

# GUIDELINES & APPLICATION

## Promoting Employment Across Kansas (PEAK)



### **Program Overview**

The creation of the Promoting Employment Across Kansas (PEAK) Act, [K.S.A. 2015 Supp. 74-50,210 through 74-50,219](#), was created by the 2009 Kansas Legislature. PEAK is intended to foster economic development in Kansas by incentivizing companies to relocate, locate, expand or retain a business facility/operations and related jobs. The Secretary of Commerce (the Secretary) has discretion to deny or approve applications of qualified companies. The PEAK benefit and term are based upon the number of PEAK Jobs/Employees to be hired, their wage levels and other economic impact variables of a project. The PEAK benefit is a fixed amount spread equally and capped annually over a benefit term of up to 10 years. During the benefit term, participating PEAK companies may retain or be refunded 95 percent (95%) of the state withholding tax of PEAK-Eligible Employees that are paid at or above the county median wage where the PEAK business facility is or will be located.

PEAK requires within a two-year period, five new PEAK Jobs in non-metropolitan counties or ten (10) new PEAK Jobs in the metropolitan counties of Shawnee, Douglas, Wyandotte, Johnson, Leavenworth and Sedgwick. Aggregate wages of the PEAK Jobs must meet or exceed the county median wage (CMW) or North American Industry Classification System (NAICS) average wage for their industry. Applicants meeting program requirements may include for-profit companies and not-for-profit headquarters. Qualified applicants also must: 1) offer an adequate health insurance policy (see Definitions) to its full-time employees within 180 days of hire and be paying at least 50 percent of the employee's premium; 2) not owe undisputed federal, state or local taxes; and 3) not be seeking protection under the federal bankruptcy code.

*Wages of PEAK-Eligible Employees 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.*

**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 Employees in Kansas and within 180 days of announcing to Commerce their decision to relocate, newly locate, expand or retain jobs in Kansas.**

\*\*\*Please see the "Definitions" section of these Guidelines for PEAK terms used in this document.\*\*\*

### **Program Requirements**

Applicants must:

- be relocating, locating, expanding or retaining a business function(s) in Kansas resulting in new or retained jobs.
- be a national or international headquarters or administrative office if having one of the following NAICS assignments:
  - 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);
- apply as a national or international headquarters if applying as a not-for-profit corporation.
- not have a bioscience NAICS assignment unless certain conditions are met. Bioscience NAICS per K.S.A. 2008

Supp. 74-99b33 and amendments thereto include: 325193, 325199, 325311, 325320, 325411, 325412, 325413, 325414, 334510, 334516, 334517, 339111, 339112, 339113, 339115, 541380, 541710, 541940, 621511, 621512 and 622110.

