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Part One :

Preproduction Stage

Unit One

Text: The Studios

The principal source of motion picture financing comes from the major studios: Columbia, MGM, Paramount, Twentieth-Century Fox, United Artists, Universal, and Warner Bros. Consequently, the majority of critically and commercially important films are studio-affiliated projects. Major studios have the most clout in terms of financing, distribution, and availability of "name" talent. For these reasons, most producers ultimately seek studio affiliation. There are, however, a number of stumbling blocks that stand in the way.

First, it is rare for a studio to commit itself to production financing without a substantially developed package (i. e., script, stars, director, budget, etc.). It may agree to develop a property with an independent, and in such cases the studio will purchase a property such as a book, an idea, a story, or a script from an independent producer and finance its development and packaging. But many more pictures are developed than are produced, and in some cases the producer may have a difficult time regaining ownership of the original property. Generally, a development deal is a step deal, in which the studio pays the producer and other persons who are contributing to the property's development (such as a writer or director) a salary and sometimes expense money, in increments as the project is developed. Step one might be the outline for the screenplay. A first-draft script would follow as step two, and so forth into production. The studio will retain the right to back out at any step along the way.

A development deal is made official when the parties involved

sign a letter (called a deal memo) outlining the basic terms of the agreement such as salary, time schedule, screen credit, and percent-age participation in the film's profits. A formal contract containing the details of the agreement and the industry's standard legal boiler-plate is negotiated and prepared by agents and attorneys while the project is in active development. The salary for which one negotiates in a development deal is the entire salary the individual will receive if and when the picture is actually produced. This may involve impressive sums of money, but the majority of that money is speculative. A development deal contract will usually allow for only a very small portion of that salary to be paid during development. The important money comes only if the picture is subsequently financed for production. A deal with a major studio is almost always a production/dis-tribution (P/D) deal in which the studio ties up distribution rights from the beginning. Since the studio is financing the production, it will be in a powerful position to negotiate a distribution deal that weighs heavily in its favor. Given the sophisticated accounting techniques for which the major distributors have gained a formidable reputation, the independent producer is generally advised to negotiate for a large up-front producer's fee, and not to expect much additional income from profit participation in the picture.

Another disadvantage to the studio deal, at least for the beginning producer with a modest-or low-budget picture, is that the studios are not generally interested in small films. The average studio film costs close to \$ 10 million dollars. Studios are contracted to the unions, which adds considerably to film's budget. I know of one project for which the \$ 8 million budget included \$ 1 million for union drivers alone. There are also built-in overhead expenses involved in running a studio facility that boost production budgets by as much as 25 percent. Production and distribution costs for most studio films are so high that they must hedge their bets with expensive name stars, name producers, and name directors.

When a studio makes a commitment for production costs, it is not uncommon to require the producer to provide protection against overbudget costs by securing a completion bond. This bond is supplied by a third party called a completion guarantor. The bond guarantees to cover overbudget expenses, thereby guaranteeing that the film will not go unfinished for lack of funds. Most completion guarantors will provide overbudget protection up to \$2 million per picture, but such a third-party guarantee is difficult to secure. On an independently financed picture, the guarantor is in first position to recoup any money spent on overbudget, but on a P/D financed film, the guarantor is in second position—after the distributor. In other words, in a typical P/D deal, the distributor recoups all of the costs of production first; the guarantor then recoups any overbudget expenses. The guarantor's fee is usually budgeted into the cost of the picture and is almost always 5 percent of the budget plus a share in the film's profits, regardless of whether or not his money is actually used. Sometimes, if the film comes in on budget, the guarantor will offer a partial rebate.

In addition to, or in lieu of, a completion guarantee, some distributors will withhold a portion of the producer's fee until the picture is completed. This money will be the first used to cover overbudget expenses. In such a case the producer will receive the withheld portion of his fee only after the distributor has recouped all of its production costs.

There are also cases in which the producer is further induced to control the budget and schedule by means of a penalty formula. For example, if a production goes overbudget, the producer's profit participation is decreased by a predetermined formula. The standard formula for a large studio film is 1 point (or percent) of the producer's participation for every 1 percent that the picture goes overbudget.

A final consideration in studio financing is that the studio will