

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
	DATE April 17, 2014

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 22-13

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE LIAISONS

FROM: ERIC M. SELEZNOW /s/
ACTING ASSISTANT SECRETARY

SUBJECT: Work Opportunity Tax Credit (WOTC) Funding Allotments for Fiscal Year (FY) 2014

1. **Purpose.** To provide the State Workforce Agencies (SWAs) with final funding allotments for the administration of the WOTC program through September 30, 2014, and reporting instructions during the current authorization lapse.
2. **References.**
 - Consolidated Appropriations Act of 2014 (Pub. L. 113-76)
 - Sections 309 and 327 of the American Taxpayer Relief Act of 2012 (Title II of Pub. L. 112-240)
 - Section 261 of the VOW to Hire Heroes Act of 2011 (Title II of Pub. L. 112-56)
 - Section 51 of the Internal Revenue Code of 1986, as amended, 26 U.S.C. Section 51
 - Wagner-Peyser Act, Section 7(d)
 - 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 the Handbook
3. **Background.** In November 2013, the Employment and Training Administration (ETA) issued to SWAs the program funds provided by Congress for the Continuing Resolution for FY 2014. On January 17, 2014, President Obama signed into law the Consolidated Appropriations Act of 2014 (Pub. L. 113-76) (the Act). Division H, Title I of this Act provides Department of Labor funding appropriations for the remainder of FY 2014, including funding for the WOTC program. While the Act appropriated funds for administration of the WOTC, it did not extend the legislative authority for any of the WOTC target groups, which expired on December 31, 2013 (the lapse in authority is discussed in TEGL 8-13). At this time, we have no indication whether Congress may pass legislation extending authority for the expired program and target groups beyond December 31, 2013. In the past, when Congress has reauthorized the program, it permitted retroactive certifications

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of eligibility for the period between the expiration date and the reauthorization date. We interpret Congress's decision to appropriate new funds for WOTC administration during an authorization lapse to reflect Congressional intent that the SWAs continue to accept applications for the expired target populations and to report to ETA as discussed in Section 7 of this TEGL, pending possible reauthorization at a later date. However, as provided in further detail in TEGL 8-13, SWAs may not issue eligibility certifications or denials for employers' new hires made on or after January 1, 2014, unless and until Congress reauthorizes the program and ETA issues further guidance.

4. **Funding.** ETA is now issuing the balance of FY 2014 funding to the SWAs for the implementation of WOTC program activities through September 30, 2014. The appropriated level for FY 2014 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. No state receives an allotment below 95 percent or more than 120 percent of the allotment percentage it received in FY 2013. For FY 2014, the formula allotment data factors and percentages are as follows:

- 1) Fifty percent is based on each state's relative share of total certifications issued from October 1, 2012 through September 30, 2013 for the WOTC program;
- 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, 2012 through September 30, 2013; and
- 3) Twenty percent is based on each state's relative share of adult recipients of Temporary of Assistance to Needy Families averages from October 1, 2011 through September 30, 2012.

Attachment I shows the distribution of full FY 2014 WOTC funding allocations by state, according to this formula.

5. **General Administration.** 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 ETA Handbook 408 (the Handbook); the August 2009 Addendum to the Handbook; Section 51 of the Internal Revenue Code of 1986 (26 U.S.C. Section 51), as amended; and 20 CFR 658 Subpart E, the current Federal regulations, which cover the complaint procedure. Attachment II, the Statement of Work, lists other applicable requirements.
6. **Reporting Requirements.** SWAs must report expenditures quarterly using the ETA Financial Report (ETA Form 9130). These reports should cover all WOTC grant funds. Quarterly financial reports are due within 45 days following the end of each quarter. Timely

submission of these reports is extremely important to ensure proper accounting of funds. ETA's regional offices will conduct a financial reconciliation at the end of the fiscal year. 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 very important for program management purposes. In addition, the report enables ETA to respond to inquiries on program activities.

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, 2014. In anticipation of a possible 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, 2014. Beginning with the report for the quarter ending March 31, 2014, SWAs are to enter the total number of certification requests received under Part I. CERTIFICATION WORKLOAD as "(C) New Requests" for each reporting quarter until Congressional action ends the hiatus and/or ETA provides additional reporting guidance. The requests reported in "(C)" will serve, in part, as a record of the certification requests (IRS Form 8850s) received for 2014 hires during the hiatus.

Certification requests for hires made on or after January 1, 2014, 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, 2014, during the authorization lapse (as outlined in TEGl No. 8-13), these certification requests would not be reflected in (E) Certified Requests, (F) Denied Requests, or (G) Incomplete Requests.

8. **Action Requested.** ETA requests that SWA administrators provide this TEGl to all WOTC State Coordinators and related program staff, participating agencies and all other interested partners.
9. **Inquiries.** Direct all questions to the appropriate regional WOTC coordinator. A directory with complete contact information for the six regional WOTC coordinators is available on the WOTC program Web site at:
http://www.doleta.gov/business/incentives/opptax/Regional_Contacts.cfm.
10. **Attachments.**
 - I. FY 2014 WOTC State Allotments
 - II. WOTC Statement of Work