- not be delinquent in the payment of taxes to federal, state and/or local taxing entities.
  - not be under the protection of the federal bankruptcy code or intent to file for protection.
  - make available to full-time employees working 35 hours or more per week, an adequate health insurance policy within 180 days of hire and providing coverage of: hospital care, physician care, mental health care, substance abuse treatment, prenatal and postnatal care, and prescription drugs.
  - pay at least 50 percent (50%) of the employee's premium for such adequate health insurance policy.
  - 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 Aug/Sep) 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) are or 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.
  - create within two years of application (or retain) a minimum of five PEAK Jobs in a non-metropolitan (non-metro) county or 10 PEAK Jobs in a designated metropolitan (metro) county to receive "Basic" program benefits.
  - create within two years of application a minimum of 100 jobs, regardless of location, to receive "High Impact" program benefits.
  - Pay a non-refundable fee of \$750 required for applications received by Commerce on or after 10/1/16.
  - be approved by the Secretary of Commerce to participate in the program.
  - enter into an agreement with the Department of Commerce (Commerce) to retain or be refunded 95 percent (95%) of payroll withholding taxes as reported for PEAK-Eligible Jobs.
  - timely file required reports and supporting documentation.
  - agree to provide Commerce and the Kansas Department of Revenue (Revenue) access to inspect records as it relates to administering the PEAK program.
1. At the time of application, the qualified applicant shall list the projected PEAK Jobs for five years and provide the lowest annual PEAK Jobs' median hourly wage to compare to the county median or NAICS wage standard. An hourly median wage standard will be used by the company for eligibility and performance measurement purposes for the duration of the agreement unless otherwise specified in the PEAK agreement. Additionally, the qualified applicant shall elect a [benefit process](#) to either: 1) retain the PEAK benefit for PEAK-Eligible Employees on an "as you go" basis; or 2) remit 100 percent of PEAK-Eligible Employees' withholding tax to Revenue and receive a refund check for the PEAK benefit. A refund benefit process should be elected if the qualified company is using a payroll service provider. The benefit process elected will be for the duration of the PEAK agreement. Companies choosing the refund process will be assessed a quarterly fee of \$5 (subject to change without prior notice) for each PEAK-Eligible Employee.
  2. The Secretary of Commerce has sole discretion in determining a PEAK benefit based on PEAK Business Facility jobs, wages and other economic impact information provided to Commerce by the company either prior to or during the application stage. If a PEAK benefit is approved by the Secretary, the benefit cannot exceed the "up to" maximum benefit terms as listed below for various wage levels. The PEAK benefit is distributed as withholding tax is generated with annual limits and spread equally over the term, e.g. \$50,000 benefit over five years results in an annual maximum benefit of \$10,000. If the annual maximum benefit is generated and reported in the first two quarters of a benefit year, the qualified company will be required to continue reporting quarterly even though no further benefit can be earned in that benefit year. Upon commencement of a new benefit year, the PEAK benefit will resume and again be subject to the annual maximum. Alternatively, if the annual maximum benefit is not fully utilized in a benefit year, the unused amount may be claimed in the subsequent benefit year until the end of the benefit term. Any benefit remaining at the end of the benefit term will be forfeited. Qualified companies using

the county median wage standard and creating, within two years of the agreement date, a minimum of five jobs in a non-metro county or 10 jobs in a metro county, may be approved by the Secretary to retain or receive a refund of 95 percent of lawfully allowed state withholding tax for PEAK-Eligible Employees 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 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 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 in each of the seven years and terminating after the seventh year from the effective date.

At the Secretary's discretion, a qualified company using the county median wage standard and creating a minimum of 100 jobs within two years of the agreement date, regardless of location, may be approved for a High Impact benefit term 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 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 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 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 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 or receive a refund of 95 percent of state withholding tax for PEAK-Eligible Employees for a period of up to five years. The Secretary may also utilize PEAK to retain jobs for up to five years.

### **Application and Reporting Requirements**

1. The company must work with a Commerce regional project manager before submitting a PEAK application.
2. The signed application, supporting documents and \$750 non-refundable application fee, **for applications submitted on or after October 1, 2016**, should be received by Commerce prior to relocating PEAK Jobs or hiring new PEAK Employees and within 180 days of acknowledgement by Commerce that the company has decided to locate, expand or retain jobs in Kansas. The PEAK application and supporting documents may be scanned and emailed to: [wayne.groves@ks.gov](mailto:wayne.groves@ks.gov) and [edwyn.bryan@ks.gov](mailto:edwyn.bryan@ks.gov). For applications received by Commerce on or after October 1, 2016, the \$750 non-refundable fee may be paid either online or by check payable to: "Kansas Department of Commerce." If paying by check, please send to the attention of the "PEAK Program" at the address below. Please include the *PEAK Application Fee Payment Form* to ensure the fee is properly credited to your company's PEAK application. A PEAK application received on or after October 1, 2016, is not complete and will not be processed until Commerce has received the non-refundable application fee. Commerce notes the date the application is received and places the application in queue for review according to the requested Effective Date. If the application is received more than 180 days after Commerce's acknowledgement of the company's intent to create or retain jobs in Kansas, the PEAK benefit will be reduced.
3. Commerce staff reviews the application materials and contacts the applicant via email with any questions/issues.
4. Upon completion of the application and approval by the Secretary, Commerce drafts an agreement for the company's review and signature. The company returns a signed agreement to Commerce for execution by the Secretary.
5. The company has two years from the PEAK Agreement Date to create or retain the minimum required PEAK Jobs of five in non-metro counties or 10 in metro counties. Additionally, to participate as a High Impact project,

companies must have 100 PEAK Jobs within two years, regardless of location.

