

Business Procedures

The business procedures set out below are those operated by RTÉ in respect of Programmes commissioned by RTÉ. These procedures are deemed most appropriate for the vast majority of RTÉ commissioned programmes and are reflective of RTÉ's agreements with Screen Producer's Ireland (SPI) on Terms of Trade and RTÉ's Code of Fair Trading.

Budget

Budget totals included on submission forms, must be accurate and reflect real cost of production, as major variations at negotiating stage will not be entertained.

Following approval of a proposal in principle, discussions will commence between the producer and Independent Productions on the final programme specification. Once this is agreed talks will begin on detailed budget and contract. The final budget will be based on the agreed programme specification.

Budgets should reflect the current market rates for facilities and services and should therefore be realistically priced. However, Independent Productions may require the producer to obtain several quotations for facilities or other budget items in order to ensure the best possible value for such services.

Having agreed a production budget, an appropriate production fee will be applied.

A contingency budget may also be included and will vary depending on the complexity of the production. The production fee will not apply to the contingency. Independent Productions prior approval for the expenditure of such a contingency must be agreed in all cases.

Before proceeding to contract, the independent producer must provide Independent Productions with an up-to-date Tax Clearance Certificate and confirm to their nominated insurance provider that they have an up-to-date Health & Safety Policy Statement.

Note that RTÉ will have no responsibility for any costs or obligations incurred by Independent Producer's in the absence of a signed commissioning contract with RTÉ.

Note: This document is for general information only and the terms applicable to each specific programme will be set out in the commissioning contract for that specific programme.

Production costs, overheads and production fees

The production budget shall include:

1. All agreed development costs
2. All approved direct costs of production including reasonable overhead costs of maximum 4%
3. A production fee negotiated as set out below
4. Insurance costs, legal and accounting fees, and contingency where appropriate. However, the production fee will not be calculated on any contingency element of the budget.

Production fees will be negotiated on a project-by-project basis (other than in the case of multi-annual or volume deals) and will be determined by consideration of the following relevant factors:

1. The amount of the production budget
2. The complexity of the production
3. The duration and scale of the production
4. The originator of the programme concept
5. The total volume of work commissioned by RTÉ from an individual producer where a marginal maximum production fee of 10% will apply for all new business in excess of €1.5 m
6. Whether the programme is part of a multi-annual or volume deal the production fee in the case of projects other than multi-annual or volume deals will be in accordance with the following scale:

Production Budget	Minimum Production Fee
Up to €95,000	20%
€95,001 - €190,000	17.5%
€190,001 - €318,000	15%
€318,001 - €508,000	12.5%
€508,001 - €889,000	10%
€889,001 - upwards	For budgets over €889,000 the first €889,000 will be at 10% with the % fee in respect of the excess to be negotiated

It is recognised that in the case of multi-annual or volume deals the production fees will be negotiated on a case-by-case basis.

FACILITIES

The source of facilities to be used by the independent production sector is a matter for decision by independent producers, providing Independent Productions is satisfied that the best possible price and the necessary quality and technical requirements have been obtained. In circumstances where the independent producer elects to use RTÉ facilities, the contract for provision of such facilities will be directly between the independent producer and RTÉ's Business Unit. The cost of the facilities will be a charge on the production budget and will be billed directly by RTÉ's Commercial Enterprises Division to the independent producer.

OTHER SOURCES OF FUNDING

Third parties may be identified by either RTÉ or the producer as a source of co-funding. This may be by way of co-production, sponsorship, Section 481, or otherwise. In addition, funding may be proposed from other outside agencies such as the Coimisiún na Meán (CnaM) and / or the Northern Ireland Film and Television Commission (NIFTC). However, all approaches, discussions and subsequent arrangements relating to such third-party funding shall have the prior approval of RTÉ and the arrangements may be implemented by RTÉ. The net value of monies generated from other sources of funding will be applied to the production budget in the context of co-funding and shall not be treated as an increased production fee or profit to the producer. Sponsorship monies will accrue to RTÉ. All sponsorship arrangements resulting from such co-funding shall be in compliance with RTÉ's Sponsorship Guidelines and must be approved by RTÉ in advance. All on/off air exposures/credits resulting from any third-party funding shall be in accordance with RTE's credit specifications and must be agreed in advance.

INSURANCE

Before commencement of production, the producer will effect standard production insurance on all RTÉ commissioned independent television programmes. At present, RTÉ requires a minimum of €7,500,000 Public Liability cover for any one claim. RTÉ has negotiated an overall scheme which independent producers are invited to use. Cost of premiums will be a charge on the production budget. Payments may be withheld until proof of cover has been provided.

