Kentucky Entertainment Incentive Program Guidelines

Introduction

The Kentucky General Assembly established the Kentucky Entertainment Incentive Program to attract and retain film, television, and entertainment industry investment across the Commonwealth. Through this program, Kentucky supports productions that create jobs, generate economic activity, and showcase Kentucky's communities, workforce, and unique locations to national and international audiences.

The Kentucky Film Office administers the program and serves as the Commonwealth's primary resource for film, television, and digital media production. The Film Office works to strengthen Kentucky's creative economy by promoting the state as a premier production destination, supporting industry workforce development, and fostering long-term partnerships within the entertainment industry.

Eligible Productions

Eligible productions may qualify for incentive based on approved Kentucky qualifying expenditures and qualifying payroll expenditures made by the approved company seeking incentives. Final incentive amounts are determined following review of production documentation and submission of a certified audit to the Cabinet for Economic Development.

Eligible Production Categories

The following production categories are eligible under Kentucky statute:

a. Feature-Length Films: Scripted motion pictures created for theatrical release, streaming platforms, television premiere, or other commercial distribution formats.

b. Television Program: Scripted or unscripted series produced for broadcast, cable, or streaming distribution, including recurring episodic productions. Pilot episodes or a

television season shall be considered as a single production application submitted by one applicant company.

c. Continuous Film Productions: A feature-length film, or television series whose Kentucky Qualified Spend is equal to or surpasses 10 million dollars.

d. Documentaries: Nonfiction film or television productions intended for educational, broadcast, theatrical, or streaming distribution.

e. Commercials: Advertising and promotional productions with a live action component created for television, digital, streaming, or national marketing campaigns.

f. Industrial Films: Corporate, educational, training, or promotional productions created for business, institutional, or internal distribution purposes.

g. Music Videos: Short-form productions created to accompany and promote musical artists or recorded music releases.

h. Video Games: Interactive digital entertainment projects that include qualified production and development activity conducted in Kentucky.

j. National Touring Productions of Broadway Shows: Live theatrical productions associated with nationally recognized Broadway touring performances that conduct qualifying production activity within the Commonwealth.

Minimum Spending Requirements

To qualify for the Kentucky Entertainment Incentive Program, approved companies must meet minimum Kentucky spending thresholds established under Kentucky law and administrative regulations. These thresholds are based on qualifying expenditures and qualifying payroll expenditures incurred in the Commonwealth.

Current minimum thresholds include:

a. Feature-Length Films, Television Programs, Industrial Films, Video Games and Music Videos: Kentucky-based company minimum: $200,000, Out of State company minimum: $400,000.

b. Commercials: Kentucky-based company minimum: $200,000, Out of State company minimum: $200,000.

c. National Touring Productions of Broadway Shows: $20,000, Out of State company minimum: $20,000.

d. Documentary: Kentucky-based company minimum: $10,000, Out of State company minimum: $20,000.

Non-Qualified Expenditures

Non-qualified expenses are including but not limited to:

* Expenditures made to vendors located outside of Kentucky
* Airfare
* KEI application and administrative fees
* Legal and accounting expenses
* Expenses associated with certified audit
* Contingency expenses
* Cast and Crew screening and wrap-up parties
* Bank, financing and completion bond fees
* Script publication and license fees
* Miscellaneous expenses and fees
* Insurance Premiums, outside of union and guild benefits and workers' compensation insurance premiums included in Qualifying Payroll Expenditures
* Loss/Damage Fees
* Gifts
* Alcohol/Tobacco
* Publicity Fees, distribution expenses, or marketing expenses
* Non-Resident Kit/Box Rentals
* Online Purchases
* Kentucky sales and use tax
* Payments made through a vendor acting as a conduit, waypoint, or pass-through entity

Film Kentucky Logo

Where such credits are given, the production shall contain the “Filmed in Kentucky” credit (or similar language to be negotiated with the qualified production) and the Film Kentucky logo provided by the Kentucky Film Office or Cabinet for Economic Development.

Commercials

a. Applications for commercial productions must include a live action component.

b. The applicant of record for commercial production must be a production company or advertising or creative agency. The brand or product company is not eligible to apply.

