

**Kansas Department of Revenue
Policies and Procedures Manual
for the
Southeast Kansas Business Restoration
Assistance Program**

August 2007
(revision May 2008)

The policies and procedures for the Southeast Kansas Business Restoration Assistance Program shall be in effect as of June 26, 2007 for the following counties: Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson.

A Southeast Kansas (SEK) business restoration assistance program has been established for the purpose of assisting businesses with less than 50 employees that were in operation in one of the affected counties and damaged by the flooding and other severe weather in Kansas that began on June 26, 2007. The counties that are included in this SEK business restoration assistance program are Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson. This assistance program shall be administered by the secretary of revenue.

The SEK business restoration assistance program is comprised of three components:

- Investment assistance;
- Job restoration assistance; and
- Rental assistance.

The State Finance Council has set aside \$5,000,000 for the investment assistance, job restoration assistance, and the rental assistance programs. To apply for these assistance programs, a business must complete Form PR-SEK. Applications for these three assistance programs will be accepted through June 30, 2008.

INVESTMENT ASSISTANCE PAYMENT

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award an investment assistance payment of up to 10% of the qualifying investment made to rebuild or replace a business facility within the same community in one of the affected counties and the business machinery and equipment of a business that has been damaged or destroyed by the flooding and other severe weather that began on June 26, 2007. The investment assistance payment shall be for the purpose of assisting the business in recovering from the damages sustained from the storm and as an incentive to remain in the same community of one of the affected counties.

Any business taxpayer with less than 50 employees that was operating in one of the affected counties on June 26, 2007 suffering damage, may be eligible for assistance.

The following definitions have been provided to implement this program:

Business facility means a permanent building or structure used in business or commercial operations located within one of the affected counties. It shall include any building or complex of buildings, including the land on which the facility is located and all business machinery and equipment located at or within the facility used in connection with the operation of the facility.

Business machinery and equipment means the tangible personal property permanently and physically located at the business facility and used in the business operations. Trade fixtures, racks, shelving, office furnishings and computers are some examples of business machinery and equipment. It does not include (A) mobile equipment that leaves the

business facility, such as motor vehicles, or (B) any items held for sale, such as business inventory.

Qualifying business means a business with less than 50 employees that was in existence and in commercial operations providing goods or services within one of the affected counties, which was damaged or destroyed by the flooding and other severe weather that began on June 26, 2007 and is to be rebuilt or replaced at a location within the same community and county where such business was located when the flood damage was sustained.

Qualifying investment shall mean the value of real and tangible personal property permanently and physically located at the qualifying business facility, except inventory, or property held for sale to customers in the ordinary course of the taxpayer's business, which constitutes the business facility or which is used by the taxpayer in the operation of the qualifying business facility. Investment, such as rolling stock and motor vehicles, that leaves the business facility, shall not be considered as qualifying investment.

Only that real and tangible personal property that rebuilds or replaces what was in place prior to the severe weather that began on June 26, 2007 shall be considered as qualifying investment. The investment must be made between June 26, 2007 and June 30, 2009 to be considered as qualifying investment.

The value of such property shall be (1) its original cost if owned by the business and purchased after June 26, 2007; or (2) actual lease payments made after June 26, 2007 through June 30, 2008, if leased by the business.

For those lessors that choose to rebuild their business facility which will then be leased to a qualifying business, assistance for investment made in the facility is available. For this program, the property shall be valued at its original cost in determining investment assistance to the lessor. The lease payments that are made by a lessee to rent the business facility will not be considered as qualifying investment.

The lease payments made by a qualifying business after June 26, 2007 through June 30, 2008 to replace business machinery and equipment may be included in qualifying investment.

Qualifying investment shall be determined by calculating the value of the investment that has been placed into service at the taxpayer's business facility in one of the affected counties after June 26, 2007 through June 30, 2009.

JOB RESTORATION ASSISTANCE PAYMENT

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award a job restoration assistance payment of up to \$3,500 per qualifying job to a business damaged by the flooding and severe weather that began on June 26, 2007 that fills an employment position in one of the affected counties. The purpose of the job restoration assistance

program shall be to assist the business in recovering from the damages sustained from the storm that began on June 26, 2007 and as an incentive to the business to restore jobs within the affected counties.

Any business taxpayer with less than 50 employees that was operating in one of the affected counties on June 26, 2007 suffering damage, may be eligible for assistance.

Qualifying job means a job employed by a qualifying business in one of the affected counties that was lost as a result of damage sustained by the flood and other severe storms that began on June 26, 2007. This job or position must be restored within the same community and county where such business was located when the flood damage was sustained between June 26, 2007 and June 30, 2009. A qualifying job shall not include any part-time or seasonal job that provides the employee with less than 20 hours per week of paid employment.

A qualifying job shall mean a person employed by the business in the operation of the qualifying business. A person shall be deemed to be so engaged if such person performs duties in Kansas in connection with the operation of the business on: (A) a regular, full-time basis; (B) a part-time basis, provided such person is customarily performing such duties at least 20 hours per week; or (C) a seasonal basis, provided such person performs such duties for substantially all of the season customary for the position in which such person is employed.

Owners, partners, and shareholders of a business may be considered as a qualifying job, if that individual performs duties in connection with the operation of the qualifying business on a full-time or part-time basis as defined above.

An independent contractor will not be considered as a qualifying job.

RENTAL ASSISTANCE PAYMENT

To the extent funding is available and depending on the factors described on page 4 under the Assistance Payment Process, the secretary of revenue may award a rental assistance payment to lease a temporary facility within the same community and county where the business was located at the time the flood damage was sustained, while the permanent facility is being rebuilt. Rental assistance will be granted for a period of up to six months and may not exceed \$1,500. The purpose of the rental assistance program shall be to assist the business in recovering from the damages sustained from the storm that began on June 26, 2007 and as an incentive to the business to remain in the same community of the affected county.

