

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
	DATE March 17, 2015

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 21-14

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS

FROM: PORTIA WU 
Assistant Secretary

SUBJECT: Work Opportunity Tax Credit (WOTC) Funding Allotments for Fiscal Year (FY) 2015

1. **Purpose.** To provide the State Workforce Agencies (SWAs) with final funding allotments for the administration of the WOTC program through September 30, 2015, and reporting instructions during the current authorization lapse.

2. **References.**

- Consolidated and Further Continuing Appropriations Act of 2015 (Pub. L. 113-235) (FY 2015 Omnibus Appropriations Act);
- Sections 119 and 139 of the Tax Increase Prevention Act of 2014 (Pub. L. 113-295);
- Sections 309 and 327 of the American Taxpayer Relief Act of 2012 (Pub. L. 112-40);
- Section 261 of the VOW to Hire Heroes Act of 2011 (Pub. L. 112-56);
- Section 51 of the Internal Revenue Code of 1986, as amended;
- Wagner-Peyser Act, Section 7;
- Training and Employment Guidance Letter (TEGL) No. 8-13, *Work Opportunity Tax Credit (WOTC) Procedural Guidance During Authorization Lapse* (January 2, 2014);
- ETA Handbook No. 408, November 2002, Third Edition (the Handbook);
- August 2009 Addendum to Handbook 408.

3. **Background.** In November 2014, the Employment and Training Administration (ETA) issued funds to the SWAs from the Continuing Resolution for FY 2015 covering the October 1, 2014 – December 11, 2014 time frame. On December 16, 2014, President Obama signed into law the *Consolidated and Further Continuing Appropriations Act of 2015* (Pub. L. 113-235), which provides Department of Labor funding appropriations for the remainder of FY 2015. Although the WOTC program is currently not authorized, under ETA policy, the appropriation allows for a limited set of WOTC activities for the rest of FY 2015.

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4. **Funding.** ETA is now issuing the balance of FY 2015 funding to the SWAs for the implementation of WOTC program activities through September 30, 2015. The appropriated level for FY 2015 totals \$18,485,000.

After allocating \$20,000 for the Virgin Islands, ETA distributes the remaining funds to states by administrative formula with a \$66,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the previous year allotment share percentage. For FY 2015, the formula allotment data factors and percentages are as follows:

- 1) Fifty percent is based on each state's WOTC certifications. This year, ETA is using each state's average certifications over FY 2013 and 2014, due to workload fluctuations during the hiatus period of 2014;
- 2) Thirty percent is based on each state's relative share of the Civilian Labor Force averages for the 12-month period from October 1, 2013 through September 30, 2014; and
- 3) Twenty percent is based on each state's relative share of adult recipients of Temporary Assistance for Needy Families averages from October 1, 2012 through September 30, 2013.

The table in Attachment I is divided into three columns. The first column shows the full FY 2015 allotments by state; the second column shows the funding sent to the SWAs from the Continuing Resolution for the period October 1, 2014 through December 11, 2014; and the third column shows the final distribution of the balance of FY 2015 WOTC funds allotted by state.

5. **General Administration.** With these funds, SWAs are responsible for administering the WOTC program, including the certification process, promoting the program to employers, reducing and eliminating existing backlogs, and reporting program data on a quarterly basis. In addition, SWAs must administer the WOTC in accordance with the policies and procedural guidance set forth in the November 2002, Third Edition of ET Handbook 408 (the Handbook); the August 2009 Addendum to the Handbook; Section 51 of the Internal Revenue Code of 1986, as amended; and the current Federal regulations which cover the job service complaint procedures at 20 CFR 658.400. Attachment II, the WOTC Statement of Work, lists other applicable requirements.
6. **Reporting Requirements.** SWAs must report expenditures quarterly using the ETA Financial Report (ETA Form 9130). Quarterly financial reports are due within 45 days following the end of each quarter, and should cover all WOTC funds. Timely submission of these reports is important to ensure proper accounting of funds. ETA will conduct a financial reconciliation at the end of the fiscal year and grant period. SWAs must use the Web-based Enterprise Business Service System (EBSS), Tax Credit Reporting System to report quarterly program activities and outcomes using ETA Form 9058. Quarterly performance reports are due within 45 days following the end of each quarter. Timely submission of these reports is

important for program management purposes, and enables ETA to respond to inquiries on program activities from Congress and other stakeholders.

