CABINET FOR ECONOMIC DEVELOPMENT
(New Administrative Regulation)

307 KAR 1:080. Kentucky Entertainment Incentive Program.

RELATES TO: KRS 154.61-010, 154.61-020, 154.61-030
STATUTORY AUTHORITY: KRS 154.61-030(5), 2025 Ky. Acts ch. 91, sec. 1 (2025 SB 1)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 154.61-010, 154.61-020, 154-61-030, and 2025 Ky. Acts ch. 91, sec. 1 (2025 SB 1), authorize the Kentucky Film Office and Kentucky Film Leadership Council, through the Cabinet for Economic Development and its Secretary, to establish procedures and standards for the Kentucky Entertainment Incentive Program. This administrative regulation establishes the application, criteria, fee structure, and economic analysis to evaluate applications for the KRS Chapter 154.61 incentives.

Section 1. Definitions.
(1) "Above-the-line production crew" is defined by KRS 154.61-010(1).
(2) "Approved company" is defined by KRS 154.61-010(3).
(3) "Applicant" means an eligible company submitting an application for incentives under KRS 154.61-030.
(4) "Application" means an application for tax incentives filed with the Cabinet pursuant to KRS 154.61-030.
(5) "Below-the-line production crew" is defined by KRS 154.61-010(4).
(6) "Cabinet" is defined by KRS 154.61-010(5).
(7) "Commonwealth" is defined by KRS 154.61-010(6).
(8) "Common ownership" means two or more legal entities, such as corporations, limited liability companies, partnerships, and the like, where:
(a) The entities are owned by the same person(s);
(b) The same person(s) serves as officer(s) or director(s) of those entities; or
(c) The majority of one entity is owned by one or more of the other entities.
(9) "Compensation" is defined by KRS 154.61-010(7).
(10) "Continuous film production" is defined by KRS 154.61-010(8).
(11) "Council" is defined by KRS 154.61-010(9).
(12) "Eligible company" is defined by KRS 154.61-010(11).
(13) "Employee" is defined by KRS 154.61-010(12).
(14) "Enhanced incentive county" is defined by KRS 154.61-010(13).
(15) "Financial interest" means a pecuniary interest that a reasonable person would expect to influence the impartiality of the transaction.
(16) "Kentucky-based company" is defined by KRS 154.61-010(16).
(17) "Kentucky Film Office" is defined by 2025 Ky. Acts ch. 91, sec. 1.
(18) "Kentucky vendor" means an individual or entity that:
(a) Sells or rents a type of property of which more than a de minimis amount is regularly held in its inventory in the ordinary course of business in Kentucky, or provides a service not performed at the filming site but in Kentucky, which is the subject of the production expenditure, in its ordinary course of business;
(b) Has a physical location in Kentucky with at least one Kentucky resident employee working at such location on a regular basis. Registering with the Kentucky Secretary of State or appointing a registered agent in Kentucky does not establish a physical location in Kentucky for purposes of this definition;

(c) Is registered with the Kentucky Department of Revenue for collection of sales and use tax where required by law;

(d) Has a local Kentucky business license where required by law. The approved company is required to obtain a copy of the license from any Kentucky vendor where the total amount of purchases exceed $50,000 for such vendor during the period considered in the application and approval by the council; and

(e) For services rendered on set, such persons or vendors providing such services, are identified on the daily production reports or other reasonable evidence that such services were rendered on set is provided;

(19) "Negotiated" means an arm's-length transaction between two or more parties who are unrelated and unaffiliated, and entered into voluntarily in an open market where the parties acted in their own self-interest.

(20) "Non-resident" is any individual not meeting the definition of a "resident" under KRS 154.61-010(22).

(21) "Pass-through entity" is defined by KRS 141.010(28).

(22) "Person" is defined by KRS 154.61-010(20).

(23) "Program" means the Kentucky Entertainment Incentive Program established by KRS 141.383, 154.61-020, and 154.61-030.

(24) "Qualifying expenditure" is defined by KRS 154.61-010(21).

