

**154.21-035 Evaluation criteria -- Availability -- Development availability -- Zoning -- Transportation -- Utilities.**

- (1) The Kentucky Association for Economic Development shall evaluate each applicant's eligible project according to the criteria described in this section and KRS 154.21-040 for the purposes of compiling a recommendation and score for the eligible project and project site pursuant to KRS 154.21-040.
- (2) The Kentucky Association for Economic Development and the third-party independent site selection consultant shall consider the requirements in the following five (5) categories in the evaluation of proposed projects:
  - (a) Property availability as described in subsection (3) of this section;
  - (b) Property development ability as described in subsection (4) of this section;
  - (c) Zoning availability as described in subsection (5) of this section;
  - (d) Transportation accessibility as described in subsection (6) of this section; and
  - (e) Utility adequacy as described in subsection (7) of this section.
- (3) The property that the eligible project occupies or is proposed to occupy shall be available. Property shall be deemed available for the purposes of this program:
  - (a) If the property is publicly owned; or
  - (b) If the project's eligible use includes property acquisition or a due diligence study. In this situation the application shall include one (1) of the following:
    1. A legally binding letter of intent or option for the sale to an eligible grant recipient; or
    2. An agreement for the sale to an eligible recipient.
- (4) The property that the eligible project occupies or is proposed to occupy shall be developable. Property shall be deemed developable if:
  - (a) The acreage intended for development is clearly defined by either:
    1. The grant applicant; or
    2. An engineering partner during or after a site visit, if the applicant is unable to define the developable acreage; and
  - (b) The property is free of impediments to development, or a known impediment can be mitigated by a grant applicant. A property is free of impediments if it:
    1. Is located outside of the one hundred (100) year and five hundred (500) year flood zone;
    2. Is free of recognized environmental conditions;
    3. Is free of wetlands;
    4. Is free of state and federally threatened and endangered species;
    5. Is free of areas of archaeological or historical significance; and
    6. Possesses soils compatible with the grant applicant's intended development.
- (5) The property that the eligible project occupies or is proposed to occupy shall be appropriately zoned for the intended use or shall be able to be rezoned within ninety (90) calendar days. The properties surrounding the grant applicant's project site

shall be zoned so they are compatible with the grant applicant's intended development and use of the project site.

- (6) The property that the eligible project occupies or is proposed to occupy shall be directly served by a road or roads that are compatible with the intended use of the property. Additionally, if the property is marketed as rail-served, the property shall be deemed rail-served if:
  - (a) The grant applicant provides documentation from the rail provider that evinces that rail infrastructure exists and the rail provider actually provides rail service; or
  - (b) If the rail service does not exist at the time of the grant application, the grant applicant provides documentation from the rail provider that evinces that the project site will be able to be rail-served within twelve (12) months.
- (7) The property that the eligible project occupies or is proposed to occupy shall have access to adequate utilities and shall be served or able to be served by the following:
  - (a) Electric infrastructure;
  - (b) Natural gas;
  - (c) Water infrastructure and a public water system;
  - (d) Wastewater infrastructure and a public wastewater treatment plant, excluding a septic wastewater treatment system; and
  - (e) Fiber telecommunications infrastructure.

**Effective:** July 1, 2024

**History:** Amended 2024 Ky. Acts ch. 191, sec. 4, effective July 1, 2024. -- Amended 2023 Ky. Acts ch. 12, sec. 5, effective June 29, 2023. -- Created 2022 Ky. Acts ch. 176, sec. 6, effective July 14, 2022.