

PRE-AGREED PROCEDURES COLOMBIA FILM FUND LAW 1556 OF 2012 CONSIDERATION FILM FUND COLOMBIA - FFC

1. Introduction

The Colombia Film Promotion Committee (the “CPEFC”) is the governing body of the Colombia Film Fund (the “FFC”) established in Law 1556 of 2012 modified by Law 1955 of 2019, National Development Plan, Pact for Colombia, Pact for Equity. Said law extended the coverage of the Colombia Film Fund (“FFC”, for its Spanish acronym) to other audiovisual genres and modified Article 9 of Law 1556 of 2012, in the sense that in addition to the Colombia Film Fund (“FFC”) equivalent to 40% of expenses on audiovisual services –specialized activities directly related to pre-production, production and post-production of audiovisual works - (the “SA”) and 20% of audiovisual logistics expenses –hotel, food and transport items- (the “SLA”), added a tax discount of 35% of the expenses in “SA” and “SLA” in the case of foreign audiovisual works; this discount is covered by Certificates of Audiovisual Investment in Colombia (“CINA”). Any production company whose audiovisual project is going to be the recipient of the “FFC” Consideration or the “CINA” Audiovisual Investment Certificate, must present a concept, certificate or report (the “Audit Document”) from an auditing firm to demonstrate compliance of the established requirements.

Within the framework of the foregoing, the Mixed Fund for Cinematographic Promotion “Proimágenes Colombia” (hereinafter “Proimágenes”), an entity that by decision of the Ministry of Commerce, Industry and Tourism, the Ministry of Culture and the Committee for Film Promotion Colombia, respectively, and based on Decree 1080 of 2015, modified by Decree 474 of 2020 and the pertinent agreements entered into with said entities, is the civil corporation that manages the “CINA”, has established these Previously Agreed Procedures (hereinafter “PPA”) which seek to guarantee effective, efficient and accurate management in the audits related to the projects of Law 1556 of 2012.

2. Regulations of the “FFC” and definitions

In addition to the definitions, terms and / or names that are described in these “PPA”, for all purposes the terminology set forth in Article 4 of the Resource Allocation Manual (hereinafter “MAR”) will apply or, if applicable of doubt, the meaning that the applicable law or jurisprudence specify.

Likewise, the application, consultation and / or reference to these “PPAs” must be carried out in a comprehensive manner with the FFC regulations detailed below (hereinafter the “FFC Regulations”):

1. Law 1556 of 2012 modified by articles 177 and 178 of Law 1955 of 2019.
2. Decree 1080 of 2015 modified by Decree 474 of 2020.
3. The “MAR”.

3. Support documents

For the development of these "PPAs", without prejudice to other relevant documents, the following supporting documents will be kept:

1. Audit Document.
2. Verification and declaration letters.
3. Annex 1: Trust expenses report.
4. Annex 2: Audit Expense Report.
5. Annex 3: Budget execution and minimum expenditure.

4. Audit Firm Selection Requirements

The auditing firms authorized to issue the "Audit Documents" must be legal entities that meet at least the following requirements:

1. Experience greater than ten (10) years in auditing or tax audit.
2. Accredited experience in internal or external auditing of public or private companies that are large taxpayers.
3. Registration before the Board of Accountants, with certification of disciplinary records, with a date of issue not exceeding thirty (30) days.
4. Meet the requirements of these "PPA", as established in number 4 of article 19 of the "MAR".

5. Aspects to verify

The auditing firm must carefully read the "FFC Regulations" and the agreement of the "CPFC" for project approval. Likewise, it must verify, as a minimum, the following:

1. Compliance with each and every one of the aspects indicated in section IV (accreditations) of chapter II of the MAR", including the following
 - 1.1. The amounts expressed in the disbursement request to the management entity.
 - 1.2. Matters relative to the certification issued by the fiduciary entity.
 - 1.3. For foreign audiovisual works, the certification issued by the cinematographic services society.
 - 1.4. Determination of the percentage variation of the expenditure budget subject to the "FFC" Consideration and the executed expenses (in accordance with the summary budget presented in the project approved by the "CPFC").
2. That the invoices or equivalent documents in tax matters that support the fiduciary certification meet the legally required requirements.
3. Compliance with obligations derived from the Comprehensive Social Security System for hired Colombian personnel.