(25) "Qualifying payroll expenditure" is defined by KRS 154.61-010(22).

(26) "Resident" is defined by KRS 154.61-010(23).

Section 2. Qualifying Payroll Expenditures under the Kentucky Entertainment Incentive Program.

(1) Qualifying payroll expenditures submitted to the Cabinet by an approved company shall only include those expenditures made in Kentucky for services performed in the Commonwealth by above-the-line production crew or below-the-line production crew.

(2) When submitting qualifying payroll expenditures for above-the-line production crew, an approved company shall demonstrate to the Cabinet that the employee's salary was negotiated prior to commencement of the production. Salaries paid to producers with a financial interest in the approved company shall not be considered negotiated and shall not meet the requirements of a qualifying payroll expenditure.

(3) When submitting qualifying payroll expenditures made in the Commonwealth for services performed in the Commonwealth, an approved company shall demonstrate to the Cabinet that the employee rendered the service on-set or otherwise within the Commonwealth. Compensation for services conducted or rendered both in the Commonwealth and outside of the Commonwealth shall only qualify as a qualified payroll expenditure to the extent the service is physically rendered in the Commonwealth. If an approved company is unable to track the cost of the services physically rendered in Commonwealth, then some other reasonable method which approximates the cost of the services rendered in the Commonwealth may be used to determine the amount attributable to the Commonwealth subject to adjustment by the Cabinet.

Section 3. Qualifying Expenditures under the Kentucky Entertainment Incentive Program.

(1) An approved company submitting qualifying expenditures to the Cabinet shall only include expenditures made in the Commonwealth for one or more of the categories listed in KRS 154.61-010(21)(a)(1) through (9).

(2) Expenditures shall be considered made in the Commonwealth where they are made to a Kentucky vendor.

(3) Expenditures shall not be considered to be made in the Commonwealth when those expenditures are paid to a Kentucky vendor acting as a conduit, waypoint, or pass-through entity solely to enable the purchases or rentals to qualify as qualifying expenditures.

(4) Expenditures made to persons with common ownership or a financial interest with an approved company must be accompanied by supporting documentation, to the Cabinet's satisfaction, demonstrating the expenditure was reasonable within market rates. Common ownership extends to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the approved company.

(5) Failing to provide documentation when requested by the Cabinet shall result in expenditures being disqualified and the claimed qualifying expenditure being excluded.

Section 4. Application Requirements.

(1) Applicants seeking incentives under the program shall submit an application to the Cabinet that includes:

(a) The name and address of the applicant;

(b) Verification that the applicant is a Kentucky-based company;

(c) The preliminary production script or a detailed synopsis of the script;

(d) The locations where the filming or production will occur;

(e) The anticipated date on which filming or production shall begin in Kentucky;

(f) The anticipated date on which the applicant will complete incurring expenditures in Kentucky;

(g) The total anticipated qualifying expenditures;

(h) The total anticipated qualifying payroll expenditures for resident and nonresident above-the-line crew by county;

(i) The total anticipated qualifying payroll expenditures for resident and nonresident below-the-line crew by county;

(j) The address of a Kentucky location at which records of the production will be kept;

(k) An affirmation that if not for the incentive offered under this subchapter, the eligible company would not film or produce the production in the Commonwealth;

(l) Proof of funding for the project. Acceptable proof shall include:

1. IATSE Bond, SAG Bond, Completion Bond;
2. Payroll statements;
3. Bank statements;
4. Financing or funding agreements; or
5. Commitment letters.

(m) Whether the applicant has a distribution contract for the project; and

(n) Whether the applicant has previously received approval for incentives under the program, and, if so, shall specify the year(s) of such approval and amount(s) of incentives received in each year. This information shall include incentives received by any other entity with common ownership or any individual with a financial interest in the applicant. Common ownership extends to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the applicant.

(2) Applicants shall submit a completed application no later than thirty (30) calendar days prior to the date upon which applicant seeks to have the application reviewed by the council.

