CABINET FOR ECONOMIC DEVELOPMENT
Kentucky Film Office
(Emergency Amended After Comments)

307 KAR 1:080E. Kentucky Entertainment Incentive Program (Effective July 15, 2026).

RELATES TO: KRS 154.61-010, 154.61-020, 154.61-030
STATUTORY AUTHORITY: KRS 154.12-280, 154.61-030(5)
CERTIFICATION STATEMENT:
NECESSITY, FUNCTION, AND CONFORMITY: KRS 154.12-280, 154.12-282, 154.61-010, 154.61-020, and 154.61-030 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).
(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) "Certified audit" is defined by KRS 154.61-010(6)
(8) "Commercial" means an advertisement or promotional production created for the purpose of marketing, promoting, or publicizing a product, service, brand, or message, intended for distribution or exhibition on television, digital platforms, streaming services, or other national or multi-regional marketing campaigns. A commercial shall include a live-action component and may incorporate animation, visual effects, or other post-production elements, provided that such live-action component is a material and substantive part of the production.
(9) "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.
(10) "Commonwealth" is defined by KRS 154.61-010(7).
(11) "Compensation" is defined by KRS 154.61-010(8).
(12) "Continuous film production" is defined by KRS 154.61-010(9).
(13) "Council" is defined by KRS 154.61-010(10).
(14) "Eligible company" is defined by KRS 154.61-010(12).
(15) "Employee" is defined by KRS 154.61-010(13).
(16) " Financial interest" means a pecuniary interest that a reasonable person would expect to influence the impartiality of the transaction.
(17) "Heritage county" is defined by KRS 154.61-010(16).
(18) "Kentucky-based company" is defined by KRS 154.61-010(18).
(19) "Kentucky Film Office" or "Office" means the office created by KRS 154.12-280.
(20) "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 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 required by law;

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

(e) Provides services rendered on set or within the Commonwealth and:

1. Is identified on the daily production reports; or

2. Can provide other reasonable evidence that these services were rendered within the Commonwealth.

(21) "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.

(22) "Non-resident" means any individual not meeting the definition of a "resident" under KRS 154.61-010(28).

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

(24) "Person" is defined by KRS 154.61-010(24).

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

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

(27) "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(20), in partnership with:

(a) An accredited Kentucky educational institution;

(b) A local trade association; or

(c) A regional educational or trade association.

(28) "Qualifying payroll expenditure" is defined by KRS 154.61-010(26).

(29) "Resident" is defined by KRS 154.61-010(28).

(30) "Script" means the written text, synopsis, and visual storyboard of a motion picture or entertainment production, including dialogue, narration, scene descriptions, stage directions, character descriptions, and other written content that serves as the basis for the production.

Section 2. The provisions of this administrative regulation shall be applicable on or after July 15, 2026.

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 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. Supporting documentation required under this subsection shall include:

(a) Disclosure of the total payroll expenditure related to the above-the-line production crew member for the project;

(b) A detailed description of the services performed in the Commonwealth, including dates; and

(c) Comparative rates from DGA, WGA, PGA, the International Brotherhood of Teamsters, or other nationally recognized union or guild, as applicable, demonstrating the claimed qualifying payroll expenditure aligns with standard industry rates.

(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) For purposes of qualifying payroll expenditures attributable to an employee's salary or compensation, the includable amount shall not exceed the employee's annual salary and compensation divided by 365 then multiplied by the number of days upon which the employee actually performed services within the Commonwealth directly in connection with the motion picture or entertainment production. The approved company shall identify and document the specific dates on which such services were performed. No day for which salary or compensation is claimed for a particular employee shall overlap with any day for which incentivization is sought for that same employee's salary or compensation in connection with any other motion picture or entertainment production.

(5) 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. 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(25)(a)(1) through (9).

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

(3) Expenditures shall not be considered to be made in the Commonwealth if 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. To the extent purchases or rentals of a tangible asset are from a Kentucky vendor and the tangible asset is of the type normally held in inventory in the ordinary course of the Kentucky vendor's business for purchase or rental in the Commonwealth, then such expenditure may be treated as qualifying expenditures under this section.

(4) Expenditures made to persons with common ownership or a financial interest with an approved company shall be accompanied by supporting documentation demonstrating the expenditure was reasonable within market rates. Common ownership shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving

income, profits, or loss from the approved company. Supporting documentation required under this subsection shall include:

(a) Disclosure of the total value of goods and services provided for the project as well as a breakdown of all the related party transactions;

(b) Detailed itemization and description of the services and goods included within the expenditure; and

(c) At least two (2) competitive bids from unrelated vendors within the motion picture or entertainment production's geographic region.

(5) Records submitted in support of a claimed qualifying expenditure shall contain sufficient detail to enable the Cabinet or office to verify the specific services, equipment, or facilities invoiced were directly utilized in connection with the motion picture or entertainment production. General descriptions, summary categories, or grouped charges that do not identify the specific services, equipment, or facilities provided shall result in the disqualification of the claimed qualifying expenditure.

(6) Goods, equipment, or other tangible assets purchased outside of the Commonwealth shall not qualify as qualifying expenditures unless such purchase is from a Kentucky vendor and described in subsection (3) of this section as a qualifying expenditure.

(7) For goods, equipment, or other tangible assets, the following shall apply:

(a) For office, production, post-production, or effects equipment, including computers, hardware, printers, and similar items, the qualifying expenditure shall be the lesser of the net cost after any resale proceeds or twenty (20) percent of the original purchase price.

(b) For all other assets with an original purchase price exceeding $5,000, the qualifying expenditure shall be limited as follows:

1. If sold, the lesser of net cost after resale or twenty (20) percent of the original purchase price;

2. If retained, donated, or otherwise disposed of without sale, no more than twenty (20) percent of the original purchase price;

3. If destroyed as part of production, up to one hundred (100) percent of cost, provided sufficient documentation is maintained.

