

154.20-226 Application, approval, and review process.

- (1) The application, approval, and review process under KRS 154.20-220 to 154.20-229 shall be as follows.
 - (a) An eligible company with a proposed data center project may submit an application to the authority detailing the proposed data center project;
 - (b) Upon review of the application and any additional information submitted, the authority may, by resolution, give preliminary approval to an eligible company and authorize the negotiation and execution of a memorandum of agreement;
 - (c) The memorandum of agreement shall establish the estimated eligible costs for the qualified data center project;
 - (d) Upon preliminary approval:
 1. The preliminarily approved company may:
 - a. Undertake the project in accordance with the memorandum of agreement;
 - b. Begin to make the capital investment; and
 - c. Begin to purchase or lease data center equipment exempt from sales and use tax as provided in KRS 139.499;
 2. The authority shall:
 - a. Notify the department of the preliminary approval, provide the department with the information contained in the memorandum of agreement, and authorize the department to issue a certificate of exemption to the preliminarily approved company under KRS 139.499; and
 - b. Post the preliminarily approved company's name, the location of the qualified data center project, and the amount of investment costs on the cabinet's website; and
 3. The preliminarily approved company shall submit any documentation required by the authority upon request of the authority;
 - (e) If, on or before the fifth anniversary of the memorandum of agreement, the preliminarily approved company fails to meet the minimum capital investment as established in the memorandum of agreement:
 1. The authority shall notify the department;
 2. The department shall revoke the certificate of exemption; and
 3. The preliminarily approved company shall immediately pay the tax that was not paid as a result of the sales and use tax exemption upon receipt of the notice of assessment issued by the department under KRS 139.499; and
 - (f)
 1. To obtain final approval, a preliminarily approved company shall submit documentation required by the authority to confirm that the requirements established in the memorandum of agreement have been met.

2. Upon review and confirmation of the documentation, the authority may, by resolution, give final approval to the preliminarily approved company.
 3. Upon final approval, the approved company shall be finally approved for the exemption provided by KRS 139.499 for the term of the memorandum of agreement.
- (2) (a) The authority may establish procedures and standards for the review and approval of eligible companies and their data center projects through the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (b) Standards to be used by the authority in reviewing and approving an eligible company and its data center project shall include but not be limited to:
1. The creditworthiness of the eligible company;
 2. The proposed capital investment to be made; and
 3. The likelihood of the economic success of the proposed data center project.
- (3) The application shall include but not be limited to:
- (a) The name of the applicant for the proposed data center project;
 - (b) A description of the proposed data center project, including its location, the total proposed capital investment in the proposed project, and total proposed eligible costs; and
 - (c) Any other information the authority may require.

Effective: July 15, 2024

History: Created 2024 Ky. Acts ch. 166, sec. 39, effective July 15, 2024.

Legislative Research Commission Note (7/15/2024). In subsection (1)(e)3. of this statute, a reference to "the sales tax exemption" has been changed in codification to read "the sales and use tax exemption." The reviser of statutes has made this correction of a manifest clerical or typographical error under the authority of KRS 7.136.