(3) Within twenty (20) calendar days of receiving an application, the Cabinet shall notify the applicant:

(a) That the Cabinet received the application;

(b) Whether, upon initial review, the applicant appears to meet the criteria of an eligible company or whether the Cabinet requires additional verification or documentation; and

(c) That, provided the applicant has not exceeded the individual incentive limitation set forth in Section 5 of this regulation, either:

1. Based upon the annual allocated funds for the program, enough uncommitted incentives remain in the program's calendar year to move forward with an economic

analysis and ranking of the application and notification to the council thereof; or

2. Based upon the remaining annual allocated funds for the program, the Cabinet will not move forward with the application.

Section 5. Incentive Awards. To effectuate the purposes of the program set forth in KRS 154.61-020(1):

(1) the amount of incentive awards received by any single approved company, not otherwise meeting the definition of continuous film production, shall be limited to no more than ten percent (10%) of the total annual tax credit cap under KRS 154.61-020(4). In determining whether this limit has been met, the Cabinet shall consider the applicant in conjunction with any approved company sharing common ownership or a financial interest with the applicant; and

(2) the amount of incentive awards approved for all applicants in any single calendar month, not otherwise meeting the definition of continuous film production, shall be limited to no more than ten percent (10%) of the total annual tax credit cap under KRS 154.61-020(4). In the event the amount of incentive awards approved does not meet the ten percent (10%) limitation set forth in this subsection, the remainder shall carry forward to the subsequent calendar month.

Section 6. Economic Analysis.

(1) The Cabinet shall conduct an economic analysis of each application.

(2) The analysis shall evaluate each application on:

(a) The percentage of spend in the Commonwealth in relation to the total amount anticipated to be spent on a project;

(b) The percentage of total production costs in Kentucky compared to above-the-line and below-the-line production crew costs;

(c) The anticipated percentage of project filming in enhanced incentive counties;

(d) The percentage of anticipated employed Kentucky residents and total above-the-line and below-the-line production crew;

(e) The amount of time filming will occur in Kentucky; and

(f) The presence of a distribution contract.

(3) The Cabinet shall then rank each application submitted under the program based upon the program's purposes set forth in KRS 154.61-020(1)(a) through (d). Ranking shall prioritize applications with more Kentucky-based jobs, employed Kentucky residents, and percentage of spend going to Kentucky-based vendors in relation to the total amount of proposed spend on a project or incentives sought by an eligible company.

(4) Upon completion of the project, submission of qualifying expenditures and qualifying payroll expenditures, and certification of eligible expenditures by an independent certified public accountant, the Cabinet may reduce the approved incentive amount to an approved company based upon the variation between the approved company's application for incentives and actual expenditures submitted to the Cabinet.

Section 7. Fees. Applicants seeking incentives under the program shall include with their application:

(1) A nonrefundable application fee in the amount of:

(a) Two hundred fifty dollars ($250) where the total amount of qualifying expenditures and qualifying payroll expenditures is less than fifty thousand dollars ($50,000);

(b) Five hundred dollars ($500) where the total amount of qualifying expenditures and qualifying payroll expenditures is between fifty thousand dollars ($50,000) and one hundred thousand dollars ($100,000); or

(c) One thousand dollars ($1,000) where the total amount of qualifying expenditures and qualifying payroll expenditures is more than one hundred thousand dollars ($100,000); and

(2) An administrative fee of one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars ($500), whichever is greater.

COMPILER'S NOTE: 2025 RS HB 6, enacted by the General Assembly on March 27, 2025, altered the information to be provided at the time an administrative regulation is filed. Aside from formatting changes necessary to upload the regulation into the LRC's publication application, this regulation has been published as submitted by the agency.

JEFF NOEL, Secretary

APPROVED BY AGENCY: June 30, 2025

FILED WITH LRC: July 1, 2025 at 12:05 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on September 22, 2025 at 10:00 a.m. Eastern Time at the Cabinet for Economic Development, Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through September 30, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Matthew Wingate, General Counsel, Cabinet for Economic Development, Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, phone (502) 782-1948, fax (502) 564-3256, email matthew.wingate@ky.gov.