Kentucky Labor and Payroll

Above-the-line ("ATL") qualifying payroll expenditures are compensation payments made in connection with key creative, ownership, development, and principal talent positions or the employees of a loan-out entity associated with an approved entertainment production. Kentucky's entertainment incentive qualifies ATL expenditures only to the extent they are directly attributable to work performed in Kentucky, and comply with all statutory residency, withholding, and reporting requirements.

Examples of ATL payroll expenditures are including but not limited to:

a. Compensation paid to producers, executive producers, directors, writers, and creators for work performed in Kentucky;

b. Salaries or guaranteed compensation paid to principal cast and featured performers for work performed in Kentucky;

c. Payments associated with development, pre-production creative services, and production oversight directly tied to the approved project and performed in Kentucky; and

*There is a $1,000,000 cap per individual per production.

Below-the-line ("BTL") qualifying payroll expenditures are production-related payroll and operational expenses directly connected to the physical production, post-production, or technical execution of an approved entertainment project in Kentucky.

Examples of BTL payroll expenditures are including but not limited to:

a. Crew wages and salaries, including camera, grip, electric, art department, construction, wardrobe, hair and makeup, sound, transportation, production office, and assistant production staff for work performed in Kentucky;

b. Post-production labor, including editing, sound mixing, visual effects, animation, music recording, and color correction performed in Kentucky;

Loan-Out Entity

Loan-out entity means a corporation, partnership, limited liability company or other entity through which an artist or other person is loaned out to perform services for the approved company. A loan-out entity shall be registered and in good standing with the Kentucky Secretary of State. Notwithstanding the business organization, the loan-out entity and all employees of and other persons performing services for the loan-out entity shall be subject to all applicable provisions of the Kentucky personal income tax and any applicable payroll or other tax provisions.

Residency Verification

Verify Kentucky residency for all claimed resident labor through government-issued identification and I-9 documentation where applicable. Payroll and Labor Review payroll records, timecards, and contracts to confirm work performed, dates, and compensation.

Proof of Kentucky residency is required for all Kentucky hires included in the incentive claim.

Acceptable identification issued by the Commonwealth of Kentucky includes:

a. Kentucky Driver's License

b. Kentucky State ID

c. Other official Kentucky-issued identification

Additional Expenses that May Qualify as Compensation in Qualifying Payroll Expenditures

For purposes of Qualifying Payroll Expenditures, the definition of "compensation" includes both compensation included in adjusted gross income as calculated under KRS 141.019, as well as:

- Employer-paid payroll taxes (FICA, Medicare, FUTA, SUTA);
- Union and guild required benefits (health, dental, vision, retirement, life insurance);
- Workers' compensation insurance premiums;
- Payroll service fees (administrative fees paid by an approved company to a third-party payroll service company providing Kentucky-based payroll processing for ATL and BTL production crew members); and
- Qualifying per diem, as defined in KRS 154.61-010(27);

Qualifying per diem means meal and incidental allowance per diems, including those not taken on set, and hotel and other overnight living accommodations per diems, in the amounts

established by the United States General Services Administration, if incurred in the Commonwealth.

Salaried Payroll and Labor Expenses

For employees compensated through annual salary, guaranteed compensation agreements, or other fixed compensation arrangements, the includable qualifying payroll expenditure shall be calculated using the following formula: The annual Salary or Compensation divided by 365 times the Kentucky Qualified production days. The resulting amount shall represent the maximum includable qualifying payroll expenditure attributable to that employee for the approved production.

The approved company shall maintain contemporaneous records sufficient to substantiate all claimed qualifying payroll expenditures. Required documentation shall include:

a. Employment agreements or deal memos;

b. Payroll registers and payroll reports;

c. Timecards, call sheets, production reports, or daily production records;

d. Travel records, hotel records, or other supporting evidence demonstrating physical presence in Kentucky;

e. Detailed service-date logs identifying each specific date worked in Kentucky;

f. Documentation sufficient to demonstrate that the services performed were directly related to the approved production.

The Cabinet for Economic Development may request additional supporting documentation during application review, audit, or compliance verification.

Non-Qualifying Days May Include:

a. Travel-only days where no production services were performed;

b. Vacation or personal leave days;

c. Hold days without production services;

d. Remote work performed outside Kentucky;

e. Services attributable to productions other than the approved production.