7. **Reporting Instructions During Lapse in Program Authorization.** ETA is providing the following instructions for states to report quarterly workload on the EBSS Web-based ETA Form 9058 during the current lapse in legislative authorization for the WOTC program, which began on January 1, 2015. To prepare for any retroactive reauthorization of WOTC, SWAs are required to include in their quarterly reports the number of certification requests (IRS Form 8850s) received for hires made on or after January 1, 2015. Beginning with the report for the quarter ending on March 30, 2015, SWAs must enter the total number of certification requests (IRS Form 8850s) received under Part I. Certification Workload as “(C) New Requests” for each reporting quarter until Congressional action ends the hiatus or ETA provides additional reporting guidance. The requests reported in “(C)” will serve, in part, as a record of the certification requests received for 2015 hires during the hiatus.

Certification requests for hires made on or after January 1, 2015, and entered as New Requests, will then be calculated within the quarterly report as any other certification request – i.e. New Requests are included in the auto-calculation for “(D) Total Requests to be Processed” field. In the quarterly report, these certification requests would then be included in the auto-calculation for “(H) Requests Needing Action.” Since SWAs are not permitted to issue certifications or denials for hires made on or after January 1, 2015, during the authorization lapse, these certification requests would not be reflected in (E) Certified Requests, (F) Denied Requests, or (G) Incomplete Requests.

8. **Action Requested.** Please provide this TEGL to all WOTC State Coordinators and related program staff, participating agencies and all other interested partners.
9. **Inquiries.** Please direct all questions to the appropriate Regional WOTC Coordinator, listed on the WOTC program Web site at:
http://www.doleta.gov/business/incentives/opptax/Regional_Contacts.cfm.
10. **Attachments.**
 - I. FY 2015 WOTC State Allotments
 - II. WOTC Statement of Work

U. S. Department of Labor
Employment and Training Administration

Attachment I

**Work Opportunity Tax Credits
FY 2015 State Allotments and Balance after Dissemination to States
under Continuing Resolutions (CR) 1**

State	FY 2015 Full Year Allotment Amount	Obligated under CR# 1 (10/1/14 through 12/11/14)	Balance to States
Total	\$18,485,000	\$3,645,070	\$14,839,930
Alabama	384,258	70,061	314,197
Alaska	66,000	13,015	52,985
Arizona	379,779	78,830	300,949
Arkansas	180,493	37,465	143,028
California	2,420,358	397,726	2,022,632
Colorado	231,252	43,921	187,331
Connecticut	152,605	31,676	120,929
Delaware	66,000	13,015	52,985
District of Columbia	66,000	13,015	52,985
Florida	967,245	200,770	766,475
Georgia	534,379	110,920	423,459
Hawaii	66,000	13,015	52,985
Idaho	74,863	15,539	59,324
Illinois	652,880	135,518	517,362
Indiana	399,201	80,582	318,619
Iowa	268,608	47,333	221,275
Kansas	175,301	34,987	140,314
Kentucky	352,523	71,015	281,508
Louisiana	327,821	68,046	259,775
Maine	98,257	20,395	77,862
Maryland	270,940	56,239	214,701
Massachusetts	305,593	55,396	250,197
Michigan	567,837	117,865	449,972
Minnesota	247,272	50,123	197,149
Mississippi	179,429	36,490	142,939
Missouri	391,914	77,675	314,239
Montana	66,000	13,015	52,985
Nebraska	125,999	26,154	99,845
Nevada	106,249	22,054	84,195
New Hampshire	66,000	13,015	52,985
New Jersey	353,501	73,376	280,125
New Mexico	115,655	24,006	91,649
New York	930,066	175,454	754,612
North Carolina	484,167	100,498	383,669
North Dakota	66,000	13,015	52,985
Ohio	925,008	192,003	733,005
Oklahoma	244,258	50,700	193,558
Oregon	261,374	42,950	218,424
Pennsylvania	762,876	158,349	604,527
Puerto Rico	91,829	16,635	75,194
Rhode Island	66,000	13,015	52,985
South Carolina	312,603	64,887	247,716
South Dakota	66,000	13,015	52,985
Tennessee	692,370	143,714	548,656
Texas	1,363,197	282,957	1,080,240
Utah	144,615	30,018	114,597
Vermont	66,000	13,015	52,985
Virginia	403,586	79,561	324,025
Washington	390,304	80,511	309,793
West Virginia	156,969	32,582	124,387
Wisconsin	311,566	62,980	248,586
Wyoming	66,000	13,015	52,985
State Total	18,465,000	3,641,126	14,823,874
Virgin Islands	20,000	3,944	16,056

