



Delaware Auditor of Accounts
GASB Entity Determination Analysis
Delaware Motion Picture &
Television Development Commission
June 30, 2016

FSF User

Part of Primary Government

Governmental Accounting Standards Board (GASB) Statements No. 14, 34, 39, 61, and 80 establish standards for defining and reporting on a government's reporting entity. Management is responsible for determining the reporting entity while preparing the government's financial statements. The Office of Auditor of Accounts (AOA) performed the analysis below to assess the State's reporting entity for audit purposes.

To complete our entity determination analysis, AOA reviewed the following:

- GASB 14, *The Financial Reporting Entity*
- GASB 34, *Basic Financial Statements – and Management's Discussion and Analysis – for State and Local Governments*¹
- GASB 39, *Determining Whether Certain Organizations Are Component Units*
- GASB 61, *The Financial Reporting Entity: Omnibus an amendment of GASB Statements No. 14 and No. 34*
- GASB 80, *Blending Requirements for Certain Component Units, an amendment of GASB Statement No. 14*
- *AICPA Audit and Accounting Guide – State and Local Governments*, Chapter 3: The Financial Reporting Entity
- *GASB 2013-2014 Comprehensive Implementation Guide*, Chapter 4: The Financial Reporting Entity
- 148th General Assembly, Senate Joint Resolution No. 5 – *Creating a Delaware Motion Picture and Television Development Commission*, as amended by Senate Amendment No. 1 to Senate Joint Resolution No. 5

- 1. The PCU is not legally separate. (2100.114)²**
- 2. The PG holds the PCU's corporate powers. (2100.114)**

According to GASB, an organization has separate legal standing if it is created as a body corporate or a body corporate and politic, or if it otherwise possesses the corporate powers that would distinguish it as being legally separate from the primary government. Generally, corporate powers give an organization the capacity to have a name; the right to sue and be sued in its own name without recourse to a state or local governmental unit; and the right to buy, sell, lease, and mortgage property in its own name. The corporate powers granted to a separate organization are enumerated in its corporate charter or in the legislation authorizing its creation. A special purpose government (or any other organization) that is *not*

¹ GASB 34 amended GASB 14, ¶9, 11, ¶12, ¶19, ¶42, ¶44, ¶50 –¶52, ¶54, ¶58, ¶60, ¶63, ¶65, ¶73, ¶74, ¶78, and ¶131 and superseded GASB 14, ¶45–47, 49, 56, and ¶57.

² Paragraph references are from the Codification of Governmental Accounting and Financial Reporting Standards as of June 30, 2014, published by GASB.

NOTE: The format of the flowchart was revised on April 25, 2016,
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legally separate should be considered, for financial reporting purposes, part of the primary government that holds the corporate powers.

Application to Delaware Motion Picture and Television Development Commission

The Delaware Motion Picture and Television Development Commission (the Commission) is not legally separate from the State of Delaware because it is not established as a body corporate or a body corporate and politic. The Commission has been formed under the Delaware Department of Finance (148th General Assembly, Senate Joint Resolution No. 5, as amended by Senate Amendment No. 1).

Legislation is silent on the Commission's ability to sue and be sued, as well as its right to buy, sell, lease, and mortgage property in its own name. Therefore, the State of Delaware holds its corporate powers.

Code and definition excerpts are as follows:

148th General Assembly, Senate Joint Resolution No. 5 – Delaware Motion Picture and Television Development Commission, as amended by Senate Amendment No. 1

BE IT RESOLVED by the Senate and the House of Representatives of the 148th General Assembly of the State of Delaware, with the approval of the Governor, that a Delaware Motion Picture and Television Development Commission is hereby created;

BE IT FURTHER RESOLVED that the Commission shall be established as follows:

1. This Commission shall be formed under the Delaware Department of Finance;
2. There shall be nine members of the Commission who are citizens of the State of Delaware: Five members shall be appointed by the Governor, two members shall be appointed by the President Pro Tempore of the Senate, and two members shall be appointed by the Speaker of the House of Representatives;
3. Appointed members shall serve terms up to three years, excepting the Chairperson and Co-Chairperson, who shall serve at the pleasure of the Governor;
4. Members shall be appointed for staggered terms, so that no more than five members' terms shall expire in any one calendar year;
5. Two members shall be ex-officio: the Secretary of Finance or his or her designee and the Secretary of the Department of Environmental Control and Natural Resources or his or her designee;
6. Members of the Commission shall serve without compensation;
7. Members of the Commission shall be eligible for reappointment;
8. The Commission may appoint such other representatives of government agencies and nonprofit organizations as it may deem appropriate to appoint and they shall be ex-officio, non-voting members; and

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9. The Commission may create subcommittees, which may consist of nonmembers, to facilitate its work

BE IT FURTHER RESOLVED that the Commission shall organize itself in such manner as it deems desirable and necessary, but no action shall be taken or motion or resolution adopted by the Commission except by an affirmative vote of a majority of the authorized members of said body.

BE IT FURTHER RESOLVED that the Delaware Motion Picture and Television Development Commission shall have the following powers:

- (a) To adopt such rules and regulations as it deems advisable with respect to the conduct of its own affairs;
- (b) To hold hearings, and to do or perform any acts which may be necessary, desirable or proper to carry out the purposes of this Commission;
- (c) To request and obtain from any department, division, board, bureau, commission, or other agency of the State or of any county, municipality, authority or other political subdivision within the State such assistance and data as will enable it to carry out its powers and duties hereunder;
- (d) To accept any federal funds granted, by Act of Congress, or by executive order, for all or any of the purposes of this Commission;
- (e) To accept any gifts, donations, bequests or grants of funds from private and public agencies for all or any of the purposes of this commission;
- (f) To coordinate the activities of similar councils or boards appointed by any city or county within the State for all or any of the purposes of this commission;
- (g) To create advisory councils necessary for the performance of responsibilities pursuant to this commission and to appoint members thereto; and
- (h) To directly secure any and all location permits from any department, division, board, bureau, commission or other agency of the State or from any county, municipality, authority, or other political subdivision within the State for applicants interested in motion picture and television production within the State.

