

GUIDELINES & APPLICATION



Promoting Employment Across Kansas (PEAK)

Program Overview

The creation of the Promoting Employment Across Kansas (PEAK) Act, K.S.A. 2013 Supp. 74-50,210 through 74-50,219, was created by the 2009 Kansas Legislature. The 2010 and 2011 Legislative Sessions passed subsequent changes to the Act to broaden the eligibility criteria to increase the companies that can apply. PEAK is intended to encourage economic development in Kansas by incenting companies to relocate, locate, expand or retain a business facility/ operations and related jobs. The Secretary of Commerce (the Secretary) has discretion to approve applications of qualified companies and determine the benefit period. PEAK benefits are typically a fixed amount for up to a 10-year benefit term based upon the number of PEAK Jobs/Employees to be hired, their wage levels and other economic impact variables of a project. Applicant benefits for retaining or expanding existing Kansas operations are limited by overall statutory caps. During the benefit period, participating PEAK companies may retain or be refunded 95 percent (95%) of the payroll withholding tax of PEAK-Eligible Jobs/Employees that pay at or above the county median wage where the qualified function(s) and jobs will be located.

PEAK requires the qualified company to create within a two-year period, five new jobs in non-metropolitan counties or ten (10) new jobs in the metropolitan counties of Shawnee, Douglas, Wyandotte, Johnson, Leavenworth and Sedgwick. The qualified company must also pay wages to the PEAK Jobs/Employees, that when aggregated, meet or exceed the county median wage (CMW) or North American Industry Classification System (NAICS) average wage for their industry. Qualified applicants include for-profit companies in eligible NAICS codes and not-for-profit headquarters facilities. As of July 1, 2014, companies in the bioscience industry that meet certain conditions may be considered for PEAK. Eligible companies must make available to its full-time employees "adequate" health insurance coverage (see Definitions) and be paying at least 50 percent of the premium.

Eligibility Requirements

Eligible applicants:

- Must be relocating, locating, expanding or retaining a business facility and function(s) in Kansas resulting in new or retained jobs.
- Shall not have the NAICS assignment of:
 - Industry group 7132 (Gambling Industries) or 8131 (Religious Organizations);
 - Sectors 44 & 45 (Retail Trade), 61 (Educational Services), 92 (Public Administration) or 221 (Utilities including water & sewer services);
 - Subsector 722 (Food Services and Drinking Places);
- Must be a headquarters or administrative/back office serving an international or multi-state region if having an ineligible NAICS assignment above.
- Must apply as a regional, national or international headquarters if applying as a not-for-profit corporation.

- Shall not have a bioscience NAICS assignment of 325193, 325199, 325311, 325320, 325411, 325412, 325413, 325414, 334510, 334516, 334517, 339111, 339112, 339113, 339115, 541380, 541710, 541940, 621511, 621512, or 622110 (see KSA 2008 Supp. 74-99b33 and amendments thereto).
- Shall not be delinquent in the payment of taxes to any federal, state and/or local taxing entities.
- Shall not be under the protection of the federal bankruptcy code or publicly announced filing for protection.
- Must make available to full-time employees adequate health insurance coverage including hospital care, physician care, mental health care, substance abuse treatment, prenatal and postnatal care, and prescription drugs.
- Must pay at least 50 percent (50%) of the premium for such adequate health insurance coverage.
- Must have an aggregate median wage for PEAK Jobs of at least 100 percent (100%) of the county median wage (see Attachment A – updated annually in July/August) or the alternative NAICS industry average wage as published by the Kansas Department of Commerce at the time of application for the county in which the business facility and function(s) will be located. If the median wage of PEAK Jobs does not qualify, the use of an average wage can be considered, but benefits will be limited in such instances.
- Must create a minimum of five PEAK Jobs in a non-metropolitan (non-metro) county or 10 PEAK Jobs in a designated metropolitan (metro) county within two years of application to receive “Basic” program benefits.
- Must create a minimum of 100 jobs within two years of application, regardless of location, to receive “High Impact” program benefits.
- Must be approved by the Secretary of Commerce to participate in the program.

Companies must work with a Commerce regional project manager to apply to the PEAK program. Applications are accepted throughout the year and must be received PRIOR to hiring PEAK Jobs/Employees in Kansas and within 180 days of announcing to Commerce their decision to relocate, newly locate, expand or retain jobs in Kansas.

Qualified companies approved by the Secretary to participate must:

- Enter into an agreement with the Department of Commerce (Commerce) to retain or be refunded 95 percent (95%) of the payroll taxes for PEAK-Eligible Jobs that are paid wages at or above the county median wage or NAICS industry average wage for the county in which the qualified business facility and function(s) will be located.
- Provide required documentation to support eligibility in the program and timely file quarterly and annual reports.
- Agree to provide Commerce and the Kansas Department of Revenue (Revenue) access to records for inspection concerning employment and employee wages of PEAK Jobs.

Payroll of PEAK-Eligible Jobs may not be considered when computing the research and development tax credit (K.S.A. 79-32, 182b). Also, PEAK-Eligible Employees who apply for the Rural Opportunity Zones (ROZs) income tax credit/waiver program would not be eligible to have their withholding taxes retained by or refunded to the qualified company for the PEAK benefit.

1. At the time of application, the qualified applicant shall use a (company) PEAK Jobs’ median wage to meet the county median or NAICS wage standard. The median wage will be used by the company for the duration of the agreement for eligibility, tracking and reporting purposes. Additionally, the qualified applicant shall elect to: 1) retain the PEAK benefit on an “as you go” basis; or 2) remit 100 percent of PEAK-Eligible Jobs/Employees’ withholding taxes to Revenue to receive a quarterly refund for a 95 percent benefit. The process elected will be for the duration of the PEAK agreement. Companies electing the refund process will be assessed a \$20 annual fee for each PEAK-Eligible Job.