6. PEAK Benefit cannot be retained or refunded until:
  - A PEAK 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 term is established in writing by the company within four full calendar quarters of the Agreement Date, on the 1<sup>st</sup> day of a calendar quarter, and approved by Commerce.
7. Commerce returns one fully executed agreement to the qualified company and verifies to Revenue (by providing a copy of the agreement and application):
  - that the company is eligible to receive PEAK benefit;
  - the number of PEAK Jobs;
  - the amount of wages to be paid PEAK Employees;
  - the choice of benefit for materially participating owner(s); and
  - the election of how to receive PEAK benefit ([retain “as you go” or refund](#))
8. Company is contacted by Revenue to establish a PEAK account and the process to report and remit Kansas withholding tax to Revenue in conjunction with the PEAK program.
9. PEAK benefit is earned on a quarterly basis. A customized Quarterly Report template and reporting instructions will be emailed to each qualified company upon full execution of a PEAK Agreement. The company submits quarterly reports throughout its benefit term, due within sixty (60) days of the end of each calendar quarter and emailed to: [peak.reporting@ks.gov](mailto:peak.reporting@ks.gov).
10. Annual performance reviews by Commerce will average the number of PEAK Jobs and PEAK Jobs’ hourly wages from the four quarterly reports within each benefit year to determine the company’s annual performance and continued eligibility. Any term reductions and/or compliance issues will be communicated to the company in writing.
11. The company certifies fulfillment of specific program requirements by submitting a biennial Verification Report with supporting evidence that the company continues to remain in compliance with PEAK requirements. The Verification Report is due each October 1<sup>st</sup> of even-numbered calendar years.

Reporting instructions and examples of the Quarterly Report and biennial Verification Report are available on the PEAK web page at [www.kansascommerce.com/peak](http://www.kansascommerce.com/peak).

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**Please contact an in-state or out-of-state regional Commerce office (<http://www.kansascommerce.com/index.aspx?NID=9>) to discuss your company’s eligibility for the PEAK Program or call 785.296.5298 for more information on Commerce programs.**

**Email the signed application and supporting documents to: [wayne.groves@ks.gov](mailto:wayne.groves@ks.gov) and [edwyn.bryan@ks.gov](mailto:edwyn.bryan@ks.gov).**

**Contact Ed Bryan at [Edwyn.bryan@ks.gov](mailto:Edwyn.bryan@ks.gov) for PEAK application questions or to check the status of an application review.**

**ATTN: PEAK Program**  
**Business & Community Development Division**  
**Kansas Department of Commerce**  
**1000 SW Jackson Street, Ste 100**  
**Topeka, KS 66612-1354**  
**Phone: 785.296.5298 or 785.296.1131**  
**[www.kansascommerce.com/PEAK](http://www.kansascommerce.com/PEAK)**

# DEFINITIONS

## Promoting Employment Across Kansas (PEAK)



**“Adequate” Health Insurance Contract Plan Coverage:** The Company will offer an adequate health insurance contract plan to full-time employees, working 35 hours or more weekly, within one hundred eighty (180) days from the date of employment. Minimum health insurance policy coverage will include: 1) hospital care, 2) physician care, 3) mental health care, 4) substance abuse treatment, 5) prenatal and postnatal care, and 6) prescription drugs. Additionally, the company shall pay at least 50 percent of the full-time employee’s insurance plan premium.

**Administrative Office:** Administrative office means a business facility that meets all of the following requirements: 1) the main activities are to support the core focus of the business; 2) support activities are performed for other majority-owned company entities; 3) the facility serves multiple permanent majority-owned company facilities with at least two permanent majority-owned or affiliated facilities located outside Kansas; and 4) the facility could have been located anywhere geographically.

**Affiliated Facilities:** Affiliated facilities means a business entity having a common parent with a qualified company.