6. Audit Document Requirements

In accordance with these “PPAs”, the “Audit Document” must:

1. Be prepared in the format entitled "concept, certification or external audit report" annexed to the "MAR".
2. Include, duly completed, the annexes:
 - 2.1. Annex No. 2 audit expense report.
 - 2.2. Annex No. 3 budget execution and minimum expenditure.
3. Express all figures in Colombian pesos. This in the "Audit Document" and its annexes.
4. Identify the expenses incurred according to the corresponding year of payment.
5. Be prepared for the use of the following specific parts:
 - 5.1. The producer.
 - 5.2. Proimágenes.
 - 5.3. The "CPFC".

For the purposes of the above, the production company must provide documentation of all expenses in “SA” and “SLA” made in production, including pre-production and post-production periods (if applicable).

2. Development of the "PPAs"

The auditing firm should carefully develop the following “PPAs” and list as a finding in the “Audit Document” any exceptions it detects.

2.1.Regarding eligibility:

- 2.1.1. Obtain the expenses report in "SA" and "SLA" subject to consideration "FFC" according to the "Regulations of the FFC".
- 2.1.2. Obtain from Proimágenes or the production company, and read carefully, the following:
 - Project application form.
 - Letter of commitment from the film services company, if more than one film service company was used, the letter of commitment of each one (if applicable).
 - Itemized budget of expenses subject to "FFC" consideration.
 - Budget summary chart.
 - Notification by Proimágenes that the project is a beneficiary of the "FFC" consideration.

- Colombia Filming Contract.
 - Contract with the fiduciary entity.
 - Certification issued by the fiduciary entity.
 - Certification issued by the fiduciary entity (Annex No. 1: 1 (trust entity expense report)).
 - In the case of foreign audiovisual works or Colombian works that have been hired by a production services company, the certification issued by the cinematographic services company proving which of the payments certified by the fiduciary are determined through said company and (b) if the applicant producer made all the payments corresponding to the project.
- 2.1.3. Inspect the Colombia filming contract in order to determine if it was entered into within a maximum of twenty (20) days from the notification by Proimágenes. If the contract was not concluded within the maximum period of days, the producing company loses the "FFC" consideration.
- 2.1.4. The "Auditing Firm" confirmed that the contract with the "Trustee" _____ with NIT _____ was executed in a period not exceeding three (3) months after the conclusion of the Colombia Filming Contract: If the trust is not constituted within the maximum period of days, the producing company loses the "FFC" consideration.
- 2.1.5. Inspect the expenses report subject to consideration to determine that a minimum amount of one thousand eight hundred (1,800) SMLMV (minimum legal monthly wages) was reached, including taxes. If the minimum amount is not met, the producing company loses the "FFC" consideration.
- 2.1.6. Calculate the percentage of variation of the final expense subject to the consideration "FFC" with respect to the approved budget (Annex No. 3).

If the production has not complied with the eligibility rules, there is no need to continue with the "PPAs" and the auditing entity must inform Proimágenes of the corresponding matters, so that it reports to the "CPFC" the ineligibility for the "FFC" consideration.

2.2.Regarding the "SA":

- 2.2.1. Inspect the invoices, the equivalent documents in tax matters, and the proofs of the payments made by the trust and verify that the amount of the expense is correctly incurred and paid.
- 2.2.2. For expenses in "SA" accredited by means of an equivalent document in tax matters, verify that these have been issued only by Colombian natural persons of the simplified regime and correspond to positions of artistic or technical personnel, or in the case of work related to writing or correction of the script, taking into account the following:
- All other "SA" and "SLA" must be collected by invoice.