Any business taxpayer with less than 50 employees that was operating in one of the affected counties on June 26, 2007 suffering damage, may be eligible for assistance.

ASSISTANCE PAYMENT PROCESS

Eligible businesses applying for the assistance programs must complete Form PR-SEK. Applications for assistance that are submitted to the Kansas Department of Revenue by

September 30, 2007 will be considered for funding initially. It is very important that applications be received within this time frame as not more than \$5,000,000 can be expended from the state emergency fund to provide assistance payments through the investment assistance program, job restoration assistance program, and the rental assistance program. Applications received after September 30, 2007 and before June 30, 2008 will be considered for assistance if funding is available.

Applications will be accepted by the Department of Revenue by fax (785-296-7928), through e-mail (kathleen_smith@kdor.state.ks.us), or through mail (Kansas Department of Revenue, Office of Policy and Research, 915 SW Harrison St., Room 230, Topeka, KS 66612-1588).

Applications will be reviewed and evaluated based upon the following factors:

- Commitment to rebuild business facility in the community, financial need, timeframe to rebuild, and amount of investment in the community, in comparison to investment prior to June 26, 2007;
- Number of employees business is proposing to rehire in the community, in comparison to employment level prior to June 26, 2007; and
- Salary level and hours or duration of proposed jobs in the community, in comparison to salary levels, hours and duration of jobs prior to June 26, 2007.

Upon review of the application, the Department of Revenue will provide a proposed investment assistance payment, job assistance payment, and/or rental assistance payment for which the applicant is eligible. (The State Finance Council has set aside \$5,000,000 for this assistance payment program. Therefore, allocations based on this cap and the number of eligible businesses applying will be made.) A letter will be mailed to the applicant indicating the proposed assistance.

Once the investment is placed into service, the jobs are employed, and/or the rents have been paid, the applicant will certify to the Department and document the actual amount of investment made, the number of jobs hired, and/or the actual rent paid for the temporary facility by completing Form PR-Assist. The Department of Revenue will review this documentation and determine if the conditions for payment assistance have been met. If those conditions have been met, the Department will issue a letter to the applicant identifying the amount of the assistance payment to be made. The amount of the assistance issued may not exceed the amount that was previously approved. The assistance payment will be mailed shortly after the approval letter.

Conditions for Payment Assistance

The investment assistance will be issued to the applicant in the determined amount after the applicant has completed the investment, the business facility is operational and placed in service, and the applicant has provided the required documentation to the Department of Revenue for the qualifying investment expenditures.

The job restoration assistance payment will be issued to the applicant in the determined amount after the applicant has hired employees to fill the positions for which payments

were sought, such employees have been employed for at least 3 months, and the applicant has provided the required documentation to the Department of Revenue that these positions have been filled.

The rental assistance payment will be issued to the applicant in the determined amount after the applicant has incurred the cost for the rental of the temporary facility, and the applicant has provided the required documentation to the Department of Revenue for the qualifying rental expense.

SALES TAX EXEMPTION

An exemption from sales tax shall be allowed on all sales of tangible personal property or services purchased for the construction, reconstruction, enlarging or remodeling of a business facility that was located in one of the affected counties and that sustained damages as a result of the flooding and other severe weather that began on June 26, 2007. The sale and installation of machinery and equipment purchased for installation at any such business facility shall be exempt as well. Replacement of fencing damaged or destroyed, the purpose for which is to enclose land devoted to agricultural use, shall also be exempt from sales tax. The affected counties include Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Edwards, Elk, Franklin, Greenwood, Harper, Labette, Linn, Miami, Montgomery, Neosho, Osage, Pawnee, Wilson, and Woodson.

Any business constructing, reconstructing, enlarging or remodeling a business facility that was located in one of the affected counties and was damaged due to the flooding and other severe weather that began on June 26, 2007 shall make application for a project exemption certificate. Businesses shall complete [form PR-70BRP/SEK](#) and submit to the Kansas Department of Revenue prior to June 30, 2009. Applications will be accepted by the Department of Revenue by fax (785-296-7928), through e-mail (kathleen_smith@kdor.state.ks.us), or through mail (Kansas Department of Revenue, Office of Policy and Research, 915 SW Harrison St., Room 230, Topeka, KS 66612-1588).

Any person that was leasing a business facility to a qualifying business in one of the affected counties that was damaged or destroyed due to the flooding and other severe weather that began on June 26, 2007, and wishes to rebuild the facility may also be eligible to obtain a project exemption certificate. The lessor may obtain a project exemption certificate for the facility construction or reconstruction if the facility will be occupied by a business that was previously located in that community and county at the time the flood damage was sustained.

The Department shall review the application and issue a project exemption certificate if approved. The project exemption certificate can be effective for a period of two years. The project exemption certificate shall be furnished to the contractor to purchase materials for incorporation into the project. The business shall use the certificate to purchase any business machinery and equipment to be installed at the facility. The contractor shall furnish the certificate to all suppliers from whom such purchases are

made, and the suppliers shall execute invoices covering the same bearing the number of such certificate.

Upon completion of the project, the contractor shall furnish to the person that obtained the exemption certificate, a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation.

Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which the certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefore, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto.

If the business has incurred costs in the reconstruction of the business facility and has paid sales tax on those purchases made prior to June 5, 2008, a refund of sales tax paid may be requested. To receive a refund of sales tax paid, the business must submit a [request for refund \(Form ST-21SEK\)](#) to the Kansas Department of Revenue. Any questions regarding the refund process may be directed to the Sales Tax Refund Unit at audit_funds@kdor.state.ks.us or 785-296-7108.