

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
	DATE March 17, 2023

ADVISORY: TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 06-22, CHANGE 1

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
WORK OPPORTUNITY TAX CREDIT COORDINATORS

FROM: BRENT PARTON /s/
Acting Assistant Secretary

SUBJECT: Change 1 to Training and Employment Guidance Letter No. 06-22, *Work Opportunity Tax Credit (WOTC) Initial Funding Allotments for Fiscal Year 2023*

1. **Purpose.** This Change 1 to Training and Employment Guidance Letter (TEGL) No. 06-22 conveys the remaining balance for Fiscal Year (FY) 2023 WOTC funding allotments and explains application requirements for State Workforce Agencies (SWAs) based on appropriated funding. Additionally, this Change 1 TEGL announces 14 states selected to receive additional FY 2023 backlog award funding and provides instructions to those states on how to proceed. The rest of TEGL No. 06-22 remains the same.
2. **Action Requested.** Grantees must meet the application requirements detailed in section 4 within 30 calendar days from the date of this TEGL issuance.
3. **Summary and Background.**
 - a. Summary – On November 14, 2022, the Employment and Training Administration (ETA) issued TEGL No. 06-22, which announced the initial FY 2023 WOTC funding allotments of \$3,900,335 under the Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023 (Pub. L. 117-180). The continuing resolution (CR) allowed for incremental grant funding for states’ administration of the WOTC, pro-rated based on the CR’s end date of December 16, 2022. On December 16, 2022, the Further Continuing Appropriations and Extensions Act, 2023 (Pub. L. 117-229) became law, providing a second CR (CR2) through December 23, 2023. The amount of WOTC funding authorized under CR2 was \$354,912. On December 23, 2022, the President signed the Further Additional Continuing Appropriations and Extensions Act, 2023 (Pub. L. 117-264), providing a third CR (CR3) through December 30, 2022, and providing additional WOTC funding in the amount of \$354,912. On December 29, 2022, the Consolidated Appropriations Act of 2023 (Pub. L. 117-328) was signed into law, authorizing the full FY 2023 appropriations. ETA has available

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grant funds totaling \$18,485,000 for normal operations in FY 2023. This Change 1 TEGL announces the full-year appropriation and availability of the remaining balance to the states in the amount of \$14,584,665, which includes funding authorized under CR2 and CR3. The state allotment amounts are listed in Attachment I, “*Work Opportunity Tax Credit Fiscal Year 2023 State Allotments and Balance after Dissemination to States under Continuing Resolution 1.*”

Additionally, the Consolidated Appropriations Act of 2023 authorized an additional \$2,500,000 in funding to support efforts to reduce WOTC processing backlogs and assist states in adopting and/or modernizing information technology for processing of certification requests. This Change 1 TEGL announces the 14 states selected to receive FY 2023 backlog awards, and their respective award amounts, in Section 4.

- b. Background – The WOTC is set forth under section 51 of the Internal Revenue Code of 1986, as amended (26 U.S.C. sec. 51), and is effective until December 31, 2025, under the Consolidated Appropriations Act, 2021 (Pub. L. 116-260), Division EE, Title 1, Subtitle B, Section 113. The U.S. Department of the Treasury, through the Internal Revenue Service (IRS), administers all tax-related provisions and requirements of the Federal tax credit. The U.S. Department of Labor, through ETA, awards grants to states for administration of the WOTC.

4. **Details.** States must enter the state allotment amount in the “Balance to States” column (provided in Attachment I) on their SF-424 Form, *Application for Federal Assistance*, as their request for additional FY 2023 funding. States selected for FY 2023 WOTC Backlog Award funding must enter the state-specific award amount listed in Section 4 of this TEGL on a **separate** SF-424 Form. All States must submit an electronically signed copy of the SF-424 through [Grants.gov](https://www.grants.gov).

Allotment Formula. ETA determines state allotments for normal WOTC operations according to the following methodology. After allocating \$20,000 to the U.S. Virgin Islands, ETA distributes the remaining funds to the SWAs by administrative formula with a \$66,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the previous year allotment percentage. The administrative formula is calculated as follows:

- a. 50 percent is based on each state’s relative share of total WOTC certifications issued from October 1, 2021, through September 30, 2022;
- b. 30 percent is based on each state’s relative share of the Civilian Labor Force averages for the 12-month period from October 1, 2021, through September 30, 2022; and
- c. 20 percent is based on each state’s relative share of adult recipients of Temporary Assistance for Needy Families averages from October 1, 2020, through September 30, 2021.

