CABINET FOR ECONOMIC DEVELOPMENT
(Amended at ARRS Committee)

307 KAR 1:080. Kentucky Entertainment Incentive Program*(Effective July 1, 2025)*.

RELATES TO: KRS 154.61-010, 154.61-020, 154.61-030

STATUTORY AUTHORITY: KRS***154.12-280***, 154.61-030(5)~~***[, 2025 Ky. Acts ch. 91, sec. 1 (2025 SB 1)]***~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS ***154.12-280,*** 154.61-010, 154.61-020, ***and***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) ***"Applicant" means an eligible company submitting an application for incentives under KRS 154.61-030.***

(3) "Application" means an Application for Kentucky Entertainment Incentive (KEI) for tax incentives filed with the Cabinet pursuant to KRS 154.61-030.

(4) "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) "***Common ownership" means two (2) or more legal entities, such as corporations, limited liability companies, partnerships, and the like, where the:***

(a) Entities are owned by the same person;

(b) Same person serves as an officer or director of the entities; or

(c) Majority of one (1) entity is owned by one (1) or more of the other entities.

(8) "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" ***or "Office" means the office created***~~***[is defined]***~~ by ***KRS 154.12-280***~~***[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***or production*** 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 ***(1)***Kentucky resident employee working at ***the***~~[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 ***if***~~[where]~~ required by law;

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

(e) ***Provides*** ~~[For]~~ services rendered on set***or within the Commonwealth and:***~~[, such persons or vendors providing such services, are]~~

1. ***Is*** identified on the daily production reports***;*** or

2. ***Can provide*** other reasonable evidence that ***these***~~[such]~~ services were rendered ***within the Commonwealth.***~~[on set is provided;]~~

(19) "Negotiated" means an arm's-length transaction between two ***(2)***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" ***means***~~[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 Kentucky crew training program" means a training program offered in conjunction with a motion picture or entertainment production, as defined by KRS 154.61-010(18), in partnership with:

(a) An accredited Kentucky educational institution;

(b) A local trade association; or

(c) A regional educational or trade association.

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

(27) ~~[(26)]~~ "Resident" is defined by KRS 154.61-010(23).

Section 2. ***The provisions of this administrative regulation shall be applicable on or after July 1, 2025.***

Section 3. 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 ***above-the-line production crew***~~[producers]~~ with a financial interest in the approved company ***shall be disclosed and accompanied by supporting documentation demonstrating the payroll***

expenditure was reasonable within market rates. Financial interest shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from 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.

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

Section 4. ~~***[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 ***(1)***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 ***if***~~***[where]***~~ they are made to a Kentucky vendor.

(3) Expenditures shall not be considered to be made in the Commonwealth ***if***~~***[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 ***shall***~~***[must]***~~ be accompanied by supporting documentation~~***[, to the Cabinet's]***~~***[]***~~***[satisfaction,]***~~ demonstrating the expenditure was reasonable within market rates. ***Supporting documentation shall disclose the total value of goods and services provided for the project as well as a breakdown of all the related party transactions.***Common ownership ***shall extend***~~***[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 ***if***~~***[when]***~~ requested by the Cabinet shall result in expenditures being disqualified and the claimed qualifying expenditure being excluded.

Section 5. ~~***[Section 4.]***~~ Application Requirements.

(1) Applicants seeking incentives under the program shall submit an Application***for Kentucky Entertainment Incentive (KEI)*** 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 ***demonstrate fifty (50) percent of funds raised through the following****[~~include~~]*:

1. IATSE Bonds, SAG Bonds, Completion Bonds;
2. Payroll statements;
3. Bank statements;
4. Financing or funding ***contracts****[~~agreements~~]*; or
5. Commitment letters***, where the applicant shall:***
   a. Demonstrate twenty-five (25) percent of committed funds are held in an escrow account; and
   b. Present a balance sheet and letter from an accredited financial institution, attorney, or accountant holding the funds.