2. The Secretary of Commerce is allowed to use discretion in determining the Benefit Period based on information and project parameters provided to Commerce either prior to or during the application stage. Below, are the maximum statutory benefit terms for different wage levels. However, the Secretary will typically determine that a company should receive a benefit term less than the maximum available. Qualified companies using the county median wage standard and creating a minimum of five jobs in non-metro counties or 10 jobs in metro counties within two years of the agreement date may be approved to retain/receive a refund of 95 percent of payroll withholding for PEAK-Eligible Jobs as follows:

- Up to five years, if the company's annual PEAK Jobs' median wage is at least 100 percent of the county median wage or alternative NAICS wage standard in each of the five years from the effective date;
- Up to six years, if the company's annual PEAK Jobs' median wage is at least 110 percent of the county median wage or alternative NAICS wage standard in each of the six years from the effective date;
- Up to seven years, if the company's annual PEAK Jobs' median wage is at least 120 percent of the county median wage or alternative NAICS wage standard in each of the seven years and terminating after the seventh year from the effective date.

At the Secretary's discretion, qualified companies using the county median wage standard and creating a minimum of 100 jobs, regardless of location, within two years of the agreement date may be considered for High Impact maximum benefit terms as follows:

- Up to seven years, if the company's annual PEAK Jobs' median wage is at least 100 percent of the county median wage or alternative NAICS wage standard in each of the seven years from the effective date;
- Up to eight years, if the company's annual PEAK Jobs' median wage is at least 110 percent of the county median wage or alternative NAICS wage standard in each of the eight years from the effective date;
- Up to nine years, if the company's annual PEAK Jobs' median wage is at least 120 percent of the county median wage or alternative NAICS wage standard in each of the nine years from the effective date;
- Up to 10 years, if the company's annual PEAK Jobs' median wage is at least 140 percent of the county median wage or alternative NAICS wage standard in each of the ten years and terminating after the tenth year from the effective date.

3. Companies using a median wage equal to or greater than the regional NAICS average wage standard may be approved, at the Secretary's discretion, to retain/receive a refund of 95 percent of payroll taxes for PEAK-Eligible Jobs for a period of up to five years. The Secretary may also utilize PEAK benefits to retain jobs for up to five years.

Application Process & Requirements

1. A company works with a Commerce regional project manager and submits a PEAK application to Commerce with required supporting documents prior to relocating or hiring new PEAK Jobs/Employees. Commerce reviews the application and supporting documents and, if approved by the Secretary, drafts an agreement for the company's review and signature. The company returns a signed agreement to the PEAK Program Manager for full execution by the Secretary. The company has two years from the PEAK Agreement Date to relocate or hire the minimum required PEAK jobs of five (non-metro counties) or 10 (metro counties). Additionally, to participate as a High Impact project, companies must relocate or hire 100 jobs within two years, regardless of location. Note: Withholdings cannot be retained or refunded until:

- an Agreement is executed by the company and Commerce;
- the company has a PEAK account established with Revenue; and
- an "effective date" to commence the benefit period is established in writing by the company within four calendar quarters of the date of the agreement, on the 1st day of a calendar quarter, and is approved by Commerce.

2. Commerce returns one fully executed agreement to the newly qualified company and verifies to Revenue (by providing copies of the agreement and application):

- that the company is eligible to receive PEAK benefits;
 - the number of PEAK Jobs to be hired;
 - the amount of wages to be paid employees of PEAK Jobs;
 - the choice of benefit for materially participating owner(s); and
 - the election of how to receive PEAK benefits ([retain “as you go” or refund](#))
3. Company is contacted by Revenue to establish a PEAK account and the process to report and remit Kansas payroll withholding taxes to Revenue.
 4. Ninety-five percent (95%) of withholding taxes may be retained or refunded as of the Effective Date by the qualified company for PEAK-Eligible Jobs. Payroll taxes for wages of PEAK jobs that do not meet the county median (or alternative NAICS) wage and any other jobs that do not meet the program criteria, must be remitted as required to Revenue. This may include any PEAK Job whose wages are uncertain to meet the county median (or alternative NAICS) wage requirement due to bonuses or commissions. If at the end of the year it is determined that such PEAK Job’s wages in fact met the county median (or alternative NAICS) wage requirement, payroll withholding taxes remitted during the year will be reconciled by Revenue. Visit Revenue’s web site at <http://www.ksrevenue.org/pdf/whtaxrates2014.pdf> or use the PEAK Payroll Withholding Tax Rate Table on our web site at www.kansascommerce.com/PEAK to calculate estimated withholding taxes.
 5. The company is required to report quarterly (see template link at www.kansascommerce.com/PEAK) to Commerce starting on the effective date and due within 45 days from the end of each calendar quarter for the duration of the agreement. Companies will also submit to Commerce annual reports due within 45 days of each subsequent effective date for the duration of the agreement.
 - a. Quarterly reports require a listing of all PEAK Jobs including: position # or last 4 of SSN, employee name, job title, the date relocated or hired in Kansas, termination date (if applicable), notation of PEAK-Eligibility, wages per hour, total hours worked in quarter, weeks worked in quarter, hours worked per week, gross Kansas wages, total payroll withholding for each employee, the amount of payroll withholding taxes retained or to be refunded for each PEAK Eligible employee, the amount of payroll withholding paid for each PEAK employee that is not PEAK Eligible, the amount of payroll withholding paid for each PEAK Eligible employee, other median and aggregate totals for the quarter as required, base employment (if applicable) and any other information deemed necessary by Commerce. To access the Commerce quarterly report template [click here](#). Along with the PEAK quarterly report, the company is required to provide a copy of the KDOL Quarterly Wage Report & Unemployment Tax Return (Form K-CNS 100).
 - b. Annual reports will be required each benefit year for the term of the agreement summarizing the quarterly report(s) data, verifying the annual PEAK Jobs’ median wage for the period and certifying satisfaction of all program eligibility criteria. Along with the PEAK annual report, the company is also required to include a copy of the PEAK account annual Revenue Withholding Tax Deposit Report (Form KW-3) for the most recent tax year, Tax Clearance Certificate, evidence that “adequate” health insurance is provided and the company pays at least 50% of the health plan premium.
 6. The annual PEAK Jobs’ median wage will be used to compare to the county median (or alternative NAICS) wage to determine continued eligibility and length of the benefit period. The company must meet or exceed the county median (or alternative NAICS) wage and satisfy program requirements to remain in the program.
 - a. The annual PEAK Jobs’ median wage must be at least 100 percent (100%) of the county median (or alternative NAICS) wage in each year during the term of the agreement to remain in the program. If the annual PEAK Jobs’ median wage falls below 100 percent (100%) of the county median (or alternative NAICS) wage, the company will be terminated from the program and be required to remit to the State, payroll taxes retained by or refunded to the company.
 - b. If the minimum number of jobs as required by the program is not reached within two years from the agreement date or if the minimum number of jobs is not maintained during the term of the agreement, the company will be terminated from the program and be required to remit to the State, payroll taxes retained by or refunded to the company.