Application Requirements for FY 2023 Funding. ETA requires grantees to submit an electronically signed copy of the SF-424 Form, *Application for Federal Assistance* (OMB Control No. 4040-0004), as their official request for funding opportunity number ‘ETA-WOTC-TEGL-06-22-23-C1’ at <https://www.grants.gov>, within 30 calendar days from the issuance date of this TEGL.

The official, electronically signed SF-424 Form must reflect the amount listed in Attachment I as the state’s requested estimated funding total in item #18, the Catalog of Federal Domestic Assistance Number 17.271 for item #11, and the grantee’s 12-character Unique Entity Identifier (UEI number) listed for item #8c. Each applicant must have a UEI number assigned by the System for Award Management, and it must be registered at [SAM.gov](https://sam.gov) before submitting an SF-424 application. Grantees should indicate the estimated amount of Indirect Costs to be claimed by the recipient for FY 2023, if any, as a sentence for item #15, Descriptive Title of Applicant's Project. Grantees may use the amount of indirect costs reported against their FY 2022 WOTC grant as an approximation of FY 2023 indirect cost expenditures. For example: “*Indirect Costs for this award are estimated at \$19,000.*” If there is no estimated Indirect Costs, the following statement must be entered: “*Indirect Costs for this award are estimated at \$0.00.*”

To submit the required documents, applicants must follow the “Apply for Grants” link on [Grants.gov](https://www.grants.gov) and download the links for the grant application package. For this grant opportunity, applicants should not follow the “Find Grants” link, as this is not a competitive funding opportunity. If applicants encounter a problem with [Grants.gov](https://www.grants.gov) and do not find an answer in any of the other available resources, they should call 1-800-518-4726 or 1-606-545-5035 to speak to a Customer Support Representative or send an email to support@grants.gov.

Revised Award Descriptions. As part of a Federal government-wide effort to describe grant activities consistently and accurately, ETA revised its standard grant award descriptions. States may see the following text in the grant awards or online descriptions of WOTC grants:

- **Purpose:** The purpose of this grant is to allow SWAs to administer WOTC per ETA guidance and provisions of the IRS Code of 1986, Section 51, as amended. Law designates the SWAs as the only agencies that can issue a Certification (26 USC §51(d)(12)). That statute refers to SWAs as State employment security agencies, established in accordance with 29 U.S.C. 49.
- **Activities to be performed:** SWAs must use funds to implement the requirements set forth in the *WOTC Statement of Work*, including to: Designate a state coordinator who oversees the administration of WOTC for each state grant; Determine eligibility of individuals as members of targeted groups on a timely basis, and issue employer certifications, denials, or notices of invalidation for tax credits on a timely basis, and in accordance with the policies and procedures set forth by ETA; and Establish and maintain appropriate forms’ quality review process, record keeping, and reporting capability related to the orderly management of WOTC certification requests.
- **Expected Outcomes:** For WOTC grants, SWAs will issue determinations (certifications or denials) for employers’ certification requests, which facilitate tax

credits determined by the U.S. Department of the Treasury. SWAs will increase efficiency in processing employers' certification requests and develop plans that include an estimated timeline to eliminate existing backlogs of certification requests.

- **Intended Beneficiaries:** Job seekers who have access to a higher number of employment opportunities, and employers who seek to increase hiring of qualified job applicants. Other beneficiaries include state and local partner agencies in the American Job Center network that coordinate efforts to promote WOTC to employers, job seekers, and other Workforce Innovation and Opportunity Act (WIOA) partners.
- **Subrecipient Activities:** SWAs, as WOTC grant recipients, do not typically subaward funds. States that wish to subaward funds should seek approval from their Grant Officer.

FY 2023 WOTC Backlog Awards. ETA intends to distribute WOTC backlog awards to 14 states with the most critical needs for assistance in alleviating processing backlogs and adopting or modernizing information technology for processing of certification requests. To inform the selection process, ETA analyzed the following data:

- a. FY 2022 backlog total and percentage ratio it represents of the state's total workload;
- b. FY 2022 and FY 2021 financial reports; and
- c. FY 2022 qualitative data based on states' and/or regional coordinators' narratives, which explain how the states could use this award to make improvements to their existing systems or procedures and reduce their backlog.

