

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 /s/
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