPC's payroll.

The NMPSC may have the payroll company create a code for these Crew Exceptions per the request of the FPC. (This may assist in distributing costs accordingly across departments even though the payment would be booked in AP.)

If the Crew Exceptions were initially employed by the FPC and then later employed by the NMPSC, there would be adjustments and journal entries made under each company.

EXAMPLE DRAFT FOR CREW EXCEPTIONS

draft 3.13



*Tip: in order for a NMPSC to provide crew services for a FPC that has contractual obligations with a film union or guild, the NMPSC should consider determining their contractual obligations with those same unions and guild for that project.*

*The example and considerations in this document are for informational purposes only. For tax-related questions, please contact the New Mexico Tax & Revenue Department. The New Mexico Film Office does not review any expenditures that are submitted by a project that is applying for the Film Production Refundable Tax Credit.*