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MEMORANDUM

TO: Chad Zimlich, Deputy General Counsel, Cabinet for Economic Development

FROM: Ange Darnell, Regulations Compiler

RE: Amended After Comments Regulation 307 KAR 001:080.

DATE: November 13, 2026

A copy of the Statement of Consideration for the administrative regulation listed above is enclosed for your file. If this administrative regulation follows the standard KRS Chapter 13A timeline, it would be tentatively scheduled for review by the Administrative Regulation Review Subcommittee at its **DECEMBER 2026** meeting. Please notify the proper person(s) of this meeting.

If you have questions, please contact us at RegsCompiler@kylegislature.gov or (502) 564-8100.

Enclosure

FILED WITH LRC
TIME: 10:25 AM
NOV 13 2026
REGULATIONS COMPILER

CABINET FOR ECONOMIC DEVELOPMENT

Kentucky Film Office

(Emergency Amended After Comments)

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

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)[~~(8)~~] “Commonwealth” is defined by KRS 154.61-010(7)[~~(6)~~].

(11)[~~(9)~~] “Compensation” is defined by KRS 154.61-010(8)[~~(7)~~].

(12)[~~(10)~~] “Continuous film production” is defined by KRS 154.61-010(9)[~~(8)~~].

(13)[~~(11)~~] “Council” is defined by KRS 154.61-010(10)[~~(9)~~].

(14)[~~(12)~~] “Eligible company” is defined by KRS 154.61-010(12)[~~(11)~~].

(15)[~~(13)~~] “Employee” is defined by KRS 154.61-010(13)[~~(12)~~].

(16)[~~(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.

(17) “Heritage county” is defined by KRS 154.61-010(16).

(18)[~~(16)~~] "Kentucky-based company" is defined by KRS 154.61-010(18)[~~(16)~~].

(19)[~~(17)~~] "Kentucky Film Office" or "Office" means the office created by KRS 154.12-280.

(20)[~~(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 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)[~~(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.

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

(23)[~~(21)~~] "Pass-through entity" is defined by KRS 141.010(28).

(24)[~~(22)~~] "Person" is defined by KRS 154.61-010(24)[~~(20)~~].

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

(26)[~~(24)~~] "Qualifying expenditure" is defined by KRS 154.61-010(25)[~~(21)~~].

(27)[~~(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(20)[~~(18)~~], in partnership with:

(a) An accredited Kentucky educational institution;

(b) A local trade association; or

(c) A regional educational or trade association.

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

(29)[~~(27)~~] "Resident" is defined by KRS 154.61-010(28)[~~(23)~~].

(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[~~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 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)[~~KRS 154.61-010(21)(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[~~disclose~~] 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. [~~Common ownership shall extend to parent companies, subsidiaries, or any other related individuals or entities deriving income, profits, or loss from the approved company.~~]

(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.**[~~**Goods, equipment, or other tangible assets purchased outside of the Commonwealth shall not qualify as qualifying expenditures. To the extent such goods, equipment, or other assets are included within the same invoice as other expenditures that may properly qualify under this section, that invoice shall have sufficient itemization for the Cabinet or office to exclude those out-of-state goods, equipment, or other assets. If an out-of-state vendor provides on-set services within the Commonwealth in conjunction with out-of-state goods, equipment, or other assets to be utilized in a motion picture or entertainment production, only the on-set services provided by the out-of-state vendor within the Commonwealth may qualify. Failure to separately itemize non-qualifying expenditures shall result in the disqualification of the entirety of the claimed 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 [~~if~~]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[~~Proof shall demonstrate~~] fifty (50) percent [~~of funds raised through the following:~~

~~1. IATSE Bonds, SAG Bonds, Completion Bonds;~~

~~2. Payroll statements;~~

~~3. Bank statements;~~

~~4. Financing or funding contracts; or~~

~~5. Commitment letters.~~

~~a. Demonstrate twenty-five (25) 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[~~; and~~

~~b. Present a balance sheet and~~] letter from an accredited financial institution[~~, attorney, or accountant holding the funds~~]. **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.[~~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 thirty (30)[~~twenty (20)~~] 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[~~, ranking of the application, and notification to the council~~]; 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[~~month~~], not otherwise meeting the definition of continuous film production, shall be limited to no more than twenty-five (25) percent[~~$10 million~~] 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[~~$10 million~~] limitation set forth in this subsection, the remainder shall carry forward to the subsequent quarter of the calendar year[~~month~~]. The council may elect to commit more than this quarterly[~~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. 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[~~enhanced incentive~~] 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; [~~and~~]

(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 **an Agreed-Upon Procedures Report[~~a certified audit report~~]**[~~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.