(c) For costumes, props, set pieces, and other non-fixed assets used in national touring productions of a Broadway show, only the portion of the cost attributable to use within the Commonwealth shall qualify, based on a reasonable allocation supported by production records and documentation.

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

Section 5. 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. An applicant shall provide documentation demonstrating a minimum of fifty (50) percent of committed funds are held in an escrow account under the applicant's name identified as for the purpose of the motion picture or entertainment production by way of a letter from an accredited financial institution.An acceptable letter under this subsection shall demonstrate that a minimum of fifty (50) percent of financing for the applicant's motion picture or entertainment production has been obtained or is available to the applicant company through a credit facility at the accredited financial institution. The letter may condition the availability or disbursement of the financing on the approval of the application by the council provided that it contains a commitment that, upon satisfaction of the condition, the financing funds will be made available to the applicant company for the specific motion picture or entertainment production. Notwithstanding the foregoing, for an applicant that has a market capitalization of $1 billion (USD) or more, or where the applicant is owned directly or indirectly by a company that has a market capitalization of $1 billion (USD) more, a letter from a corporate officer to the Cabinet that the applicant has sufficient financing to produce the film shall be sufficient to satisfy the requirements of this subparagraph.
(m) Whether the applicant has a distribution contract for the project and supporting plans and documentation regarding distribution;
(n) Whether the applicant has previously received approval for incentives under the program, and, if so, specification of the year of the approval and amount 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 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) The office shall review applications on a project basis. For purposes of this administrative regulation, a television program may consist of a pilot episode or an entire season of a series. A television program shall not be divided into individual episodes or groups of episodes for purposes of establishing separate projects.
(3) Within thirty (30) calendar days of receiving an application, the office shall notify the applicant:
(a) That the office received the application;

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

(c) That 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; or

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

Section 6. Incentive Awards. To effectuate the purposes of the program set forth in KRS 154.61-020(1), the amount of incentive awards approved for all applicants in any single quarter of the calendar year, not otherwise meeting the definition of continuous film production, shall be limited to no more than twenty-five (25) percent of the total annual tax credit cap under KRS 154.61-020(4). If the amount of incentive awards approved does not meet the twenty-five (25) percent limitation set forth in this subsection, the remainder shall carry forward to the subsequent quarter of the calendar year. The council may elect to commit more than this quarterly 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. Economic Analysis.

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

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

(a) Percentage of spend in the Commonwealth in relation to the total amount anticipated to be spent on a project, favoring a higher percentage of the total budget allocated within Kentucky;

(b) Relative percentage of total production costs associated with above-the-line and below-the-line production crew costs, favoring a higher percentage of below-the-line production crew;

(c) Percentage of project filming or production in heritage counties, favoring a higher percentage of project filming or production in heritage counties;

(d) Number of anticipated employed Kentucky residents compared to the total above-the-line and below-the-line production crew, favoring a higher percentage of employed Kentucky residents;

(e) Amount of time filming or production will occur in Kentucky, favoring a higher number of days filming in Kentucky;

(f) Presence of a distribution contract, favoring the presence of a distribution contract with a streaming service with at least 25 million U.S. domestic subscribers, a cable television network available to at least 25 million U.S. domestic households, a U.S. commercial broadcast network, or a contract for worldwide theatrical distribution;

(g) Percentage of funding secured, favoring fully secured funding;

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

(i) Percentage of incentives sought attributable to non-Kentucky-based production crew members, favoring a lower percentage of incentives attributable to non-Kentucky-based production crew;

(j) Previous participation in the program, favoring those applicants with a demonstrated record of success with the program; and

(k) 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 each application submitted under the program based upon the program's purposes set forth in KRS 154.61-020(1)(a) through (d). Analysis shall prioritize applications with more Kentucky-based jobs, committed funding, spend to Kentucky-based vendors and residents, qualifying Kentucky crew training programs, and overall economic benefit to Kentucky 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 performance venue supported by the production.

(5) Applications scoring fewer than sixty (60) of the available points shall be denied for failing to have an economic analysis in support of the project.

(6) Upon completion of the project, submission of qualifying expenditures and qualifying payroll expenditures, and submission of a certified audit report, 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.

(6) Applications scoring higher than ninety (90) of the available points based upon a minimum combined total of $7,500,000 in qualifying payroll expenditures and qualifying expenditures shall result in the application being designated as a high-impact motion picture or entertainment production.

Section 8. Certified audit. Any motion picture or entertainment production shall submit a certified audit to the Cabinet and office conducted in accordance with the Kentucky Entertainment Incentive Program Certified Audit Guidelines and all other applicable laws and regulations applicable thereto.

Section 9. Fees. Applicants seeking incentives under the program shall include with their application:

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

(a) $250 if the total amount of qualifying expenditures and qualifying payroll expenditures is less than $50,000;

(b) $500 if the total amount of qualifying expenditures and qualifying payroll expenditures is between $50,000 and $100,000; or

(c) $1,000 if the total amount of qualifying expenditures and qualifying payroll expenditures is more than $100,000; and

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

(3) A nonrefundable fee of $2,000 for expenses incurred as a result of preparation of the tax incentive agreement.

Section 10. Incorporation by Reference.

(1) "Application for Kentucky Entertainment Incentive (KEI)", July 2026, is incorporated by reference.

(2) "The Kentucky Entertainment Incentive Program Certified Audit Guidelines," July 2026, is incorporated by reference.

(3) 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, 5th Floor, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. or online at https://kentucky.location.pro/incentive.

JEFF NOEL, Secretary

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