The days for which an employee's salary or compensation is claimed as a qualifying payroll expenditure for a motion picture or entertainment production shall not overlap with any days

for which incentivization is sought for that same employee in connection with another motion picture or entertainment production.

Kentucky Vendor Expenditures (Non-Labor)

An '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.

All vendor documentation must include the vendor name, Kentucky address and:

a. Date(s) of service or purchase
b. Itemized description of all goods/services
c. Total amounts paid (including tax/tip where applicable)
d. Proof of payment

Additional requirements:

a. No P.O. Box or "remit to" addresses
b. W-9 required if invoice is incomplete
c. Rideshare receipts must include pickup/drop-off locations
d. Detailed breakdown of services (labor, equipment, facilities, etc.)

Any invoice submitted in support of a claimed qualifying expenditure must contain sufficient detail to enable the Cabinet to verify that 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 would be disqualified.

Pass-Through Companies

A Kentucky vendor shall not function solely as a pass-through entity for the purpose of qualifying expenditures.

Related-Party Transactions

All related party transactions must be conducted at arm's length and fully disclosed as part of the incentive application and audit submission. Disclosure of Related Party Transactions shall include:

a. Name of related party

b. Nature of the relationship

c. For non-Payroll transactions:

1. Solicit and maintain documentation of at least three (3) competitive bids from unrelated vendors within the motion picture or entertainment production's geographic region. Ensure that the amount paid does not exceed the lowest comparable bid

2. Description of the transaction

3. Total amount of the transaction

d. For payroll-related transactions you must provide:

1. Documentation demonstrating alignment with standard industry rates, such as industry or union rates from SAG-AFTRA, IATSE, or DGA

2. Description of the transaction

3. Total amount of the transaction

Only amounts meeting these requirements shall be considered qualified Kentucky expenditures.

Production Assets or Equipment

For the purchase of office, production, post-production, or effects equipment (including computers, hardware, printers, and similar items), qualified Kentucky expenditures shall be limited to the lesser of:

a. The net cost of the asset after any resale proceeds; or

b. Twenty percent (20%) of the original purchase price

For all other assets with an original purchase price exceeding $5,000, qualified expenditures shall be limited as follows:

a. If the asset is sold: The lesser of the net cost after resale or twenty percent (20%) of the original purchase price.

b. If the asset is retained, donated, or otherwise disposed of: No more than twenty percent (20%) of the original purchase price.

c. If the asset is destroyed as part of production: Up to one hundred percent (100%) of the cost may qualify, provided sufficient documentation is maintained (e.g., production reports, call sheets, photographs, or video evidence)

For costumes, props, set pieces, or other non-fixed assets purchased in Kentucky whose useful life extends beyond the Kentucky performance dates of a national tour 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 documentations.

Other Qualified Expenses

Kentucky mileage reimbursement within/throughout the Commonwealth must include:

a. Starting and ending locations within the state (name and full address)

b. Purpose of travel

c. Total miles per trip

d. Rate per mile (standard IRS milage rates)

e. Total mileage log (legible and complete)

Housing / Living expenses for non-residents or Kentucky residents must be paid to a Kentucky vendor, company, or person subject to taxation in the state. Fees, sales taxes and occupational taxes do not qualify.

Kentucky Shooting Location List

Provide an alphabetized list of all Kentucky filming locations which includes:

a. Business or residence name

b. Full physical address (no P.O. Boxes)

c. Dates of use

Fees

A non-refundable application fee is payable upon submission of the KEI Program application equal to the following:

Total Amount of Qualifying Expenditures and Qualifying Payroll Expenditures	Application Fee
< $50,000	$250
= > $50,000 and < $100,000	$500
= > $100,000	$1,000

Prior to approval, the company will be required to pay an administrative fee equal to one-half of one percent (0.5%) of the estimated amount of tax incentive sought or five hundred dollars ($500), whichever is greater. In addition, the company will pay a $2,000 legal fee, for the preparation of the tax incentive agreement.

Certified Audit

A certified audit means an audit that contains production-related expenditures, is completed within one hundred eighty (180) days of the completions of production in Kentucky, and is conducted in accordance with the office's standards established by administrative regulations.