ETA carefully reviewed these three sources of data to gain an understanding of the states' needs and any contributing factors that led to the states' backlog. ETA did not consider the states that received backlog awards in FY 2022, nor did it extend FY 2021 grantees, due to the overlapping grant period of performance. ETA examined the remaining states' backlogs and information technology modernization needs to identify this set of selected states. Additionally, ETA analyzed FY 2022 and FY 2021 financial reports to determine a state's ability to use additional funding and did not select states with extraordinarily low expenditure rates to receive backlog funds. Finally, ETA reviewed narratives that states submitted. The selected states expressed interest in this additional backlog funding to help them attain staff support, enhance their current partially automated systems, and develop automated systems. Based on these factors, ETA identified 14 states with the most critical need to address backlog or system modernization issues and to receive additional funding. Based on the availability of \$2,500,000 in funds, ETA established three funding tiers to distribute these awards to 14 states:

- Tier 1 = \$100,000
- Tier 2 = \$200,000
- Tier 3 = \$300,000

The selected states and corresponding funding amounts for these awards are as follow:

\$100,000	\$200,000	\$300,000
• Alabama	• Connecticut	• California
• Alaska	• Hawaii	• Indiana
• Illinois	• New Hampshire	• New Jersey
• Montana	• North Carolina	
• Rhode Island	• Ohio	
• Virginia		

Note: If a state fails to submit the required application materials timely, or decides to refuse the award, ETA reserves the right to either redistribute such funds to the other selected states and/or consider additional state(s) for an award, as appropriate.

General Administration. With their FY 2023 grant award, SWAs are responsible for conducting the WOTC activities outlined in the *WOTC Statement of Work*. (See Attachment II of TEGL 06-22, *Work Opportunity Tax Credit (WOTC) Initial Funding Allotments for Fiscal Year 2023*, available here: <https://www.dol.gov/agencies/eta/advisor/tegl-06-22>).

Reporting Requirements.

- a) **Quarterly Financial Report** – SWAs must report fiscal expenditures quarterly using ETA Form 9130. Financial reports are due no later than 45 days following the end of each quarter. Timely submission of these reports is important to ensure proper accounting of funds. As part of ETA’s transition away from legacy systems, the new Payment Management System (PMS) Financial Reporting System will go live for ETA grant recipients’ submission of the quarterly ETA-9130 financial reports on April 3, 2023. PMS is operated by the U.S. Department of Health and Human Services, which will conduct training for ETA grant recipients on the use of the new reporting system. Additional guidance and information on the access and use of the PMS Financial Reporting System for the submission of future ETA-9130 quarterly financial reports is provided in Training and Employment Notice No. 16-22. The PMS Financial Reporting System training sessions will be recorded and available for future reference.
- b) **Quarterly Performance Report** – SWAs must use the web-based Enterprise Business Support System (EBSS) Tax Credit Reporting System to report quarterly activities and outcomes using ETA Form 9058. Performance reports are due no later than 45 days following the end of each quarter. Timely submission of these reports is important for administration purposes.

5. **Inquiries.** Please direct inquiries to the appropriate Regional WOTC Coordinator listed on the WOTC website at <https://www.dol.gov/agencies/eta/wotc/contact/regional-offices>.

6. **References.**

- Section 51 of the Internal Revenue Code of 1986, as amended (<https://uscode.house.gov/view.xhtml?path=/prelim@title26/subtitleA/chapter1/subchapterA/part4/subpartF&edition=prelim>);

- Section 49 of Title 29 of the United States Code (Labor) ([https://uscode.house.gov/view.xhtml?req=\(title:29%20section:49%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:29%20section:49%20edition:prelim)));
- Pub. L. 117-180, Continuing Appropriations and Ukraine Supplemental Appropriations Act of 2023 (<https://www.congress.gov/117/bills/hr6833/BILLS-117hr6833enr.pdf>);
- Pub. L. 117-229, Further Continuing Appropriations and Extensions Act, 2023 (<https://www.congress.gov/117/bills/hr1437/BILLS-117hr1437enr.pdf>);
- Pub. L. 117-264, Further Additional Continuing Appropriations and Extensions Act, 2023 (<https://www.congress.gov/117/bills/hr4373/BILLS-117hr4373enr.pdf>);
- Pub. L. 117-328, Consolidated Appropriations Act of 2023 (<https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf>); and
- Training and Employment Guidance Letter No. 06-22, *Work Opportunity Tax Credit (WOTC) Work Opportunity Tax Credit Initial Funding Allotments for Fiscal Year 2023*, and Attachments (<https://www.dol.gov/agencies/eta/advisories/tegl-06-22>).
- Training and Employment Notice No. 16-22, *The Employment and Training Administration is Implementing Grant Solutions for Grant Award Processing and the Payment Management System for Financial Reporting* (<https://www.dol.gov/agencies/eta/advisories/ten-16-22>).

7. **Attachment(s).**

- Attachment I: Work Opportunity Tax Credit FY 2023 State Allotments and Balance after Dissemination to States under Continuing Resolution (CR)