(7) 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 **an Agreed-Upon Procedures Report[~~a certified audit~~]** to the Cabinet and office conducted in accordance with the Kentucky Entertainment Incentive Program Certified Audit Guidelines**: CPA Agreed-Upon Procedures** and all other applicable laws and regulations applicable thereto. **Completion of this Agreed-Upon Procedures Report shall be pursuant to an Agreed-Upon Procedures Agreement entered into between the approved company, an independent certified public accountant or an independent certified public accountant's firm, and the Cabinet.**

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[~~9~~]. Incorporation by Reference. (1) "Application for Kentucky Entertainment Incentive (KEI)", July 2026[~~September 2025~~], is incorporated by reference.

(2) "The Kentucky Entertainment Incentive Program Certified Audit Guidelines**: CPA Agreed Upon Procedures**," **November 13,[~~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[~~https://cedky.com/cdn/1980_KEI_Application_9-2025_CED_Sample.pdf~~].

307 KAR 1:080
REVIEWED AND APPROVED:

11/10/24
DATE

Jeff Noel, Secretary
CABINET FOR ECONOMIC
DEVELOPMENT

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE

The following is the application form that applicants are required to file in order to apply for economic development incentives under the Kentucky Entertainment Incentive Program administered through the Kentucky Film Leadership Council, Kentucky Film Office, and Cabinet for Economic Development under KRS 154.61-010 through 154.61-030. This application has been revised since the prior version to incorporate those changes mandated by 2026 Ky. Acts ch. 194 (SB 324). Applicants may provide credit or debit card number and expiration date to allow payments by MasterCard, Visa, or American Express for the fees associated therewith. Applicants may also submit payment with cash or personal check payable to the Kentucky State Treasurer. Applications may be found at ced.ky.gov. In addition, this regulation incorporates the Kentucky Entertainment Incentive Program's Certified Audit Guidelines**: CPA Agreed Upon Procedures**, which were likewise required to be created pursuant to 2026 Ky. Acts ch. 194 (SB 324). There was no prior version of these Audit Guidelines. **The Guidelines set forth the Agreed Upon Procedures that will be required to be utilized to comply with the Certified Audit requirement under KRS 154.61-030.**

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

(2) "The Kentucky Entertainment Incentive Program Certified Audit Guidelines**: CPA Agreed Upon Procedures**," **November 13,[~~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, Monday through Friday, 8:00 a.m. to 4:30 p.m., or online at https://kentucky.location.pro/incentive.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 307 KAR 1:080. Kentucky Entertainment Incentive Program (Effective July 15, 2026).
Agency Contact: Matthew Wingate
Phone Number: (502) 782-1948
Email: matthew.wingate@ky.gov

Subject Headings: Economic Development, Loans and Credit, Fees

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the application, criteria, fee structure, certified audit, and economic analysis to evaluate applications for the Kentucky Entertainment Incentive Program pursuant to KRS 154.61-010 through 15.61-030.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to administer the Kentucky Entertainment Incentive Program and Kentucky Film Office as required by statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the application process and review criteria and requirements for the Kentucky Entertainment Incentive Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing a framework for prioritizing applications based upon the purpose of the Kentucky Entertainment Incentive Program statutes.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides additional safeguards to public funds by setting forth standard criteria for applications and including statutorily required audit guidelines.

(b) The necessity of the amendment to this administrative regulation: This amendment is required due to the passage of 2026 SB 324 during the 2026 Regular Session of the General Assembly, as codified in 2026 Ky. Acts ch. 194.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment updates the new definitions and requirements set forth in 2026 Ky. Acts ch. 194.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation assists with the effective administration of the statutes by establishing a framework for prioritizing applications based upon the purpose of the Kentucky Entertainment

Incentive Program statutes and the changes implemented in 2026 Ky. Acts ch. 194.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, it implements 2026 Ky. Acts ch. 194 (SB 324).

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: the regulation will assist persons and entities applying for incentives under the Kentucky Film Office's statutory program, the Kentucky Entertainment Incentive Program.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to comply with this administrative regulation or amendment: Regulated entities will be able to participate in the Kentucky Entertainment Incentive Program through the established process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): regulated entities applying for the Kentucky Entertainment Incentive Program will remit the fees as specified in 2026 Ky. Acts ch. 194 (SB 324).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): Applicants may become qualified for incentives under the Kentucky Entertainment Incentive Program where such incentives have been approved by the Kentucky Film Leadership Council.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No expenses or an unknown amount will be incurred.