Please contact your in-state retention and expansion regional project manager or recruitment project manager, <http://www.kansascommerce.com/index.aspx?NID=9> or call 785.296.5298, to obtain free PEAK application technical assistance or more information on Commerce programs.

After working with a regional Commerce project manager, please mail the application and supporting documents to:

*PEAK Program Manager
Business & Community Development Division
Kansas Department of Commerce
1000 SW Jackson Street, Ste 100
Topeka, KS 66612-1354
dprice@kansascommerce.com*

DEFINITIONS

Promoting Employment Across Kansas (PEAK)



“Adequate” Health Plan Coverage: The company will offer adequate health insurance coverage within one hundred eighty (180) days from the date of employment for full-time employees. Minimum coverage will include hospital care, physician care, mental health care, substance abuse treatment, prenatal and postnatal care, and prescription drugs.

Administrative/Back Office: A qualified administrative/back office facility is operated by a business and provides ancillary support services to that business, but is not directly engaged in the business’s primary function. For the PEAK program, the administrative/back office will serve multiple company worksites either internationally or nationally/regionally within the United States. Minimal outside revenue is generated from a qualified administrative/back office and the operation is capable of being geographically located anywhere, e.g. an insurance claims processing office.

Agreement Date: The date Commerce receives your PEAK application and which appears in the upper right-hand corner of the PEAK agreement. PEAK jobs shall be hired on or after this date. The agreement date shall also serve as the date the company entered into the PEAK agreement. The company has two years from this date to hire the minimum required jobs for the program. Also, the company has one year from this date to determine in writing an Effective Date.

Base Employment: If the applicant company is relocating, locating or expanding a qualified function at a Kansas facility that has or will have existing Kansas jobs/employees, a facility base employment will need to be established. The base employment will be the greater of: 1) the number of existing jobs/employees located at the Kansas facility on the Agreement Date; or 2) the average number of existing jobs/employees located at the Kansas facility during the twelve-month period prior to the Agreement Date.

Benefit Period: The benefit period is approved by the Secretary of Commerce and is the timeframe during which the company will be allowed to retain or be refunded withholding taxes for PEAK-Eligible Jobs. The benefit period commences on the effective date with annual satisfaction of program criteria required.

Benefit Year: Means each four consecutive calendar quarters commencing on the Effective Date for the term of this Agreement.

County Median Wage (CMW): Annually, this wage data is compiled by the KDOL from information obtained by the federal Bureau of Labor Statistics. The county median wage table is updated annually in July/August. Once an agreement is signed, this wage standard remains static over the term of the Agreement.

Effective Date: The effective date commences the PEAK benefit period and quarterly reporting. The effective date is designated in writing by the company to Commerce; and is within one year from the PEAK agreement date and commencing on the 1st day of a calendar quarter. Effective Dates must be approved by Commerce.

Headquarters: A qualified headquarters is where principal officers of the business are housed and from which direction, management and administrative support for transactions are provided. For the PEAK program, the headquarters will serve multiple company worksites either internationally or nationally/regionally within the United States. Minimal outside revenue is generated from a qualified headquarters and the facility is capable of being geographically located anywhere.

Kansas Department of Labor K-CNS 100: The majority of Kansas companies that have employees are required per K.S.A. 44-710 to report wage data to the KDOL on a quarterly basis for unemployment insurance purposes. The K-CNS 100 form is used to report this data. For companies having multiple Kansas worksites reporting on one K-CNS 100, corresponding federal Multiple Worksite Report(s), Form BLS 3020, may also be required.

Kansas Hire or Start Date: The initial date that the PEAK Job/Employee commences work at the Kansas facility.

Materially Participating: A taxpayer materially participates in business operations if he or she works on a regular, continuous and substantial basis. See Attachment F(1) of this application or visit the IRS web site to see if an owner meets the criteria of material participation in the business, <http://www.irs.gov/businesses/small/article/0,,id=146837,00.html>.