**Agreement Date:** Agreement date means the date PEAK Employees are authorized by the secretary to be moved to, hired at or retained by a qualified company at a business facility. The Agreement Date is generally the date Commerce receives a PEAK application and appears in the upper right-hand corner of a PEAK agreement. The Agreement Date is 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. The company has four full calendar quarters from this date to establish an Effective Date unless constructing a new facility or substantial renovation.

**Application Date:** The date Commerce receives the company’s PEAK application.

**Base Employment or Base Employment Level:** Initial base employment for the application is the greater of: 1) the average number of employees that existed at the PEAK business facility during the four full calendar quarters before the application date; 2) the number of employees that existed at the PEAK business facility on the application date; or 3) the number of employees that existed at the PEAK business facility the month prior to the application date.

**Benefit Term:** The benefit term is approved by the Secretary of Commerce and is the timeframe during which the company will be allowed to receive PEAK benefit. The Benefit Term commences on the Effective Date and is subject to change based on the company’s annual performance and satisfaction of required program criteria.

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

**County Median Wage (CMW):** Annually, this wage data is compiled by the Kansas Department of Labor (KDOL) from information obtained from the Kansas Wage Survey for the federal Bureau of Labor Statistics. The county median wage table is updated annually around August/September. Once an agreement is signed, this wage standard remains the same over the term of the Agreement.

**Effective Date:** The Effective Date commences the PEAK Benefit Term, quarterly and biennial reporting. The Effective Date is designated in writing by the company to Commerce; and is within four full calendar quarters from the PEAK Agreement Date commencing on the 1<sup>st</sup> day of a calendar quarter. Effective Dates must be approved by Commerce.

**Headquarters:** Headquarters means a business facility that meets all of the following requirements: 1) the main activity at the facility is providing direction, management or administrative support for multiple majority-owned company entities; 2)

the facility serves multiple permanent majority-owned company facilities with at least two permanent majority-owned or affiliated facilities located outside Kansas; and 3) the facility is capable of being located anywhere geographically.

**Kansas Department of Labor (KDOL) K-CNS 100:** 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 quarterly data. For companies having multiple Kansas worksites reporting on one K-CNS 100, corresponding federal Multiple Worksite Report(s), [Form BLS 3020](#), will be required.

**Kansas Hire or Start Date:** The initial date that a PEAK Employee commences work at a Kansas facility (for Relocation and New Location projects) or, in some instances, the date an existing employee moves into a PEAK Job.

**Materially Participating:** A taxpayer is materially participating 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 “materially participating” in a business.

**PEAK-Eligible Employee:** PEAK-eligible employee means a PEAK employee that is receiving compensation at an hourly rate equal to or in excess of the county median wage or NAICS industry average wage, as designated by the PEAK agreement, during the applicable reporting period. The qualified company may retain or receive a refund of 95 percent (95%) of the PEAK-eligible employee’s lawfully allowed state withholding tax. 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 state withholding tax retained by or refunded to the company for the PEAK benefit.

**PEAK Eligible Job:** A job filled by a PEAK-Eligible Employee.

**PEAK Employee:** PEAK Employee means an employee that: 1) works an average of at least 20 hours per week during the reporting period; 2) performs a Qualified Function(s) for a PEAK Business Facility; 3) appears on the Qualified Company’s K-CNS 100 Form during the reporting period; and 4) is subject to Kansas W-2 withholding tax.

**PEAK Job:** A job filled by a PEAK Employee.

**PEAK Jobs’ Median Wage:** PEAK jobs’ median wage means the middle hourly wage of the total number of wages, half having wages above the median wage and half having wages below the median wage. The PEAK Jobs’ Median Wage is used to determine initial eligibility for benefits, continued eligibility, and length of Benefit Term. The lowest annual PEAK Jobs’ median hourly wage as reported on Attachment B in the PEAK application is used to compare to the county median wage or regional NAICS industry average wage to determine initial eligibility and approval into the PEAK program. Annually, the PEAK Jobs’ median wage as reported quarterly during the Benefit Year will be averaged to determine performance that may affect the PEAK Benefit and Benefit Term. Use of a PEAK Jobs’ average wage may be approved by the Secretary under certain conditions.