(b) On a continuing basis: No expenses or an unknown amount will be incurred.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: Pursuant to KRS 154.61-020, the total tax incentive amount of the Kentucky Entertainment Incentive Program is $75,000,000. Sources of funding for staffing are provided from General Funds provided to the Cabinet and restricted funds from application fees as set by KRS 154.61-030(5) and two and one-half percent (2.5%) of the transient room tax collected pursuant to KRS 142.400, up to the maximum amount of five hundred thousand dollars ($500,000) in each fiscal year, for the period beginning July 1, 2025, and ending June 30, 2028, as set by KRS 154.12-280(4) and modified by 2026 Ky. Acts 194 (SB 324).

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Neither an increase in fees nor funding will be necessary to implement this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or

indirectly increases any fees: this regulation establishes the fees set forth in KRS 154.12-280(3), 154.61-030(4)(s), and 154.61-030(5).

(10) TIERING: Is tiering applied? Tiering is not used as the application and fees apply to the same classes of individuals and entities.

FISCAL IMPACT STATEMENT

Administrative Regulation: 307 KAR 1:080. Kentucky Entertainment Incentive Program (Effective July 15, 2026).
Agency Contact: Matthew Wingate
Phone Number: (502) 782-1948
Email: matthew.wingate@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 154.12-280, 154.61-010, 154.61-020, and 154.61-030.

(2) Identify the promulgating agency and any other affected state units, parts, or divisions: Cabinet for Economic Development, Kentucky Film Office, other agencies have not been identified.

(a) Estimate the following for the first year:

Expenditures: Expenditures will depend on the number of applications and projects submitted, which is currently unknown. As the Kentucky Entertainment Incentive program is already in place, no additional expenditures are anticipated.

Revenues: Revenues will depend on the number of applications and projects submitted, which is currently unknown. As the Kentucky Entertainment Incentive program, no additional revenues are anticipated.

Cost Savings: Cost will depend on the number of applications and projects submitted, which is currently unknown. As the Kentucky Entertainment Incentive program, no additional costs are anticipated.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not expect a change to revenues or cost savings in subsequent years.

(3) Identify affected local entities (for example: cities, counties, fire departments, school districts): N/A

(a) Estimate the following for the first year:

Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.

Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years? The Cabinet does not expect a change to revenues or cost savings in subsequent years.

(4) Identify additional regulated entities not listed in questions (2) or (3): Additional regulated entities include applicants to the Kentucky Cabinet for Economic Development's economic incentive programs.

(a) Estimate the following for the first year:

Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.

Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.

(b) How will expenditures, revenues, or cost savings differ in subsequent years?

Expenditures: The Cabinet does not anticipate expenditures as a result of this administrative regulation.

Revenues: The Cabinet does not anticipate revenues as a result of this administrative regulation.

Cost Savings: The Cabinet does not anticipate cost savings as a result of this administrative regulation.

(5) Provide a narrative to explain the:

(a) Fiscal impact of this administrative regulation: The administrative regulation implements the application process and review criteria and requirements for the Kentucky Entertainment Incentive Program. The administrative regulation does not create a fiscal impact.

(b) Methodology and resources used to determine the fiscal impact: N/A.

(6) Explain:

(a) Whether this administrative regulation will have an overall negative or adverse major economic impact to the entities identified in questions (2) - (4). ($500,000 or more, in aggregate): The administrative regulation will not have a major economic impact – as defined by KRS 13A.010 – on regulated entities.

(b) The methodology and resources used to reach this conclusion: This administrative regulation does not create a fiscal impact.

STATEMENT OF CONSIDERATION
Relating to 307 KAR 1:080

Kentucky Cabinet for Economic Development
(Amended After Comments)

I. The public hearing on 307 KAR 1:080E, was scheduled for September 21, 2026, at the Cabinet for Economic Development, Mayo Underwood Building, 500 Mero Street, Frankfort, Kentucky 40601, and was properly publicized and posted on the Cabinet's website. The hearing was held but no members of the public attended.

II. Written comments were received during the public comment period for 307 KAR 1:080. The following people submitted written comments:

Name and Title	Agency/Organization/Entity/Other
Kelsey Moore, Vice President, Southeast Region	The Motion Picture Association
Bill Miller, Political Director	Teamsters Local 89
William E. Wingate, III	Parish, LLC

III. The following people from the promulgating administrative body responded to the written comments:

Name and Title
Matthew Wingate, General Counsel
Chad Zimlich, Deputy General Counsel
Danielle Dunmire, Director of Compliance

IV. Summary of Comments and Responses

(1) Subject Matter: Qualifying Payroll Expenditures – Comparative Rates

(a) Comment: Teamsters Local 89 – The International Brotherhood of Teamsters should be listed alongside IATSE, DGA, and SAG in the comparative-rates provision within the requirements under Qualifying Payroll Expenditures in Section 3 to formally recognize Teamsters-represented workers and applicable industry wage rates.