- Legal persons must prove domicile in the country, understood as the address of their headquarters in the country. Colombian natural persons must be domiciled, that is, prove a permanent residence address in Colombia and be residents in the country, understanding this as continuous or discontinuous stay in Colombia for no less than 183 calendar days in the calendar year of the expense.
 - Colombian people who declare income in Colombia meet these conditions. No payment to a foreign natural person is subject to consideration.
- 2.2.3. Verify that the companies that provide "SA" certify compliance with obligations derived from the Comprehensive Social Security System for hired Colombian personnel.
- 2.2.4. If the expenses refer to the payments for the Colombian personnel hired for the project, verify compliance with the obligations derived from the Comprehensive Social Security System for the hired Colombian personnel. If within the framework of the project a company is hired to hire personnel, the compliance of said obligations by the same must be verified person by person.
- 2.2.5. For "SA" of productions that are shot in countries other than Colombia, review the production reports or calls, to verify that the expense is incurred for services performed in Colombia. Likewise, verify that in the expenses report subject to "FFC" consideration, these are prorated, excluding services provided outside of Colombia.
- 2.2.6. Verify that expenses are not associated with activities specifically excluded by law, including the following:
- The purchase of any kind of goods.
 - Per diem payments (per diem) for technical or artistic staff.
 - Any expense of the promotional stage of the film.
 - Services of the auditing firm.
 - Commissions and fees of the fiduciary entity.
 - The amounts of the Value Added Tax (VAT) (consider that other taxes are subject to consideration).
- 2.2.7. Verify that the expenses were not for services in kind (transactions that do not involve money or that are not measured in monetary terms).
- 2.2.8. Verify that the expenses do not correspond to refunds, insurance claims, credit notes received for discounts, returns and billing errors.
- 2.2.9. Verify that the expenses have not been invoiced or paid before the signing of the Colombia Filming Contract, or the constitution of the trust.
- 2.2.10. Verify that the expenses have been made within the maximum established for the execution of the Project Services expense stipulated in the Colombia Filming contract.

Any expense that does not comply with the above conditions must be reported as NOT subject to “FFC” consideration.

2.3.Regarding the "SLAs"

- 2.3.1. Inspect the invoices and proof of payments made by the trustee and verify that the amount of the expense is correctly incurred and paid. No "SLA" may be charged by an equivalent document other than the invoice.
- 2.3.2. Verify that all the "SLAs" have been charged through an invoice. Legal persons must prove domicile in Colombia, understood as the address of their headquarters in the country.
- 2.3.3. Verify that the companies providing the "SLA" certify compliance with the obligations derived from the Comprehensive Social Security System for hired Colombian personnel.
- 2.3.4. Verify that expenses are not associated with activities specifically excluded by law, including the following:
 - The purchase of any kind of goods.
 - Per diem payments (per diem) for technical or artistic staff.
 - Any expense of the promotional stage of the film.
 - Services of the auditing firm.
 - Commissions and fees of the fiduciary entity.
 - The amounts of the Value Added Tax (VAT) (consider that other taxes are subject to consideration).
- 2.3.5. Verify that the expenses were not for services in kind (transactions that do not involve money or that are not measured in monetary terms).
- 2.3.6. Verify that the expenses do not correspond to refunds, insurance claims, credit notes received for discounts, returns and billing errors.
- 2.3.7. Verify that the expenses have not been invoiced or paid before the signing of the Colombia Filming Contract, or the constitution of the trust.
- 2.3.8. Verify that the expenses have been made within the maximum established for the execution of the Project Services expense stipulated in the Colombia Filming contract.

Any expense that does not comply with the above conditions must be reported as NOT subject to “FFC” consideration.

2.4.Other activities:

- 2.4.1. Verify that the certification issued by the Cinematographic Services Society (if applicable) shows that there are no pending payments for the work done in Colombia. Otherwise, notify Proimágenes.

- 2.4.2. Obtain a letter signed by the legal representative of the production company indicating that it recognizes that the project must include a credit to confirm with the instructions of Proimágenes and that it must also launch the audiovisual work within a period of three (3) years.

Note: in the case of music videos, the management of the incorporation of the credit is an agreement between the producer and Proimágenes.

- 2.4.3. For post-production "SA" verify that the expense is incurred for services rendered in Colombia.

2.5. Conclusion "PPA":

Fill out the "Audit Document" with its respective attached relationships: No. 2 Audit expenses Report and No. 3 Budget Execution and minimum expenditure.