

**154.24-090 Administrative regulations to include criteria for approval of eligible companies.**

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the following criteria:

- (1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;
- (2) The economic development project shall result in the creation by the eligible company of a minimum of fifteen (15) new full-time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth at the activation date set forth in the company's service and technology agreement as described in KRS 154.24-120. The activation date shall occur within two (2) years after the date of the final resolution authorizing the economic development project. The authority may extend the period for compliance with this subsection up to one (1) year from the activation date upon the written application of an eligible company requesting an extension;
- (3)
  - (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
    1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
    2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
  - (b) If the base hourly wage calculated in paragraph (a)1. or 2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007.
  - (c) In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wages through increased hourly wages combined with employee benefits;

- (4) If an eligible company receives approval from the authority before July 1, 2008, and locates an economic development project on property that adjoins one (1) of the five (5) regional postsecondary education centers operated and occupied in cooperation with the Kentucky Community and Technical College System, or operated and occupied under the combined efforts of the Kentucky Community and Technical College System and a public four (4) year comprehensive university, the eligible company may alternatively satisfy the requirements of subsection (3) of this section in the following manner:
  - (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created as a result of the project with total of base hourly wages plus employee benefits equal to or greater than two hundred percent (200%) of the federal minimum wage, providing that base hourly wages shall be greater than or equal to one hundred fifty percent (150%) of the federal minimum wage;
  - (b) The eligible company shall provide to the authority a statement certifying that the eligible company will seek to provide full-time or part-time employment opportunities for nontraditional students who are enrolled or seek to be enrolled at a regional postsecondary education center; and
  - (c) The director of the regional postsecondary education center shall provide to the authority a statement asserting that the eligible company is likely to provide appropriate employment opportunities for students and that the economic development project may be reasonably expected to provide meaningful opportunities for technological and infrastructural enhancements;
- (5) Written evidence that:
  - (a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and
  - (b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and
- (6) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

**Effective:** July 15, 2008

**History:** Amended 2008 Ky. Acts ch. 113, sec. 3, effective July 15, 2008. -- Amended 2007 Ky. Acts ch. 2, sec. 1, effective March 16, 2007; and ch. 69, sec. 4, effective June 26, 2007. -- Amended 2003 Ky. Acts ch. 73, sec. 1, effective March 18, 2003. -- Amended 2002 Ky. Acts ch. 338, sec. 33, effective July 15, 2002. -- Amended 1996 Ky. Acts ch. 194, sec. 37, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 450, sec. 14, effective July 15, 1994. -- Created 1992 Ky. Acts ch. 358, sec. 9, effective July 14, 1992.