(b) Response: The Cabinet has incorporated the requested changes into Section 3 of the regulation.

(2) Subject Matter: Economic Analysis – Higher Percentage of Employed Kentucky Residents
(a) Comment: Teamsters Local 89 – We support the regulation's inclusion of language favoring applications with a higher percentage of employed Kentucky residents in Section 7 of the regulation.
(b) Response: No changes are needed in response to this Comment. The Cabinet notes the Teamsters' support for the regulation.

(3) Subject Matter: Qualifying Payroll Expenditures – Comparative Rates
(a) Comment: Motion Picture Association – The following language should be added before Comparative Rates under Section 3(2)(c): "For salaries paid to above-the-line production crew with a financial interest in the approved company".
(b) Response: No changes have been made in response to this Comment. The proposed language is duplicative of the preexisting language in this Section and, as such, the Cabinet is not incorporating this language.

(4) Subject Matter: Qualifying Payroll Expenditures – Salaried Employees
(a) Comment: Motion Picture Association – Add "an approved company's full time" in Section 3(4) limiting the applicability of this subsection to only the Approved Company's full-time employees.
(b) Response: Section 3(4) clarifies that an Approved Company may only seek incentivization for an individual's salary and compensation for those dates upon which that individual provided services for the Approved Company's project. Further, those dates may not overlap with dates for which this individual's salary or compensation is claimed in connection with any other motion picture or entertainment production. For that reason, the Cabinet is not incorporating the proposed language.

(5) Subject Matter: Qualifying Expenditures – Pass-Through Entities
(a) Comment: Motion Picture Association – Add qualifying language in Section 4(3) stating "However, to the extent purchases or rentals of a tangible asset are from a Kentucky vendor and the tangible asset used in the Commonwealth is of the type normally held in inventory in the ordinary course of the Kentucky vendor's business for purchase or rental then such expenditure may be treated as qualifying expenditures under this section".
(b) Response: The Cabinet has reviewed this language and has incorporated the requested changes into Section 4(3) of the regulation as a means of clarifying that Section 4(3) is not meant to exclude those Kentucky vendors from procuring tangible assets from outside of the Commonwealth.

(6) Subject Matter: Qualifying Expenditures – Out-of-State Tangible Assets and Kentucky Vendors
(a) Comment: Motion Picture Association – Replace Section 4(6) with the following language "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) as a qualifying expenditure."
(b) Response: The Cabinet has incorporated the requested changes into Section 4(6) of the regulation for the purposes of clarity, in keeping with the changes in Section 4(3), and the KEI Program's function to incentivize Kentucky-based businesses and employment.

(7) Subject Matter: Qualifying Expenditures – Competitive Bids
(a) Comment: Motion Picture Association – Add provision in Section 4(c) providing an alternative to the competitive bid requirement for qualifying expenditures between commonly-owned or financially-interested persons or entities, permitting use of "comparable transactions between unrelated parties for substantially similar goods or services in the production's geographic region."
(b) Response: The proposed alternative would replace an objective, prospective requirement designed to demonstrate market competition with a subjective, retrospective analysis that would require the Cabinet to determine whether unrelated third-party transactions are sufficiently comparable or substantially similar. Said analysis would increase the administrative burden of this requirement. The proposal would likewise allow for the potential of inconsistent application and cherry-picking of favorable transactions, thereby making it more difficult for the Cabinet to verify these expenditures reflect an arm's-length transaction. For those reasons, the Cabinet is not incorporating the proposed language.

(8) Subject Matter: Per-Project Television Program Limitation – Continuous Film Production
(a) Comment: Motion Picture Association – Add in language notwithstanding the requirements for Television Program applications to be analyzed on a project-basis in Section 5(2), that Continuous Film Productions are not subject to such a requirement provided they meet the requirements of Continuous Film Productions and Section 7 of the regulation.
(b) Response: Section 5(2) of the regulation does not address the Continuous Film Production designation. For that reason, the Cabinet is not incorporating the proposed language.

(9) Subject Matter: Application Requirements – Proof of Funding
(a) Comment: Motion Picture Association – Add in the following language after Section 5(1)(*l*) to clarify what may satisfy the application requirements regarding demonstrating proof of funding: "An acceptable letter from an accredited financial institution includes a letter that conditions financing on the initial approval of the applicant's film incentive by the relevant government authority or the existence of a credit facility at the accredited financial institution available to the applicant or the applicant's owner or affiliate for film production. Notwithstanding the foregoing, for an applicant that has a market capitalization of $1 billion (USD) or more, or 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."