PEAK-Eligible Jobs/Employees: Are qualified PEAK jobs paying the employee at least the county median wage at the time of the Effective Date or upon hire if the Effective Date has passed for the county in which the PEAK business facility is located. The qualified company may retain/receive a refund of 95 percent (95%) of the PEAK-Eligible Job/Employee's payroll withholding taxes. Employees who participate in the Rural Opportunity Zones (ROZs) Income Tax Credit/Waiver program may be counted as a PEAK Job, but would not be eligible to have their withholding taxes retained by or refunded to the company for the PEAK benefit.

PEAK Jobs/Employees: The qualified jobs performing the relocated, newly located, expanded or retained qualified business function(s) in Kansas hired on or after the date Commerce receives the PEAK application. PEAK Jobs are used to determine if the company initially meets minimum job and median wage requirements of the program. PEAK Jobs and wages are also used to determine an annual PEAK Jobs' median wage affecting the PEAK benefit period. To qualify as a PEAK Job, employees must be at least part-time working 20 hours per week year-round and be subject to Kansas withholding tax.

PEAK Jobs' Median Wage: The median wage of PEAK Jobs is the middle wage (value) which divides the PEAK Jobs into two equal groups, half having wages above the median wage and half having wages below the median wage. The PEAK Jobs' median wage as reported on Attachment B is used to compare to the county median wage or regional NAICS industry average wage, determining initial eligibility into the PEAK program. Annually the PEAK Jobs' median wage, as reported in quarterly and annual reports will be averaged to determine continued program eligibility and related benefit period.

Third-Party Employer: An entity which provides employees or performs services for a qualified company on a contractual basis (often referred to as a "Professional Employer Organization" or PEO.) The third-party may contract with the applicant company to perform services whereby the third-party serves as the legal employer of the PEAK employees and such services are performed in Kansas. When contracting with a third-party, the third-party shall remit payments equal to the amount of Kansas payroll withholding taxes that the qualified company is eligible to retain (or be refunded) to the qualified company and report such amount to Revenue as required. The third-party employer will be required to enter into a PEAK agreement along with the qualified company and Commerce.

Wages: All compensation for services including commissions, bonuses, back pay, and the cash value of remuneration as defined in K.S.A. 79-3295 and amendments thereto.

APPLICATION INSTRUCTIONS

Promoting Employment Across Kansas (PEAK)



Questions 1-4. Provide the legal name of the company you wish to be named on the PEAK Agreement and other data as requested.

Questions 5-9. Provide the legal name of the new or existing Kansas company, street address and other data as requested. If the applicant company is a “pass-through” entity on **Question 9**, complete Attachment F & F(1) if applicable and submit with application.

Question 10. Please check the appropriate box and provide any additional information as requested.

Question 11. Describe the new, relocating or expanding operation(s) & function(s) at the facility in Kansas.

Question 12. Describe the company’s overall products or services, type of customer and the customers’ geographic location, e.g. nationwide, regional/multi-state, etc.

Question 13. Provide the date that the first jobs will be relocated or hired in Kansas.

Question 14. Provide the projected effective date your company would like to begin retaining or refunded payroll taxes for PEAK-Eligible Jobs beginning on the first day of a calendar quarter.

Question 15. Check one box to elect to a) retain “as you go” the 95% of PEAK-Eligible payroll taxes; or b) to remit 100% to KDOR and receive a quarterly refund.

Question 16. Please check the appropriate box. If “yes,” attach a copy of the agreement between the company and the third-party employer.

Question 17. Please check the box of the type of PEAK wage standard that the company is using to qualify.

Question 18. Provide the total number of PEAK Jobs to be relocated, created and/or retained in Kansas each year for five years. a) Of the total number of PEAK Jobs, provide how many will be PEAK-Eligible. **Complete Attachment B and return with your application submission.**

Question 19. Provide the PEAK Jobs’ (for all five years) aggregate median wage (**from Attachment B**) that will be used to compare to the PEAK wage standard.

Question 20. Provide the total annual payroll for all PEAK Jobs over five years (**from Attachment B**).

Question 21. Provide the base employment for the existing Kansas jobs/employees that will be located with the qualified function(s) and attach your last four KDOL K-CNS 100 quarterly reports to verify your response.

Question 22. Companies may apply for the Secretary’s approval as a headquarters or administrative/back office operation if they have a non-qualifying NAICS or a headquarters if a not-for-profit. Check the appropriate box and complete Attachment C or D.

Question 23. Check the appropriate box(es) and provide a copy of the company’s health plan benefits summary documenting proof of coverage for physician care, basic hospital and procedures care, pre- and post-natal care, mental health care, substance abuse treatment and prescription drugs.

Question 24. Check the appropriate box and provide written verification.

Question 25. Check the appropriate box.

Question 26. Check the appropriate box and attach a copy of your Tax Clearance Certificate (**click here**).

Question 27. Provide the requested data if using a payroll service company.

Question 28. For retention projects only, answer as requested.

Question 29. Please have an authorized company officer sign (**required**), date and return a copy of Attachment E.

Return your application prior to relocating or hiring employees of qualified PEAK Jobs in Kansas. Return your application documents to:

*PEAK Program Manager
Business & Community Development Division
Kansas Department of Commerce
1000 SW Jackson Street, Suite 100
Topeka, KS 66612-1354
dprice@kansascommerce.com*

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK)

Application



CONTRACT DATA

1. Company
Legal Name: _____
Address: _____
EIN: _____ NAICS: _____
2. Contact
Name & Title: _____
3. Phone: _____
Email: _____
Fax: _____
4. Parent Company
Legal Name: _____
Address: _____
EIN: _____
- Contact
Name & Title: _____
Phone: _____
Email: _____