**Third-Party Employer:** An entity which provides employees and performs services for a qualified company on a contractual basis (often referred to as a “Professional Employer Organization” or PEO.) The third-party employer contracts 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 is responsible to remit payments to the qualified company equal to the amount of Kansas withholding tax that is eligible as PEAK Benefit 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:** “Wages” means compensation for services paid by the qualified company that is reported on the W-2 form of a PEAK employee, and includes, but is not limited to: 1) commissions; 2) overtime; 3) bonuses; and 4) individual income tax deferrals for retirement plans, health savings and flexible spending accounts, and insurance premiums.

# 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 customers and geographic markets.

**Question 13.** Provide the date that the first PEAK Job will be relocated, hired or retained in Kansas.

**Question 14.** Provide the Effective Date your company would like to begin retaining or be refunded PEAK benefit beginning on the first day of a calendar quarter.

**Question 15.** Check one box to elect to: a) retain PEAK benefits “as you go;” or b) remit PEAK Employees’ withholding tax to KDOR and receive a quarterly refund.

**Question 16.** Please check the appropriate box. If “yes,” attach a copy of the service 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.

**Questions 18, 20 & Attachment B.** First, complete Attachment B by listing all PEAK Jobs and hire dates in ascending order of wage. From this, calculate and provide the number of jobs and total payroll for Q. 18 & 20. The number of PEAK jobs must be equal to or greater than the commitment in the Commerce incentive proposal.

**Question 18.** From Attachment B, provide the total number of PEAK Jobs to be created or retained in each year for five years. a) Of the total number of PEAK Jobs, provide how many will be PEAK-Eligible.

**Question 19.** Provide the PEAK jobs median wage per the Commerce incentive proposal. This is the number which will be included in the final agreement with a 10% safe harbor.

**Question 20.** From Attachment B, provide the total annual payroll for all PEAK Jobs over five years.

**Question 21 & 21a.** Provide the base employment that will be located with the qualified function(s) and PEAK Jobs, attaching your last four KDOL K-CNS 100 quarterly wage reports to verify your response. **Q. 21a)** Please note whether base employment includes seasonal employees.

**Question 22.** Companies may apply for the Secretary’s approval as: 1) a headquarters or administrative office if they have a non-qualifying NAICS; or 2) 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. Also document the company pays at least 50% of full-time employee’s health plan premium.

**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 and supporting documents to:**

[wayne.groves@ks.gov](mailto:wayne.groves@ks.gov) and [edwyn.bryan@ks.gov](mailto:edwyn.bryan@ks.gov)

**ATTN: PEAK Program**

**Business & Community Development Division**

**Kansas Department of Commerce**

**1000 SW Jackson Street, Suite 100**

**Topeka, KS 66612-1354**

# PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK)

## Application



### CONTRACT DATA

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

### KANSAS FACILITY DATA

- |                         |  |
|-------------------------|--|
| 5. Kansas Company       | 6. Kansas Company Contact                      |
| Legal Name: _____       | Name & Title: _____                            |
| Address: _____          | Phone: _____                                   |
| EIN: _____ NAICS: _____ | Email: _____                                   |
| County: _____           | 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 (per the Commerce incentive proposal) \_\_\_\_\_
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? \_\_\_\_\_
- a) Does base employment include seasonal employees?  Yes or  No  
 (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 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 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.ks.gov/apps/TaxClearance/>)
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. The undersigned, acting on behalf of the applicant company, hereby certify and attest to the following: 1) I am a Corporate Officer/Member or authorized company officer to execute this document; 2) I have read and understand the Promoting Employment Across Kansas Guidelines; 3) I have reviewed this application and its attachments and the information contained herein is accurate; and 4) if the company is applying for PEAK Retention benefit, I further attest that the company had competitive alternatives that it was seriously considering and that the company's relocation outside Kansas was 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, 2016 Edition\*