(b) Response: The Cabinet has incorporated the requested language into Section 5(1)(*l*) of the regulation for added flexibility in demonstrating adequate funding, and has made a corresponding change in the sentence preceding the added language to align with the incorporated language.

(10) Subject Matter: Economic Analysis – Distribution Contract
(a) Comment: Motion Picture Association – Add in the following language after Section 7(2)(f) to clarify what may satisfy the requirement of a distribution contract for purposes of the economic analysis: "with priority given to a contract for distribution by 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."
(b) Response: The Cabinet has incorporated the requested language into Section 7(2)(f) of the regulation to further clarify what is meant by the term "distribution contract" for purposes of the economic analysis.

(11) Subject Matter: Economic Analysis – Record of Success and Continuous Film Productions
(a) Comment: Motion Picture Association – Delete the following language: "Previous participation in the program, favoring those applicants with a demonstrated record of success with the program" and instead add in the following language in Section 7(2)(j): "The application is for a Continuous Film Production" to give additional points to projects designated as a Continuous Film Production.
(b) Response: The General Assembly has already prioritized projects designated as a Continuous Film Production by allowing for earlier access to the $75 million KEI Program's incentive cap, and by setting incentivization percentages at a higher rate. The economic analysis is set forth in a standardized way that would account for increased hiring and benefits that accompany. For those reasons, the Cabinet is not incorporating the proposed language.

(12) Subject Matter: MIR – Auditing Guidelines – General Administration and Expenditure Distinctions
(a) Comment: William E. Wingate, III – Define "Authority," identify the responsible administering body, and use that name consistently. Distinguish qualifying expenditures from qualifying payroll expenditures. Standardize KQE, QE, QPE, and QKE so auditors do not classify the same cost differently or count it twice. Use gender-neutral references to individuals and their service companies throughout the guidelines.
(b) Response: The Cabinet has revised the Audit Guidelines in response to comments received to reflect minimum required terms to be included in an Agreed-Upon Procedures Agreement submitted to the Cabinet to satisfy the Certified Audit requirement under KRS 154.61-030. These changes have incorporated consistent terminology throughout and defined material terms in a new document titled Kentucky Entertainment Incentive Program Certified Audit Requirements: CPA Agreed-Upon Procedures (referred to hereinafter as the "AUP").

(13) Subject Matter: MIR – Auditing Guidelines – Eligibility – Location Records
(a) Comment: William E. Wingate, III – Allow the filming-location list to be organized by shoot date, with the business or residence name, physical address and dates of use. This matches the records maintained during production. If an alphabetical index is needed, permit it as an additional sortable view of the same electronic list rather than a separately prepared document.
(b) Response: The Cabinet has incorporated this requested change, in part, with the following language in Section IV.A.4 setting forth a material term for the AUP Agreement: "Obtain a list of all Kentucky filming locations by shoot date, including business' or individual's name, physical address (no PO Boxes) and County, and dates of shooting."

(14) Subject Matter: MIR – Auditing Guidelines – Eligibility – Expenditure Period
(a) Comment: William E. Wingate, III – Distinguish production commencement date and production completion date from the general ledger dates. Identify the controlling evidence, including Exhibits C-1 and D if those forms remain applicable, and explain how eligible expenditures are assigned to the qualified period. Publish an exact commencement deadline for each agreement. The annotation suggests six months for simplicity; adopt that only if legally permissible, because six calendar months and 180 days are not necessarily the same period.
(b) Response: The Cabinet has not incorporated these requested changes, as they confuse the requirements set forth in the AUP. The instruction within the AUP is to identify the first and last expenditure dates. The CPA should not rely upon separate assertions in Exhibits C-1 and D for this determination. In addition, deadlines are set forth separately within each Tax Incentive Agreement.

(15) Subject Matter: MIR – Auditing Guidelines – Eligibility – Credit Verification Eligibility
(a) Comment: William E. Wingate, III – Permit an interim certification or other specified proof when the final edited production and credits are not ready by the audit deadline, followed by final evidence when available. Assign verification of the correct Kentucky logo and final credit placement to the Film Office, which controls the required branding, rather than requiring the CPA to determine whether a logo is current. State the timing and acceptable evidence clearly.
(b) Response: The Cabinet has removed this requirement in the AUP, as this verification will be performed by Cabinet staff.