KANSAS FACILITY DATA

5. Kansas Company
Legal Name: _____
Address: _____
EIN: _____ NAICS: _____
County: _____
6. Kansas Company Contact
Name & Title: _____
Phone: _____
Email: _____
- 6a. Additional Contact (company or consultant)
Name & Title: _____
Company: _____
Phone: _____
Email: _____
7. Reporting Contact
Name & Title: _____
Company: _____
Phone: _____ Email: _____
8. Company Structure (check one): For-Profit Not-for-Profit
9. Type of Ownership (check one):
 C Corp S Corp Sole Corp LLC LLP GP LP Other _____
(If you have checked a "pass-through" type of ownership, please complete Attachment F)
10. The applicant is: (check one box only)
 Relocating operations from outside the state (Provide out-of-state company name, address & date operations will cease)
Company Name: _____
Address: _____
Date: (operations cease) _____
 Locating new operations in the state as a start-up out-of-state expansion other _____
 Expanding operations of an existing Kansas company
 Retaining existing Kansas jobs (See required attestation in Questions 29 & 30 of this application)
11. Describe the operation(s) & function(s) that will be conducted at the Kansas facility:

12. Describe the company's overall products or services, customer type & location: _____
13. When will the first PEAK Job be relocated or hired in Kansas? _____
14. Projected "effective date" to begin receiving PEAK payroll W/H tax benefits? _____
15. Does the applicant elect to (check one): retain PEAK-Eligible Employees' withholdings or receive a quarterly refund
16. Will you be using a third-party employer? Yes No (Please attach a copy of the agreement)
17. What wage standard is being used to qualify? County median wage _____ or NAICS Wage _____
18. New or retained PEAK Jobs/year:
 Yr1 _____ Yr2 _____ Yr3 _____ Yr4 _____ Yr5 _____ Total # of PEAK jobs over 5 years _____
- a) How many of the total PEAK Jobs are "PEAK-eligible?" (Answer must match Attachment B) _____
19. PEAK Jobs' median wage? (Answer must match Attachment B) _____
20. Total Annual Payroll (Answer must match Attachment B) _____
21. If the qualifying function(s) will be locating with existing Kansas jobs, what is the existing base employment? _____
 (Attach copies of your last four KDOL Quarterly Wage Report & Unemployment Tax Return, Form K-CNS100)
22. If the applicant is a not-for-profit or has an ineligible NAICS, please specify if you are applying as a:
 Headquarters or Administrative/Back Office (Complete Attachment C or D) or Not Applicable
23. Will an "adequate" health care plan be offered to full-time employees? Yes or No
 Physician Care Basic Hospital & Procedures Care Pre/Post-Natal Care
 Mental Health Care Substance Abuse Treatment Prescription Drugs
 (Attach summary of health plan benefits documenting proof of the six areas of required coverage)
24. If so, will the company pay at least 50% of the premium for full-time employees? Yes or No
 (Provide documentation demonstrating applicant pays at least 50% of premium)
25. Has the company filed for or does it intend to file for protection under the bankruptcy code? Yes or No
26. Is the company currently or ever been delinquent on any federal, state or local taxes? Yes or No
 (Attach copy of Kansas Tax Clearance Certificate. A Kansas Tax Clearance certificate may be obtained from Revenue by completing an online request at <https://www.kdor.org/taxclearance/self/default.aspx>)
27. If your withholding tax reports are prepared by a payroll service company, please complete the following:
 Payroll Service Name: _____ EIN: _____
 Address: _____
 Phone: _____
28. If benefits are to retain existing Kansas jobs, please provide complete factual detail establishing the company's competitive alternatives in other states and verifying the company's relocation outside Kansas is imminent.
29. I have reviewed this application and attachments and certify that I am an authorized officer of the applicant company and that all information contained herein is true and accurate and agree to allow representatives of Commerce and/or Revenue access to the property and applicable records as may be necessary to administer this program. Further, if the company is applying for PEAK Retention benefits, I attest that the company had competitive alternatives that it was seriously considering and that the company's relocation outside the State is imminent. (Please return Attachment E, Ownership Disclosure & Signature Statement, with your PEAK application.)
- Company Officer/Title: _____
 (Applicant signature required) (print name & title) (signature) (date)