County Name	Hourly Wage	Annual Wage	County Name	Hourly Wage	Annual Wage	County Name	Hourly Wage	Annual Wage
Allen	\$14.28	\$29,698	Hamilton	\$16.16	\$33,621	Pottawatomie	\$15.12	\$31,449
Anderson	\$15.78	\$32,824	Harper	\$15.08	\$31,357	Pratt	\$15.32	\$31,862
Atchison	\$15.37	\$31,969	Harvey	\$15.91	\$33,102	Rawlins	\$13.91	\$28,933
Barber	\$14.82	\$30,829	Haskell	\$18.54	\$38,567	Reno	\$14.63	\$30,427
Barton	\$14.11	\$29,345	Hodgeman	\$16.55	\$34,429	Republic	\$13.32	\$27,715
Bouillon	\$14.94	\$31,066	Jackson	\$12.95	\$26,946	Rice	\$14.02	\$29,157
Brown	\$15.13	\$31,465	Jefferson	\$15.71	\$32,668	Riley	\$14.82	\$30,820
Butler	\$14.71	\$30,590	Jewell	\$9.31	\$19,358	Rooks	\$15.12	\$31,440
Chase	\$14.99	\$31,188	Johnson	\$17.91	\$37,243	Rush	\$13.88	\$28,869
Chautauqua	\$16.37	\$34,042	Kearny	\$12.27	\$25,528	Russell	\$13.67	\$28,442
Cherokee	\$16.34	\$33,978	Kingman	\$15.15	\$31,512	Saline	\$15.15	\$31,516
Cheyenne	\$10.43	\$21,701	Kiowa	\$15.32	\$31,863	Scott	\$12.80	\$26,627
Clark	\$16.08	\$33,440	Labette	\$14.72	\$30,620	Sedgwick	\$16.36	\$34,033
Clay	\$16.36	\$34,031	Lane	\$17.76	\$36,937	Seward	\$13.88	\$28,876
Cloud	\$12.60	\$26,214	Leavenworth	\$19.45	\$40,452	Shawnee	\$17.13	\$35,630
Coffey	\$17.21	\$35,795	Lincoln	\$14.57	\$30,304	Sheridan	\$13.20	\$27,465
Comanche	\$12.58	\$26,164	Linn	\$14.71	\$30,605	Sherman	\$13.38	\$27,841
Cowley	\$14.18	\$29,500	Logan	\$14.17	\$29,473	Smith	\$15.30	\$31,833
Crawford	\$12.90	\$26,832	Lyon	\$13.68	\$28,460	Stafford	\$15.19	\$31,603
Decatur	\$11.70	\$24,330	Marion	\$14.50	\$30,151	Stanton	\$12.60	\$26,216
Dickinson	\$14.12	\$29,366	Marshall	\$14.56	\$30,286	Stevens	\$11.73	\$24,391
Doniphan	\$15.58	\$32,416	McPherson	\$16.83	\$35,008	Sumner	\$14.90	\$31,001
Douglas	\$15.36	\$31,949	Meade	\$15.38	\$31,993	Thomas	\$15.26	\$31,736
Edwards	\$15.57	\$32,385	Miami	\$15.14	\$31,501	Trego	\$13.74	\$28,581
Elk	\$14.39	\$29,925	Mitchell	\$14.66	\$30,485	Wabaunsee	\$15.23	\$31,681
Ellis	\$15.44	\$32,117	Montgomery	\$13.37	\$27,811	Wallace	\$15.79	\$32,842
Ellsworth	\$19.28	\$40,104	Morris	\$15.91	\$33,099	Washington	\$10.38	\$21,596
Finney	\$14.36	\$29,867	Morton	\$17.14	\$35,654	Wichita	\$11.37	\$23,654
Ford	\$14.28	\$29,694	Nemaha	\$16.97	\$35,288	Wilson	\$15.24	\$31,708
Franklin	\$15.40	\$32,028	Neosho	\$14.75	\$30,678	Woodson	\$14.52	\$30,208
Geary	\$14.85	\$30,898	Ness	\$18.01	\$37,456	Wyandotte	\$18.54	\$38,573
Gove	\$11.89	\$24,728	Norton	\$15.92	\$33,121			
Graham	\$13.91	\$28,928	Osage	\$13.68	\$28,453			
Grant	\$14.06	\$29,236	Osborne	\$14.64	\$30,445			
Gray	\$14.73	\$30,639	Ottawa	\$13.28	\$27,620			
Greeley	\$12.96	\$26,965	Pawnee	\$13.77	\$28,632			
Greenwood	\$12.44	\$25,878	Phillips	\$12.59	\$26,187			