(16) Subject Matter: MIR – Auditing Guidelines – Excluded Costs and Exceptions
(a) Comment: William E. Wingate, III – Allow a filtered general-ledger report and a single consolidated exception schedule to satisfy repeated listing requirements. The schedule can identify the amount, vendor or person, reason for exclusion and affected category. Avoid requiring separate lists of the same non-qualifying transactions under each audit section. Preserve an auditable reconciliation from the ledger to the final claimed costs.
(b) Response: The Cabinet has not incorporated this requested change because it would undermine the intended purpose of the CPA review process. Each of the identified tests is intended to be performed independently, and the results of each test must be separately identified and reported to

the Cabinet for review. The CPA's completion of the procedures required under the AUP Agreement is a separate process and will not constitute, or result in, Cabinet approval of any particular incentive amount. The CPA's subsequent report will provide the results of the AUP for the Cabinet's consideration. The Cabinet will retain sole authority to determine the amount of the incentive for which the Company is eligible.

(17) Subject Matter: MIR – Auditing Guidelines – Non-Qualifying Expenditures – Production Accounting
(a) Comment: William E. Wingate, III – Distinguish the excluded certified-audit fee and other excluded professional services from otherwise eligible work performed by an in-state production accounting team. Define or remove the catchall "miscellaneous expenses and fees." Explain how script publication, clearance and licensing costs are treated. Provide a direct link to the controlling program guidelines and apply the same explanations consistently across labor and nonlabor sections.
(b) Response: The Cabinet has incorporated clarified language regarding CPA certified audit expenses as an ineligible expenditure. The Cabinet has considered and declines to deviate from remaining language.

(18) Subject Matter: MIR – Auditing Guidelines – Non-Qualifying Expenditures – Contingency Reserves
(a) Comment: William E. Wingate, III – Distinguish unspent contingency reserve from unclaimed expenditures. Costs that are funded from contingency should not be excluded.
(b) Response: The Cabinet has not incorporated this suggested change. The Cabinet notes contingency expenditures are not permitted as an independent category of expenditures under the KEI Program. Any claimed expenditure must fall into one or more of the categories of expenditures identified under KRS 154.61-010. Applications to the Program must be based upon actual anticipated qualifying expenditures and qualifying payroll expenditures. Notably, pursuant to Section 7(6) of the regulation, 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.

(19) Subject Matter: MIR – Auditing Guidelines – Non-Qualifying Expenditures – On-Site Publicist and Online Purchases
(a) Comment: William E. Wingate, III – Clarify whether an on-site publicist's production services can qualify as payroll and distinguish those services from distribution and marketing expenses. Also permit otherwise eligible goods ordered online and picked up at a qualifying Kentucky store to be evaluated by the actual vendor, transaction and local fulfillment, rather than disqualified solely because the order was placed online. State any statutory limits that prevent either treatment.
(b) Response: The Cabinet has not incorporated this suggested change. On-site publicists or other marketing-related expenditures do not qualify as they would not fall into one or more of the

categories of expenditures identified under KRS 154.61-010. Separately, transactions occurring at a brick-and-mortar location are not prohibited by the AUP. Online purchases, absent evidence of transactions with a Kentucky vendor, frustrate the requirement that qualifying expenditures must be "made in the Commonwealth."

(20) Subject Matter: MIR – Auditing Guidelines – Vendor Verification
(a) Comment: William E. Wingate, III – State what evidence satisfies tax-registration and local-license checks, and distinguish reviewing evidence from independently determining a vendor's legal obligations. Consider a vendor certification or agency verification process, reasonable dollar thresholds and simplified checks for established retailers, grocery stores, gas stations and national rental companies where legally permissible. Provide a referral process for suspected registration deficiencies. Explain whether an otherwise eligible production expense may be corrected or documented before disqualification; do not assume an exemption from a statutory condition.
(b) Response: The Cabinet has fully revised this section to identify categories of documentation to be provided by the Company to the CPA for a determination as to whether such documentation exists. These revisions are made to simplify what is required to be obtained by the CPA and will be utilized by Cabinet staff to have a secondary verification procedure for Kentucky Vendor designation.

(21) Subject Matter: MIR – Auditing Guidelines – Embedded Sales Tax
(a) Comment: William E. Wingate, III – Explain how to document and remove sales tax when an invoice does not separately state it. Specify whether a corrected vendor invoice is required or a documented allocation is acceptable. Any approved calculation should distinguish a tax-inclusive total from a pretax amount and account for exempt or mixed purchases. Productions and auditors should not have to invent inconsistent allocation methods.
(b) Response: This provision has been updated to instruct the CPA to treat those invoices where sales and use tax is not separately identified on invoicing or other documentation as exceptions to be referred for further review by Cabinet staff. The AUP are not intended to be advice on whether sales tax is to be remitted on any particular purchase. Any specific questions on applicability of sales tax must be directed to the Kentucky Department of Revenue.