PEAK Median Wage By County - Attachment A
 Kansas Wage Survey, 2014 Edition*

County Name	Hourly Wage	Annual Wage	County Name	Hourly Wage	Annual Wage	County Name	Hourly Wage	Annual Wage
Allen	\$14.27	\$29,691	Hamilton	\$12.27	\$25,521	Pottawatomie	\$14.38	\$29,900
Anderson	\$16.42	\$34,160	Harper	\$13.88	\$28,872	Pratt	\$16.00	\$33,273
Atchison	\$14.51	\$30,175	Harvey	\$15.84	\$32,957	Rawlins	\$11.29	\$23,485
Barber	\$13.73	\$28,554	Haskell	\$14.34	\$29,837	Reno	\$13.27	\$27,609
Barton	\$14.76	\$30,691	Hodgeman	\$12.97	\$26,973	Republic	\$14.53	\$30,226
Bourbon	\$13.64	\$28,363	Jackson	\$13.26	\$27,576	Rice	\$10.45	\$21,745
Brown	\$12.56	\$26,121	Jefferson	\$15.75	\$32,756	Riley	\$14.00	\$29,121
Butler	\$13.90	\$28,919	Jewell	\$11.36	\$23,622	Rooks	\$13.94	\$28,989
Chase	\$13.82	\$28,747	Johnson	\$17.64	\$36,697	Rush	\$13.56	\$28,210
Chautauqua	\$12.79	\$26,607	Kearny	\$15.32	\$31,865	Russell	\$12.40	\$25,794
Cherokee	\$14.21	\$29,565	Kingman	\$16.41	\$34,126	Saline	\$14.09	\$29,317
Cheyenne	\$12.26	\$25,500	Kiowa	\$12.57	\$26,139	Scott	\$12.58	\$26,166
Clark	\$16.50	\$34,318	Labette	\$13.02	\$27,087	Sedgwick	\$15.71	\$32,679
Clay	\$13.80	\$28,697	Lane	\$14.91	\$31,012	Seward	\$13.01	\$27,064
Cloud	\$11.67	\$24,271	Leavenworth	\$19.58	\$40,723	Shawnee	\$16.63	\$34,593
Coffey	\$15.76	\$32,782	Lincoln	\$13.08	\$27,200	Sheridan	\$14.87	\$30,921
Comanche	\$15.33	\$31,887	Linn	\$15.92	\$33,120	Sherman	\$13.12	\$27,286
Cowley	\$13.62	\$28,331	Logan	\$14.30	\$29,734	Smith	\$11.72	\$24,374
Crawford	\$12.60	\$26,213	Lyon	\$13.25	\$27,567	Stafford	\$14.28	\$29,707
Decatur	\$11.53	\$23,985	Marion	\$13.15	\$27,350	Stanton	\$10.30	\$21,430
Dickinson	\$12.48	\$25,964	Marshall	\$14.23	\$29,593	Stevens	\$13.33	\$27,729
Doniphan	\$14.64	\$30,459	McPherson	\$16.63	\$34,582	Sumner	\$15.58	\$32,413
Douglas	\$14.07	\$29,256	Meade	\$15.51	\$32,269	Thomas	\$13.66	\$28,415
Edwards	\$12.72	\$26,455	Miami	\$14.70	\$30,582	Trego	\$13.62	\$28,333
Elk	\$10.30	\$21,414	Mitchell	\$14.50	\$30,166	Wabunsee	\$13.51	\$28,098
Ellis	\$14.33	\$29,806	Montgomery	\$12.62	\$26,240	Wallace	\$12.55	\$26,111
Ellsworth	\$16.77	\$34,889	Morris	\$14.98	\$31,161	Washington	\$10.84	\$22,556
Finney	\$13.49	\$28,059	Morton	\$16.16	\$33,617	Wichita	\$12.25	\$25,480
Ford	\$13.80	\$28,703	Nemaha	\$14.69	\$30,545	Wilson	\$14.42	\$29,985
Franklin	\$15.34	\$31,911	Neosho	\$14.24	\$29,619	Woodson	\$14.27	\$29,686
Geary	\$16.17	\$33,640	Ness	\$14.54	\$30,249	Wyandotte	\$17.52	\$36,450
Gove	\$12.63	\$26,274	Norton	\$11.50	\$23,927			
Graham	\$14.32	\$29,777	Osage	\$12.99	\$27,026			
Grant	\$16.58	\$34,480	Osborne	\$16.88	\$35,106			
Gray	\$14.18	\$29,504	Ottawa	\$11.49	\$23,900			
Greeley	\$11.14	\$23,165	Pawnee	\$13.98	\$29,075			
Greenwood	\$11.48	\$23,885	Phillips	\$13.19	\$27,430			

*Wages collected during the 2nd qtr 2013.
 Effective 10/1/2014

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT B
PEAK JOBS DETAIL

Include all qualified PEAK Jobs that 1) will result from a function being relocated, located, expanded or retained in Kansas; 2) will be employed at least 20 hours per week, year-round; and 3) be subject to Kansas withholding tax. List jobs in ascending order of wages and provide the median wage, total jobs and payroll.

Job Title & Description	# of Jobs	KS Start/ Hire Date	Wages Per Hr	Hrs Worked Per Week	Annual Wage	Total Annual Wages (Annual wage x # of jobs)
PEAK JOBS' MEDIAN WAGE/HR						
TOTAL POSITIONS & TOTAL ANNUAL PAYROLL						

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT C

Qualifying International or Regional Headquarters Questionnaire

Companies may apply for the Secretary’s approval as a headquarters if they are a “not-for-profit” or have a non-qualifying NAICS. A qualified headquarters is where principal officers of the business are housed and from which direction, management and administrative support for transactions of the business are provided. For the PEAK program, the headquarters will serve multiple company worksites either internationally or nationally/regionally within the United States. Minimal revenue is generated from a qualified headquarters and the facility is capable of being geographically located anywhere.

HEADQUARTERS

- 1) **Company name and address of proposed worksite.**
- 2) **List the names and titles of the company officers located at the headquarters location.**
- 3) **In what non-revenue generating activities is this worksite involved for other worksites of the company and its affiliates?**
- 4) **How many company worksites are served by this HQ worksite?**
- 5) **How many affiliate and/or subsidiary worksites are served by this HQ worksite?**
- 6) **How much outside revenue is generated at this HQ?**

INTERNATIONAL /NATIONAL/REGIONAL SCOPE

- 1) **Provide the company’s approximate U.S. employment level and list each permanent company name and worksite address.**
- 2) **List each permanent affiliated/subsidiary company name and worksite address within the U.S.**
- 3) **Provide the company’s approximate international employment level and list each permanent company name and worksite address.**
- 4) **List each permanent affiliated/subsidiary company name and worksite address outside the U.S.**
- 5) **If traded on a major stock exchange, please show the trading symbols and list the exchange.**
- 6) **Other considerations you wish to add.**

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT D

Qualifying International or Regional Administrative/Back Office Questionnaire

Companies may apply for the Secretary’s approval as an administrative/back office if they have an otherwise non-qualifying NAICS. A qualified administrative/back office facility is operated by a business and provides ancillary support services to the business, but is not directly engaged in the business’s primary function. For the PEAK program, the administrative/back office will serve multiple company worksites either internationally or nationally/regionally within the United States. Minimal outside revenue is generated from the facility and the operation is capable of being geographically located anywhere (e.g. an insurance claims processing office.)