**Work Opportunity Tax Credit (WOTC) Program
Statement of Work**

State Workforce Agencies (SWAs) are to use Fiscal Year 2015 funds for:

1. Determining eligibility of individuals as members of targeted groups, on a timely basis, and performing a “quality review” by a second staff person for each determination within 48 hours of receipt.
2. Issuing employer certifications, denials, or notices of invalidation for tax credits on a timely basis and in accordance with the policies and procedures set forth in the ETA Handbook No. 408, Third Edition, November 2002 (the Handbook) and the August 2009 Addendum to the Handbook.
3. Developing working agreements with partner agencies in the American Job Center network (also known as the One-Stop Career Center system) and coordinating efforts to promote WOTC to employers and job seekers and other Workforce Investment Act (WIA) partners.
4. Establishing and implementing an Appeals Resolution and Policy Clarification System in accordance with the guidelines provided in the Handbook (Chapter VIII, Section F, pp.VIII-5-8).
5. Establishing and maintaining appropriate forms’ review, record keeping, and reporting capability related to the orderly management of WOTC certification requests.
6. Establishing and maintaining an orderly system for regularly verifying the eligibility of a random sample of individuals certified under the WOTC Program and initiating effective corrective action when appropriate as indicated by results of such activities.
7. Negotiating formal cooperative agreements with local workforce areas, State Vocational Rehabilitation Agencies, Veterans Administration and related groups, Employment Networks and other state and local agencies, and organizations for the purposes of issuing Conditional Certifications where appropriate, and/or augmenting WOTC outreach activities.
8. Negotiating formal cooperative agreements with appropriate state agencies, including the Departments of Health and Human Services, Agriculture, Housing and Urban Development and the Social Security Administration to expedite verification of information provided to the SWA by participating target group members.
9. Training state and participating agency staff and providing monitoring and technical assistance to these agencies, as appropriate, for conducting target group preliminary eligibility determinations and issuing Conditional Certifications.
10. Cooperating with employment and training organizations already working with the private sector such as: veteran organizations, employer committees, and workforce

investment boards to inform employers about the tax benefits to be derived from participation and the eligibility requirements under the WOTC Program.

Grant Agreement Conditions.

By entering into this agreement, the SWA agrees to the following conditions:

1. The SWA must adhere to provisions of the Internal Revenue Code of 1986, Section 51, as amended, in conducting the program. Law designates the SWAs as the only agencies that can issue a Certification. The SWAs can enter into cooperative agreements with certain participating agencies and together provide other WOTC related program services (e.g., issuing Conditional Certifications, outreach activities).
2. The most current edition of the WOTC program Handbook and its updated August 2009 Addendum shall guide conditions and standards of performance for administration and operation of the program. The SWA shall maintain a verification and quality control process in accordance with guidance in this Handbook
3. ETA will review funding use against the quarterly spending plan; when expenditures are substantially below plan, ETA may de-obligate funds for redistribution.