(22) Subject Matter: MIR – Auditing Guidelines – Loan Out Classification and Compensation Limitation
(a) Comment: William E. Wingate, III – Publish consistent ledger and reporting codes for resident and nonresident above-the-line and below-the-line services paid through loan-out companies, including payments through accounts payable. Clarify how the compensation limitation is applied across direct and indirect payments. Explain whose residency documents are required when the payee is an entity: the individual performing the services should be identified separately from the loan-out company. Avoid treating an entity itself as the holder of an individual driver's license.

(b) Response: The Cabinet has reviewed but has not incorporated any changes in response to this comment. The AUP does not incorporate ledger codes and treatment of the compensation limitation is pursuant to the statutory parameters. Under KRS 154.61-010 and 154.61-020, the compensation limitation is applied towards the statutory definition of Compensation, which includes an employee's adjusted gross income, employer paid payroll taxes, union and guild benefits, workers' compensation insurance premiums, payroll service fees, and qualifying per diem. In no case can incentivized compensation exceed $1,000,000, inclusive of those items. Finally, Loan-Out entity treatment is identified in statute. All qualifying payroll expenditures for Kentucky resident employees must be accompanied by a form of state-issued identification.

(23) Subject Matter: MIR – Auditing Guidelines – Appendix A
(a) Comment: William E. Wingate, III – State separately which complete listings must be supplied, which items require full examination and which are tested by sample. Align the narrative procedures with Appendix A, including the treatment of above-the-line labor and below-the-line samples. Consider proportionate testing of nonresident labor while retaining required withholding verification. A full population review should not be described as sampling. Clarify the applicable withholding rate and evidence by payment type and period rather than leaving auditors to infer the scope of the stated rate.
(b) Response: The Cabinet has revised the Audit Guidelines in response to comments received to reflect minimum required terms to be included in an Agreed-Upon Procedures Agreement submitted to the Cabinet to satisfy the Certified Audit requirement under KRS 154.61-030. These changes have incorporated consistent terminology throughout and defined material terms. Withholding rates are set by applicable statute and, as such, are not appropriate to incorporate herein.

(24) Subject Matter: MIR – Auditing Guidelines – Appendix A
(a) Comment: William E. Wingate, III – Define how Appendix A is to be applied. Specify whether vendor thresholds apply to cumulative payments to each vendor while non payroll thresholds apply to individual transactions. In regard to the sampling chart, explain how columns interact, how repeat sections are handled, and how to proceed when a population is smaller than the stated example. Provide worked examples using varying population sizes and assess the resulting auditor workload before finalizing any requirements.
(b) Response: The Cabinet has revised the Audit Guidelines in response to comments received to reflect minimum required terms to be included in an Agreed-Upon Procedures Agreement submitted to the Cabinet to satisfy the Certified Audit requirement under KRS 154.61-030. These changes have incorporated consistent terminology throughout and defined material terms. More specifically, Appendix A has been clarified that the categories are to be treated by line item, not cumulatively. Separately, additional points of clarification may subsequently be made by Cabinet staff in the form of Frequently Asked Questions or other guidance.

(25) Subject Matter: MIR – Auditing Guidelines – Heritage County Expenditures
(a) Comment: William E. Wingate, III – Publish a dated county list or map, identify the version controlling each project and include it or clearly link it in the incentive agreement. Explain how an auditor is to document the applicable county status. Allow Heritage County exclusions and exceptions to be included in the consolidated reconciliation requested instead of duplicating records.
(b) Response: The Cabinet has not incorporated this comment. The AUP does not incorporate specific Heritage County maps, which are already provided as an Exhibit to the TIA.

(26) Subject Matter: MIR – Auditing Guidelines – Related Party Transactions
(a) Comment: William E. Wingate, III – Allow reasonable alternatives when three genuinely comparable regional bids are unavailable, such as published rates, documented comparable transactions or an independent market assessment. Define comparability by specifications, availability, delivery and service requirements, not price alone. The production should gather technical comparisons; the CPA should assess the supporting documentation rather than source or technically specify equipment.
(b) Response: The Cabinet has not incorporated this comment. This regulation requires two comparable regional bids for related-party transactions, and for related-party transactions the AUP identifies the CPA is to determine disclosure of those related-party transactions and the existence of two competitive bids for non-labor transactions and alignment with industry rates for labor transactions. The Cabinet's response to this comment is likewise the same as the response provided to Comment (7), above.