ADMINISTRATIVE/BACK OFFICE

- 1) **Company name and address of proposed worksite.**
- 2) **Is this a captive, in-house worksite that provides services only to the applicant company and its affiliates?**
- 3) **In what non-revenue generating activities is this worksite involved for other worksites of the company and its affiliates?**
- 4) **How many company worksites are served by this support worksite and where are they located?**
- 5) **How many affiliate and/or subsidiary worksites are served by this support worksite and where are they located?**
- 6) **How much outside revenue is generated at this worksite?**

INTERNATIONAL/NATIONAL/REGIONAL SCOPE

- 1) **Provide the company’s approximate U.S. employment level and list each permanent company name and worksite address.**
- 2) **List each permanent affiliated/subsidiary company name and worksite address within the U.S.**
- 3) **Provide the company’s approximate international employment level and list each permanent company name and worksite address.**
- 4) **List each permanent affiliated/subsidiary company name and worksite address outside the U.S.**
- 5) **If traded on a major stock exchange, please show the trading symbols and list the exchange.**
- 6) **Other considerations you wish to add.**

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT E

Ownership Disclosure and Signature Statement

List all owners, partners, corporate officers and directors. Provide the personal information and signatures of all persons who have control or authority over how business funds or assets are spent. If more space is needed, attach additional pages.

Certification: To the best of my knowledge and belief the information on this application is true, correct, and complete. If the business fails to report or pay appropriate state taxes, any individual who is responsible for the tax authorizes the Secretary of Revenue or his/her designee to research the credit history of the business or that individual.

Printed full proper name of owner, partner or corporate officer _____ Signature of owner, partner or corporate officer _____ Date _____

SSN: _____ Title: _____

Home Address: _____

Home Telephone: _____ Email Address: _____ Percent of Ownership: _____

Do you have control or authority over how business funds or assets are spent? Yes No

Date that you became the owner, partner or corporate officer of this business: Month Day Year

Printed full proper name of owner, partner or corporate officer _____ Signature of owner, partner or corporate officer _____ Date _____

SSN: _____ Title: _____

Home Address: _____

Home Telephone: _____ Email Address: _____ Percent of Ownership: _____

Do you have control or authority over how business funds or assets are spent? Yes No

Date that you became the owner, partner or corporate officer of this business: Month Day Year

Printed full proper name of owner, partner or corporate officer _____ Signature of owner, partner or corporate officer _____ Date _____

SSN: _____ Title: _____

Home Address: _____

Home Telephone: _____ Email Address: _____ Percent of Ownership: _____

Do you have control or authority over how business funds or assets are spent? Yes No

Date that you became the owner, partner or corporate officer of this business: Month Day Year

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT F
Owners of “Pass-Through” Entities

The PEAK program allows qualified companies to retain (or receive a refund) withholding taxes of materially participating owners of “pass-through” entities (e.g. LLC, S-Corp, etc.) if specific conditions are met. Alternatively, a Kansas resident owner may be eligible to receive a 95 percent tax credit (for the duration of the PEAK agreement) to offset Kansas tax liability for business income attributable to business activities at a qualified and approved PEAK company. These incentives are mutually exclusive and shall not be used together.

1. How has the applicant elected to be taxed? C-Corp; S-Corp; Partnership; Other _____

2. Do you have any owner(s)/member(s) listed in Attachment B? Yes No

If “No,” you are done with Attachments F & F(1). Please return to Commerce with your completed Application.

If “Yes,” please list their name, title, % of ownership and last four digits of Social Security number:

3. Are any of the owner(s) listed in Attachment B “materially participating” in the business, see Attachment F(1)? Yes No

If Yes, please list the owners/members that meet the criteria as materially participating in the business and provide Attachment F(1) as evidence of the IRS test(s) that are met for each owner/member:

4. Of the owners/members listed above as materially participating in the business:

Please list those that receive compensation on a regularly scheduled basis (same as employees), in the form of “wages” with federal and state taxes withheld, and reported on a W-2 that elect to have the applicant company retain or receive a refund of 95% of their Kansas withholdings:

OR

Please list those that are (or will be) residents of Kansas that elect to receive, if otherwise eligible, a 95% state income tax credit against business income attributable to a relocating company:

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT F(1)
Owners of “Pass-Through” Entities – PEAK Material Participation Test

An owner/member must be “materially participating” in the trade or business activity of a PEAK qualified company to elect, if otherwise qualified, either a 95% tax credit to offset business income attributable to the approved PEAK company or allow the PEAK qualified company to retain (or receive a refund) 95% of the owner’s state payroll withholding tax. A taxpayer materially participates in a trade or business activity if he or she works on a regular, continuous and substantial basis in the operation of the PEAK qualified company.

To help us determine if you materially participate in the PEAK qualified company, did or will you:

1. Work at the PEAK qualified company for 500 hours or more during the past year? Yes No
2. Do substantially all of the work in the PEAK qualified company? Yes No
3. Work more than 100 hours in the PEAK qualified company AND no one else worked more hours than you? Yes No
4. Materially participate in the PEAK qualified company in any 5 of the prior 10 years? Yes No
5. Work at least 100 hours in the PEAK qualified company, no one else worked more hours than you in the activity, no one else received compensation for managing the activity and, based on all of the facts and circumstances, your participation is regular, continuous, and substantial during the course of the year? Yes No

You must answer “Yes” to at least one of these questions to qualify for the election. If you answered “No” to all seven questions you do not qualify for this election.

