Qualified Data Center Program Process Requirements

Updated: 10/29/2026

TEAM KENTUCKY
CABINET FOR ECONOMIC DEVELOPMENT

New Kentucky Home

1. Introduction

This document outlines the current requirements governing Kentucky's Qualified Data Center Program and provides additional policy recommendations for consideration following the issuance of Executive Order 2026-494. It is intended to establish a clear understanding of the Program's existing framework and identify potential policy changes to align the Program with the Commonwealth's economic development objectives.

2. Application Phase

Prerequisite for Project Consideration:

In order for an Application to the Qualified Data Center Program to be considered by the Kentucky Economic Development Authority ("KEDFA"), the Application must be complete, including all required information and documentation outlined below, and submitted no later than thirty (30) calendar days prior to the next scheduled meeting to ensure staff adequate time to process and review. The completed Application must be signed and fully identify the Project.

Application Fees:

Non-refundable application fee payable to KEDFA for $1,000.

Company Letter:

- Brief history of the business & description of the project, including proposed plans for securing an end user(s), if applicable. Consideration should be given to the community's role in selection or early notification of the end user(s).
- Company ownership structure. If multiple entities are involved, provide names, ownership structure of those entities and relationship to project (eg.) Owner of real estate, landlord/tenant, operator with an organizational chart.
- Outlined full scope and investment commitment for the Project (land, lease, equipment, startup costs, building improvements, etc.).
- Timeline outlining when committed costs for the Project are expected to be incurred.
- Financial statement for the most recent fiscal year-end.
- A sources and uses of cash schedule to define the capital to be spent on the project deemed acceptable in the KCED's discretion. Identification of sufficient capital to fully fund proposed Project.
- A description of the Project's anticipated infrastructure needs and commitments, including the responsible funding parties, expected completion timelines, and potential regional economic benefits, as well as the Project's anticipated water and wastewater capacity requirements at initial operations and full buildout and, if additional investments are necessary, the proposed financing arrangements and the Applicant's financial obligations.

** Investments or purchases made prior to receipt of Certificate of Exemption from DOR will remain subject to sales and use tax.

Community Support Letters:

A letter endorsing the project from the appropriate local elected official (Mayor and County Judge Executive). Letter may include local contingencies. Include the date and a copy of minutes or passed resolutions adopted by the government entity by which the elected official signing the letter was granted approval to support the project.

Site Plan with Locals:

- Any plans for setbacks, landscaping and berming to align with local planning and zoning standards, and any ecological measures taken to minimize impact. Share if a special use permit or other land use plans are being required specifically for this project.
- Terms must include a notification to Cabinet if there are material changes.

Local and State Tax Contribution Letter:

- Must contain a detailed explanation of the Applicant's anticipated tax liabilities associated with the Project in the absence of any state or local tax incentives, including industrial revenue bonds, the Qualifying Data Center program, and any other applicable federal, state, or local incentive programs negotiated in connection with the Project.
- Must also contain an affirmative statement as to whether the applicant intends to seek further incentives under any other state or local incentive or tax relief process pursuant to EO 2026-494.

Economic Impact Study:

- An independent economic impact study demonstrating that the proposed Project will generate measurable economic benefits to the Commonwealth, including new investment, job creation, increased payroll, and broader regional economic activity, sufficient to justify the requested incentives and establish that the project will provide a meaningful net economic benefit to Kentucky.
- Full identification of taxes generated, employment numbers and projected wages, and incorporating what taxes will be foregone in the event all federal, state, and local incentives being sought by the Project are ultimately approved.

Utility and Public Protection Support Letters:

- The electric utility infrastructure commitments, and timeframe for completing and providing those. Identification of infrastructure needs associated with the project, who will fund them and potential benefits to the regional economy. Company shall provide, with sign off from utility provider, an explanation how non-data center rate payers will be impacted with the project, and what steps, including filings with the Public Service Commission, or an equivalent body for non-PSC jurisdictions, the utility is taking to avoid added costs for non-data center rate payers as part of the project. Water, Sewer and Public Protection letters documenting their engagement and ability to serve the Project, as well as maintaining reasonable capacity for expected residential, commercial and industrial growth. Identification of anticipated impact on available water and wastewater capacity that will be committed at initial operations and upon completion of the Project.
- In every case, if additional investments are required, provide information regarding how they will be financed and the financial obligation of the Applicant.

A "will-serve" letter from all relevant utilities. These letters should:

- Be issued on official utility letterhead;
- Confirm technical and operational feasibility, and address whether an interconnection agreement is in place.
- Be signed by the utility CEO or equivalent executive leadership.

- Confirm available capacity for the project and outline available capacity for growth.
- Certify the anticipated utility demand and its impact on existing residential, commercial and industrial consumers.
- Quantify the investment required for the utility to serve the data processing center, and whether these costs will have any short and/or long-term impact on utility rates for existing customers
- Include plans to ensure continued availability, reliability, and affordability of service for all customers, including room for future residential and business growth.

If rates are expected to increase as a result of costs to serve the data center, an explanation is required on the level of potential impact on ratepayers. Said explanation must be shared with KCED and the local Fiscal Court and City Commission. If power generation is required, a plan for how the project will be funded should be included. Information should be verified from technical and operational feasibility studies.