(27) Subject Matter: MIR – Auditing Guidelines – Producer Compensation and Related Party Transactions
(a) Comment: William E. Wingate, III – Provide a method to evaluate producer fees when union wage schedules do not capture the services performed. Relevant support could include duties, time commitment, experience, financing responsibilities and comparable agreements. Consider a clearly defined compensation cap or safe harbor for producers and directors, where legally permissible, as an alternative to unsuitable rate comparisons. Identify the denominator and interaction with existing compensation limits. This request does not claim that securing a greenlight alone establishes an eligible fee but it is a very good indicator.
(b) Response: This regulation does not treat producer compensation separately from other above-the-line production crew members, and where incentivization is sought for compensation paid to producers with a financial interest in the motion picture or entertainment production there will be additional review from the Council, Kentucky Film office, and Cabinet. As such, the Cabinet has not incorporated this comment.

(28) Subject Matter: MIR – Auditing Guidelines – Financier Payments

(a) Comment: William E. Wingate, III – Permit a financier to discharge a production company's documented obligation directly, where consistent with governing law and the tax incentive agreement. Require the underlying invoice or liability, financing agreement, proof of payment and a ledger entry linking the payment to the approved company. This can avoid duplicate wires and allow a lender to ensure that payroll withholding reaches the Department of Revenue. Distinguish this documented payment mechanism from an ineligible vendor pass-through arrangement.
(b) Response: The Cabinet has not incorporated this comment. This proposal is contrary to the statutory requirement within KRS 154.61-020 that the expenditures be made by the approved company subject to the TIA. As such, the Cabinet must be provided proof that the expenditures sought for incentivization were made by the approved company consistent with the KEI Program and other applicable Kentucky law.

(29) Subject Matter: MIR – Auditing Guidelines – Reporting Forms
(a) Comment: William E. Wingate, III – Confirm whether Exhibits E and E-1 remain required and publish the current forms, instructions and links. Align the resident and nonresident above-the-line and below-the-line categories with the expenditure definitions and loan-out coding. A production should be able to reconcile its existing accounting records to the required final report without rebuilding the same data in inconsistent formats.
(b) Response: The Cabinet has not incorporated this comment. This comment is not directed at the regulation and AUP.

V. Summary of Statement of Consideration and Action Taken by Promulgating Administrative Body

The public hearing on this administrative regulation was held, and both public and written comments were. The Cabinet for Economic Development responded to the comments and incorporated the requested changes in five areas of the regulation. Section 3 was amended to expressly include Teamsters-represented workers and applicable Teamsters wage rates alongside IATSE, DGA, and SAG in the comparative-rates provision for qualifying payroll expenditures; Section 4(3) was amended to clarify that qualifying purchases or rentals of tangible assets from Kentucky vendors may qualify when the asset is of a type normally held in the vendor's inventory in the ordinary course of business, even if the Kentucky vendor procures the asset from outside the Commonwealth. Section 4(6) was revised to clarify that goods, equipment, or other tangible assets purchased outside Kentucky may qualify when purchased from a Kentucky vendor and otherwise meeting the requirements of Section 4(3), consistent with the KEI Program's purpose of incentivizing Kentucky-based businesses and employment. Section 5(1)(*l*) was amended to provide additional flexibility in demonstrating proof of funding in the application process, including providing a letter from an accredited financial institution confirming that financing was available for the project and that the financing was conditioned on initial incentive approval, or,

for applicants or parent companies with a market capitalization of at least $1 billion, a corporate officer's certification of sufficient financing, with a corresponding conforming change to the preceding sentence. Section 7(2)(f) was amended to further clarify what constitutes a distribution contract for purposes of the economic analysis, including qualifying streaming services, cable television networks, U.S. commercial broadcast networks, and worldwide theatrical distribution contracts. Section 8 was amended to clarify that the certified audit requirement will be met pursuant to an Agreed-Upon Procedures Agreement entered into between the approved company, an independent certified public accountant or an independent certified public accountant's firm, and the Cabinet with material terms set forth in the Kentucky Entertainment Incentive Program Certified Audit Guidelines: CPA Agreed Upon Procedures document, which has been incorporated by reference.

The revised Material Incorporated by Reference as The Kentucky Entertainment Incentive Program Certified Audit Guidelines: CPA Agreed Upon Procedures, November 13, 2026, is an update to the previous Certified Audit Guidelines. The Guidelines were revised to align the Certified Audit requirements with the manner in which Certified Public Accountants typically perform and report on an Agreed-Upon Procedures ("AUP") engagement. The revisions clarify that the CPA's role is to perform specifically defined procedures and report factual findings pursuant to a series of tests, rather than provide an audit opinion or overall conclusion regarding Program compliance. The revised Guidelines also more clearly identify the required populations, sampling methodology, testing procedures, exception reporting, and deliverables that must be incorporated into the AUP Agreement, while preserving the Cabinet's substantive requirements for verifying eligible expenditures under the Kentucky Entertainment Incentive Program.