PRODUCTION BANK ACCOUNT

Producers are required to open a separate production bank account for each commission. Monies will be lodged directly by RTÉ to each supplier's company bank account. Producers are required to transfer such sums from the main production

company bank account to the specific bank account opened in respect of each commission within two to three working days of receipt of such sums. These accounts may not be used for any purpose other than for transactions specifically related to each production. RTÉ will always have access to bank statements during the course of production. In the event that a producer commits an act of default, or is in breach of the commissioning contract, RTÉ's nominee may, at any stage by notice in writing to the producer, require that no further cheques be drawn on the account and advise the bank accordingly.

CASH FLOW

RTÉ will advance production funding in accordance with the agreed cashflow. It is important to note that payments will not be made until the contract has been executed. The producer must provide RTÉ with an estimated cash-flow schedule for the production, prior to commencement of production. Cost Reports together with copies of Production Bank Account Statements must accompany requests for second and subsequent payments. The Cost Reports should detail expenditure to date together with updated detailed projected estimates of costs to complete production. The progress of production will of course be paramount in determining the release of each stage payment.

SETTLEMENT OF FINAL ACCOUNT

Final payment will not be released until all delivery materials and documentation have been received and accepted by RTÉ Independent Productions. In addition, final cost reports and copies of production bank statements must be provided, reconciled and approved by RTÉ Independent Productions.

SHARE OF SAVINGS

Where a production has been completed in accordance with the programme specification for less than the approved budget, the agreed savings shall be divided as to 50% to the producer and 50% to RTÉ. However, the following caveats apply:

(a). RTÉ Independent Productions must be satisfied that there has been no reduction or change in the editorial and production values of the Programme as contained in the programme proposal

(b). Any provision in the approved budget for specific items or areas of expenditure but which in the event are not required may be returned to or retained by RTÉ and not treated as a saving, depending on whether a specific saving may have to offset an over-run in another part of the production. (c). RTÉ distinguishes between savings achieved by

economy and good management from budgeted items which were in good faith provided for in the budget but in the event proved not to be necessary.

OVERSPENDS

During the course of production, the cost control reporting system may identify adverse trends which could in time lead to an overspend. It is the Independent Producer's responsibility to alert Independent Productions to the possibility of overspends in writing as soon as is possible and to submit proposals for limiting actual costs to within the agreed budget. The reasons given by the Independent Producer for such possible overspends will be jointly examined. The producer will normally be responsible for such overspend. However, RTÉ may agree to contribute towards the cost of the overspend if the reasons were outside the direct control of the producer and where RTÉ has been alerted to such an event ahead of time. It is essential that the producer alerts RTÉ to such a situation during the course of production and not after the programme has been completed, so that variations against agreed budget may be cleared by Independent Productions in advance. Independent Productions will not consider any additional payment to cover a budget over-run in circumstances where the producer could have alerted Independent Productions in advance of the over-run but failed to do so.

CONTINGENCY

Under certain circumstances, Independent Productions may agree to allow the producer to draw down some or the entire contingency budget, where such funding has been included in the production budget. Approval for such expenditure of the contingency must be cleared by Independent Productions in advance. Should the agreed contingency sum not be required for production purposes the amount is totally retainable by RTÉ.

POST PRODUCTION AUDITS

Post-production audits are the process whereby RTÉ can verify that expenditure incurred on the production of a Programme is bona fide and solely incurred on the production of the Programme in question. The scope of these audits will vary from limited reviews to a complete audit. Limited reviews are more appropriate in the majority of cases. These reviews consist primarily of a review of costs for reasonableness and an examination of a sample of supporting invoices for each project. It is therefore essential that the producer maintains accurate books of accounts and records of the cost of production for each commission and makes them available to Independent Productions on request. The producer must also keep records of all contracts, clearances, agreements and warranties, and make them available to Independent Productions, on request. Problems in the management of the programme expenditure, which are identified during a post-

production audit, may result in producers being required to refund sums which remain unaccounted for at the conclusion of the audit. In addition, such a producer may encounter serious reservations regarding his/her capacity to manage a production at future commissioning rounds.

Conclusion

The business and financial procedures outlined above have been instituted to provide for maximum accountability and transparency by both Independent Productions and the independent producer in the expenditure and management of funding drawn down from the Independent Productions Account. RTÉ has a statutory requirement to report annually on the operation of the account, and it is in the interests of independent producers that all monies allocated to commissioned programmes are accurately recorded and accounted for. These procedures are designed to ensure that a clear record of all Independent Productions expenditure is available for each and every commission.

Independent Productions appreciates that these procedures do impose demands on producers in terms of tracking programme expenditure. Independent Productions is happy to provide assistance and guidance to any producer where required.