\* Wages collected during the 2nd qtr 2015  
 Effective 9/1/2016



# **PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT C**

## **Qualifying International or National 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, a headquarters serves multiple permanent majority-owned company facilities with at least two permanent majority-owned or affiliated facilities located outside Kansas. Additionally, the facility is capable of being geographically located anywhere.

- 1) **Company name and address of proposed headquarters facility.**
  
- 2) **List the names and titles of the company officers located at the headquarters facility.**
  
- 3) **Is the main activity at this facility providing direction, management, and/or support for the operation of multiple company-owned entities in which the applicant company has an ownership interest greater than 50 percent?**
  
- 4) **Please briefly describe the headquarters functions that will be performed at this facility.**
  
- 5) **“Main activity” is defined as an activity at a business facility that utilizes more than 50 percent of either: 1) the total square feet; or 2) the total number of employees. For the activities outlined in Questions 3) and 4) above, what is the percentage of total square feet used solely for this purpose?                      What is the percentage of total employees at this facility devoted solely for this purpose?**
  
- 6) **Could this facility have been feasibly located outside Kansas?**
  
- 7) **List the permanent majority-owned company facilities served outside Kansas including the company name, address and employment level for each.**
  
- 8) **List the permanent affiliated facilities served outside Kansas including company name, address and employment level for each.**

## **PROMOTING EMPLOYMENT ACROSS KANSAS (PEAK) – ATTACHMENT D**

### **Qualifying International or National Administrative Office Questionnaire**

Companies may apply for the Secretary’s approval as an administrative office if they have an otherwise non-qualifying NAICS. A qualified administrative 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 office serves multiple permanent majority-owned company facilities with at least two permanent majority-owned or affiliated facilities located outside Kansas. Additionally, the facility is capable of being geographically located anywhere. (e.g. an insurance claims processing office.)

- 1) **Company name and address of proposed administrative office.**
  
- 2) **Is the main activity at this facility providing support services to multiple permanent majority-owned company facilities with at least two permanent majority-owned or affiliated facilities location outside Kansas?**
  
- 3) **Please briefly describe the administrative office functions that will be performed at this facility.**
  
- 4) **“Main activity” is defined as an activity at a business facility that utilizes more than 50 percent of either: 1) the total square feet; or 2) the total number of employees. For the activities outlined in Questions 3) and 4) above, what is the percentage of total square feet used solely for this purpose?                      What is the percentage of total employees at this facility devoted solely for this purpose?**
  
- 5) **Could this facility have been feasibly located outside Kansas?**
  
- 6) **List the permanent majority-owned company facilities served outside Kansas including the company name, address and employment level for each.**
  
- 7) **List the permanent affiliated facilities served outside Kansas including company name, address and employment level for each.**

# 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.

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

SSN: XXX-XX- \_\_\_\_\_ 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

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

SSN: XXX-XX- \_\_\_\_\_ 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

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

SSN: XXX-XX- \_\_\_\_\_ 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

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**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:

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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:

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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) Signed *PEAK Application, Checklist* and on or after October 1, 2016, a \$750 non-refundable fee
- 2) If using a third-party legal employer per Question 10, include copy of agreement between applicant and third-party employer
- 3) *Attachment B* listing PEAK Jobs created or retained over five years and their annual wages
- 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 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
- 9) Completed Attachment E, *Ownership Disclosure and Signature Statement*. Please provide only last four digits of SSN on this form.
- 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 benefit to retain existing Kansas PEAK Jobs, per Question 22, please provide complete factual detail establishing the company's competitive alternatives in other states and verify the company's relocation outside Kansas was imminent.