BE IT FURTHER RESOLVED that the Delaware Motion Picture and Television Development Commission shall prepare and implement programs to promote a motion picture and television industry within the state. Such programs shall include, but not be limited to:

- (a) The preparation and distribution of promotional and informational materials pointing out desirable locations within the State, explaining the benefits and advantages of producing within the State, and detailing the services available at the State and local level and within the industry;
- (b) Facilitate cooperation from local government, State and Federal government agencies and private sector groups in regard to applications, locations, production and ancillary facilities;
- (c) Cooperate with all sections of management and labor engaged in the motion picture and television industry; and

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- (d) Appear on its own behalf before boards, commissions, departments, or other agencies of municipal, county or state government, or the Federal Government.

BE IT FURTHER RESOLVED that the Delaware Motion Picture and Television Development Commission shall meet no less frequently than once each quarter of the calendar year, but may meet more often as set by the commission and that a majority of the members of the Commission shall constitute a quorum.

BE IT FURTHER RESOLVED that, on or before December 31 of each year, the Motion Picture and Television Development Commission shall make an annual report of its activities for the Governor and the General Assembly.

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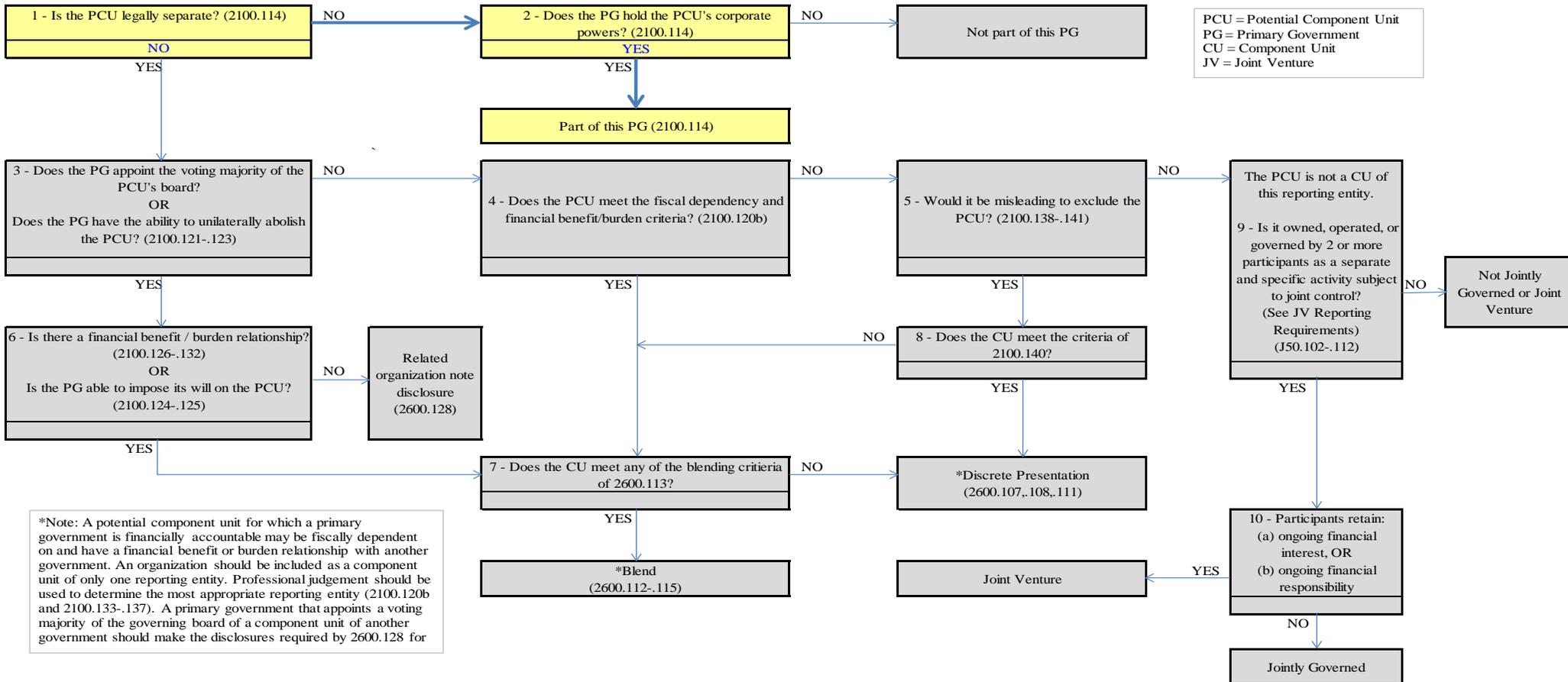


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PCU = Potential Component Unit
 PG = Primary Government
 CU = Component Unit
 JV = Joint Venture



*Note: A potential component unit for which a primary government is financially accountable may be fiscally dependent on and have a financial benefit or burden relationship with another government. An organization should be included as a component unit of only one reporting entity. Professional judgement should be used to determine the most appropriate reporting entity (2100.120b and 2100.133-.137). A primary government that appoints a voting majority of the governing board of a component unit of another government should make the disclosures required by 2600.128 for

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