Submission to EEC:

- Pursuant to EO 2026-494, applicants must submit an Energy Plan to the Energy and Environment Cabinet (EEC) demonstrating how the project will protect ratepayers, meet its energy needs and avoid imposing rate increases due to data center costs on non-data center utility ratepayers, among any other items required by EEC pursuant to the Executive Order.

Community Benefits Plan:

- Description of jobs to be created by the project (wages with and without benefits, FT/PT, on site or remote, contractor or permanent).
- List of any non-tax benefits agreed upon in support of the community, such as job training programs, support of public safety, up front financial support and or process to be active in support of local charitable organizations.
- An overview of financial benefits expected to be generated from the project, (sales or property tax revenue, school district PILOTs, etc.)
- Overview of any additional state or local incentives that are being requested or have been secured to support the project.
- Plan to protect the community's investment if project jobs and tax revenues do not materialize.
- Decommissioning Plan if the facility ceases operations prematurely, outlining commitments in place for demolition or repurposing of the facility.
- A plan to engage and inform residents and elected officials throughout the project.
  - Must outline commitments to host regular public meetings to inform residents and elected officials;
  - Verification that the company has met with local special districts (including emergency services) to ensure they can effectively serve the project.
- Explanation as to how the Project will protect any community investment into the Project if projected jobs or tax revenues do not materialize.
- Identification of infrastructure needs associated with the project, who will fund them and potential benefits to the regional economy.
- Identification of anticipated impact on available water and wastewater capacity that will be committed at initial operations and upon completion of the Project. If additional investments are required, please provide information regarding how they will be financed and the financial obligation of the data center.

Community Engagement Plan:

- Provide communication plan that includes the committed number of public meetings, dates, and locations, and a designated publication process for providing notice of the public meetings.

3. Requirements Placed in KEDFA Resolution

The KEDFA Resolution must identify the amount of investment identified as the scope of the Project, the full Term of the MOA, and the material terms regarding the incentive – i.e., the total amount of sales tax that may be exempted under the Certificate.

Language within the Resolution will note that preapproval is conditional and not a guarantee of incentives. The Resolution will set forth a 180-day period to achieve the items listed in the Post-Resolution Phase, below.

There will likewise be contingency language identifying that, if legislation changes, there is no guarantee of continued benefits.

4. Post-KEDFA Resolution Phase – Completion of Underlying Agreements and Entry into the MOA

Executed Community Benefits Agreement:

Resolution from Fiscal Court and/or City Council approving terms and conditions of CBA and authorizing executive to enter into same.

- Agreement must include:
  - Notification requirements on amendments or modifications thereto, and any alleged defaults.
  - Continuing benefits provided to community throughout the term, and company's continuing commitment to any payments in lieu of taxes.
  - All financial commitments, and timeframe for completing and providing those.
  - All infrastructure commitments, and timeframe for completing and providing those.
  - Provisions regarding a Decommissioning Plan.
  - How CBA amendments will be addressed, and notification to the Cabinet in the event of any proposed amendments.

- Fully executed Agreement will be made part of MOA through exhibits.

Site Plan Agreement:

- Submit any applicable resolution and corresponding documentation identifying the Project as being properly zoned. This may be separate or made part of the Community Benefits Agreement.

Utility Agreements:

- Provide all signed agreements concerning any agreements on transmission, distribution/substation service, fuel infrastructure, and other terms previously identified in the Application Phase.
  - terms must include provision notifying the Cabinet in the event of a material change to the Agreement.

PSC Tariff Filing or Equivalent

- Provide confirmation a tariff case has been filed with the PSC, or PSC equivalent in non-PSC jurisdictions.

EEC Confirmation of Energy Plan Completeness with No Further Inquiries:

- Provide confirmation from EEC that all necessary environmental permits have been sought, by having engaged with EEC to obtain a permit or application completeness letter and there are no known outstanding compliance issues.
- Provide confirmation from EEC that the Energy Plan submitted is completed and has no further inquiries.

End User Agreement:

- Approved Company must provide signed commitment from the End User demonstrating it has agreed to sign on to all agreements in place as preconditions to entry into MOA.

Pay legal fees:

- Must pay fees associated with drafting and executing the Resolution and the MOA.
- Pay administrative fees:
- Administrative fee required to be paid prior to execution of the MOA is $25,000 for a Project Organizer and $70,000 for an Owner, Operator or Colocation Tenant.

5. MOA Phase

CED enters into Memorandum of Agreement incorporating all of the prior requirements into the final MOA. Essential terms to be identified therein will be:

- Setting minimum capital investment.
- Setting full term, or ability to extend.
- Identifying what will be considered the full scope of Project based upon the KEDFA resolution and subsequent items submitted in the Post-KEDFA Resolution Phase.
- Identifying remedies in the event of default on Agreements incorporated as Exhibits
- Identifying revocation of Certificate.
- Identifying circumstances leading to claw-back of sales tax exemption.
- Requiring annual reporting to the Kentucky Department of Revenue (“DOR”), including the annual amount of exemption utilized, pursuant to DOR’s standards.
- Conditioning issuance of Certificate of Exemption upon a Final Order on the PSC tariff, or equivalent body for non-PSC jurisdictions, being issued, and compliance with other terms in agreement.
- Requiring continued compliance with EO 2026-494.

Exhibits to MOA will include:

- Final Signed CBA
- Utility Agreements
- Completed EEC Plan
- End User Agreement

This phase may be considered the “Universal Closing” phase, executing and making official all commitments.