(m) Whether the applicant has a distribution contract for the project***and supporting plans and documentation regarding distribution***;[]*[~~and~~]*

(n) Whether the applicant has previously received approval for incentives under the program, and, if so, ***specification of****[~~shall specify~~]* the ***year***[~~year(s)~~] of ***the****[~~such~~]* approval and ***amount****[~~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 ***shall extend****[~~extends~~]* to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the applicant;

(o) The number of resident and nonresident above-the-line and below-the-line production crew members included by the applicant, or any other entity with common ownership or any individual with a financial interest in the applicant, on a previous application. This information shall include:

1. The date of the application;
2. Whether the application was approved;
3. The dates upon which the crew members were or are to be utilized; and
4. Each crew member's role in the production;

(p) Any deal memoranda between applicants and key personnel;

(q) A detailed episode-by-episode synopsis and committed talent;

(r) A detailed breakdown of the project's budget including all estimated line items used to support claimed qualifying payroll expenditures and qualifying expenditures. All budget line items shall be reasonable and within market rates;

(s) A detailed explanation of timing of the production if there are commonly held or financially interested applicants with overlapping personnel; and

(t) Whether there are one (1) or more qualifying Kentucky crew training programs offered in conjunction with the project.

(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 ***office****[~~Cabinet~~]* shall notify the applicant:

(a) That the ***office****[~~Cabinet~~]* received the application;

(b) Whether, upon initial review, the applicant appears to meet the criteria of an eligible company or whether the ***office****[~~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 ***office***~~*[Cabinet]*~~ will not move forward with the application.

Section 6. ~~*[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 ***$10 million***~~*[ten percent (10%)]*~~ of the total annual tax credit cap under KRS 154.61-020(4). ***If***~~*[In the event]*~~ the amount of incentive awards approved does not meet the ***$10 million***~~*[ten percent (10%)]*~~ limitation set forth in this subsection, the remainder shall carry forward to the subsequent calendar month.***The council may elect to commit more than this monthly allocation if a project:***

(1) Has anticipated qualifying expenditures and payroll expenditures that exceed this amount; and

(2) Commitment of incentives to the project is supported by the economic analysis set forth in Section 7 of this administrative regulation.

Section 7. ~~*[Section 6.]*~~ Economic Analysis.

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

(2) The analysis shall evaluate each application on***the***:

(a) ~~*[The]*~~ []Percentage of spend in the Commonwealth in relation to the total amount anticipated to be spent on a project;

(b) ~~*[The]*~~ []Relative percentage of total production costs ***associated with***~~*[in Kentucky compared to]*~~ above-the-line and below-the-line production crew costs;

(c) ~~*[The anticipated]*~~ []Percentage of project filming***or production*** in enhanced incentive counties;

(d) ***Number*** ~~*[the percentage]*~~ of anticipated employed Kentucky residents ***compared to the***~~*[and]*~~ total above-the-line and below-the-line production crew;

(e) ~~*[The]*~~ []Amount of time filming***or production*** will occur in Kentucky;[]~~*[and]*~~

(f) ~~*[The]*~~ []Presence of a distribution contract***;***

(g) Percentage of funding secured;

(h) Total amount of incentives sought compared to the number of Kentucky-based below-the-line production crew members employed;

(i) Percentage of incentives sought attributable to non-Kentucky-based production crew members; and

(j) Availability of one (1) or more qualifying Kentucky crew training programs offered in conjunction with the project.

(3) ***The Cabinet shall conduct an economic analysis of*** ~~*[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). ***Analysis***~~*[Ranking]*~~ shall prioritize applications with more Kentucky-based jobs,***committed funding,*** ~~*[employed]*~~ ***spend to***

Kentucky***-based vendors residents, qualifying Kentucky crew training programs,*** and ***overall economic benefit to Kentucky***~~[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) ***For a national touring production of a Broadway show produced in Kentucky in accordance with KRS 154.61-010(18)(a)2., the number of anticipated employed Kentucky residents identified in subsection (2)(d) of this section shall include the number of Kentucky-based jobs at the production's venue supported by the production.***

(5) 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 8. ~~[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 ***if***~~[) where]~~ the total amount of qualifying expenditures and qualifying payroll expenditures is less than~~[fifty thousand dollars (]~~$50,000~~[)]~~;

(b) ~~[Five hundred dollars (]~~$500***if***~~[) 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***if***~~[) 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.

Section 9. Incorporation by Reference.

(1) "Application for Kentucky Entertainment Incentive (KEI)", September 2025, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Economic Development, Mayo-Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. or online at https://cedky.com/cdn/1980_KEI_Application_9-2025_CED_Sample.pdf.

(307 KAR 001:080. 52 Ky.R. 327, 739; eff. 2-3-2026.) 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.

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