Owner/Member: _____
(print name & title) (signature) (date)

PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK)

Application Checklist

- 1) Completed *PEAK Application and Checklist*
- 2) If using a third-party legal employer, include copy of agreement between applicant and third-party employer
- 3) *Attachment B* listing PEAK Jobs and wages including PEAK Jobs' median wage
- 4) If in a non-qualifying NAICS or a not-for-profit and applying as a headquarters, complete *Attachment C*
- 5) If in a non-qualifying NAICS and applying as an administrative/back office, complete *Attachment D*
- 6) If PEAK function(s) will be at an existing Kansas facility, locating with existing Kansas employees, or retained in Kansas, include last four KDOL quarterly wage reports (K-CNS 100)
- 7) Copy of applicant's health plan benefits summary illustrating the six areas of coverage required to be "adequate" and documentation that the applicant pays at least 50% of premium
 - Physician Care Basic Hospital & Procedures Care Pre/Post-Natal Care
 - Mental Health Care Substance Abuse Treatment Prescription Drugs
 - 50% Employer Paid Premium
- 8) Kansas Tax clearance or, if applicable, state of origin
- 9) Completed Attachment E, *Ownership Disclosure and Signature Statement*
- 10) If applicant is a "Pass-Through" entity, please complete Attachment F, *Owners of "Pass-Through" Entities*, and F(1), *Material Participation Test*, to: 1) determine material participation of owner(s) to Commerce; 2) elect a choice of benefit (if qualified); and/or 3) receive Commerce approval to retain (or be refunded) 95% of payroll tax withholdings of owners/members.
- 11) If applying for "Retention" PEAK benefits to retain existing Kansas PEAK Jobs, please provide complete factual detail establishing the company's competitive alternatives in other states and verifying the company's relocation outside Kansas is imminent

QUARTERLY REPORTS

Promoting Employment Across Kansas (PEAK)



Quarterly reports to Commerce are required commencing on the “effective date” for your PEAK agreement. Quarterly reports are due 45 days from the end of each calendar quarter. A standard template for quarterly reports is available at www.kansascommerce.com/peak. Quarterly reports must include the following information.

- 1. Company Name & EIN**
- 2. PEAK Agreement Number (e.g. 11-PEAK-003)**
- 3. Effective Date**
- 4. Reporting Period End Date**
- 5. Beginning and Ending Balance of Total and Annual Benefit Cap (if applicable)**
- 6. A Listing of PEAK Jobs (Sorted by PEAK-Eligible Status) Including:**
 - a) position # or last four digits of social security number
 - b) employee name(s) for each PEAK Job
 - c) job title
 - d) Start/hire date in Kansas
 - e) Kansas termination date (if applicable)
 - f) notation or highlighting of “PEAK-Eligible” jobs (See “Definitions” Section of Guidelines)
 - g) wages paid per hour
 - h) total hours worked in quarter
 - i) weeks worked in quarter
 - j) hours worked per week
 - k) gross Kansas wages for the period
 - l) total withholding for each employee for the period
 - m) payroll withholding taxes retained or to be refunded for each employee for the period
 - n) payroll withholding tax remitted to the Kansas Department of Revenue for each employee for the period
 - o) PEAK Job’s median wage information for the period
 - p) Quarterly totals for: PEAK Jobs, PEAK Eligible Jobs, Gross Kansas wages, PEAK Eligible wages, Kansas withholding tax, Kansas withholding tax retained/refunded, Kansas withholding tax paid for PEAK employees that are Not PEAK-Eligible, Kansas withholding tax paid for PEAK-Eligible employees and the sum of hourly wages paid. ([See template](#))
- 7. Supporting Documents Accompanying Report:**
 - a) Kansas Department of Labor’s Quarterly Wage Report & Unemployment Tax Return (K-CNS 100) for the period

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ANNUAL REPORTS

Promoting Employment Across Kansas (PEAK)



Annual reports to Commerce are required within 45 days of each subsequent effective date. Annual reports will average the number of PEAK Jobs and median wage of quarterly reports and determine the company's continued qualification to participate in the PEAK program. A PEAK Jobs' median wage for the period and evidence supporting satisfaction of basic program criteria will be provided to Commerce. The following information will be included:

1. **Company Name**
2. **EIN**
3. **PEAK Agreement #**
4. **Effective Date**
5. **Annual Reporting Period**
6. **Company qualifies for high impact program benefit (yes/no)**
7. **Approved number of years for the term of the agreement**
8. **PEAK Jobs' Median Wages paid per hour for the Period (average of quarterly reports data)**
9. **Comparison of PEAK Jobs' Median Wage to wage standard defined in Section III of the agreement expressed in percentage.**
10. **Average number of PEAK Jobs (average of quarterly reports data)**
11. **Average number of Jobs that are PEAK-Eligible**
12. **Total wages of all PEAK Jobs**
13. **Total wages of all PEAK-Eligible Jobs**
14. **Total PEAK Benefit payroll withholding taxes retained or refunded for PEAK-Eligible Jobs (95%)**
15. **Total payroll withholding taxes paid for PEAK Jobs that are Not PEAK-Eligible (100%)**
16. **Total payroll withholding taxes paid for PEAK-Eligible Jobs (5%)**
17. **Total payroll withholding including benefit and payment for PEAK Jobs and PEAK-Eligible Jobs**
18. **Total Capital Investment for the Period & Total Capital Investment with Rent Payments**
19. **Evidence that the company offers an "adequate" health care plan to full-time employees (See "Definitions" Section of Guidelines)**
20. **Evidence that the company pays at least 50% of the health care plan premium for full-time employees**
21. **Disclosure of the company having filed for or the intention to file for protection under the federal bankruptcy code**
22. **Certification that the company is not delinquent on any federal, state or local taxes (attach copy of Kansas Tax Clearance Certificate)**

27Feb15