

EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U. S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION WOTC
	CORRESPONDENCE SYMBOL OWI
	DATE March 5, 2010

TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 16-09

TO: ALL STATE WORKFORCE AGENCIES
ALL STATE WORKFORCE LIAISONS

FROM: JANE OATES *Jane Oates*
Assistant Secretary

SUBJECT: Work Opportunity Tax Credit (WOTC) Funding Allotments for Fiscal Year 2010

1. **Purpose.** To provide state workforce agencies (SWAs) responsible for management of the WOTC Program with funding allotments for the period October 1, 2009 through September 30, 2010.

2. **References.**

- Department of Labor Appropriations Act, 2010, Division D, Title I of the Consolidated Appropriations Act of 2010 (P.L. 111-117)
- American Recovery and Reinvestment Act (Recovery Act) of 2009 Section 1221, (P.L. 111-5)
- Section 51 of the Internal Revenue Code of 1986, as amended;
- Wagner-Peyser Act, Section 7(d)
- Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28)
- Tax Relief and Health Care Act of 2006 (P.L. 109-432)
- Working Families Tax Relief Act of 2004 (P.L. 108-311)
- Small Business Job Protection Act of 1996 (P.L. 104-188)
- August 2009 Addendum to Third Edition, November 2002, ETA Handbook 408
- Third Edition, November 2002, of ETA Handbook 408

3. **Background.** The funds for the allotments announced in this Training and Employment Guidance Letter (TEGL) are part of the funds appropriated under the Department of Labor Consolidated Appropriations Act of 2010 (P.L. 111-117), signed into law by President Obama on December 16, 2009.

RESCISSIONS None	EXPIRATION DATE: Continuing
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On May 25, 2007, the Small Business and Work Opportunity Tax Act of 2007 (P.L. 110-28) reauthorized the Work Opportunity Tax Credit program for an additional 44-month period, through August 31, 2011. On February 17, 2009, the President signed into law the American Recovery and Reinvestment Act (the Recovery Act) of 2009 (P.L. 111-5). This legislation introduced two new target groups: 1) Unemployed Veterans and 2) Disconnected Youth who begin to work for an employer after December 31, 2008.

4. **Funding.** ETA is issuing Fiscal Year (FY) 2010 funding to the SWAs for WOTC Program implementation activities and elimination of certification backlogs. The appropriated level for FY 2010 totals \$18,520,000. After allocating \$20,000 for the Virgin Islands, funds are distributed to states by administrative formula with a \$66,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the prior year allotment share percentage.

The FY 2010 formula allotment data factors and related percentages are as follows:

- (1) Fifty percent based on each state's relative share of total certifications issued from July 1, 2008 - June 30, 2009 for the WOTC program;
- (2) Thirty percent based on each state's relative share of the Civilian Labor Force, averages for the 12-month period, from October 2008 through September 2009; and
- (3) Twenty percent based on each state's relative share of adult recipients of Temporary Assistance for Needy Families, averages for the 12-month period, from October 1, 2007 through September 30, 2008.

Attachment I shows the distribution of FY 2010 WOTC funding amounts by state for program operations in 2010. For FY 2010, there will no longer be a postage reserve taken from funds distributed by formula. All funds are distributed by formula, and all states will use their formula funds to cover postage costs. Funds will be issued by the Grant Officer with the requirement that expenditures must comply with the Uniform State Plan

Narrative (i.e., the Statement of Work - Attachment II) and the policy guidance in this TEGL.

5. **General Administration.** SWAs are responsible for administering the WOTC Program, including processing certification requests, promoting the program to employers, reducing and eliminating existing backlogs, and reporting program data on a quarterly basis.

In addition, the WOTC must be administered in accordance with the policies and procedural guidance set forth in the November 2002, Third Edition of ETA Handbook No. 408 (Handbook) and the August 2009 Addendum to this Handbook, and Section 51 of the Internal Revenue Code. Current Federal Regulations at 20 CFR 658.400 Subpart E cover the Job Service complaint procedures.

6. **Reporting.** SWAs should report expenditures quarterly by completing Standard Form 9130 (SF-9130) (OMB No. 1205-0461) and entering expenditures into ETA's Web-based Enterprise Business Support System (EBSS), Cost Reporting System. These reports should cover all WOTC grant funds. Quarterly financial reports are due within 30 days following the end of each quarter per 29 CFR 97.41(b)(4). Timely submission of these reports is extremely important to ensure proper accounting of funds. Regional Offices will conduct a financial reconciliation at the end of the fiscal year. Questions regarding financial management and reporting for FY 2010 or for existing prior year fund balances should be addressed to the appropriate Regional Office.

SWAs should use the Web-based EBSS modified Tax Credit Reporting System, currently in place, to report quarterly program activities and outcomes. A schedule with report due dates will be available at: <http://www.doleta.gov/business/incentives/opptax>. Quarterly performance reports are due within 45 days following the end of each quarter. **Note.** States were granted an additional 90 days to submit quarterly performance reports during the WOTC program's early implementation years. However, to ensure greater transparency and timely data for the WOTC program, ETA has decided to remove the 90-day grace period effective upon receipt of this TEGL. Program reports will now be due 45 days following the close of each quarter.

7. **Action Requested.** State Administrators are requested to immediately transmit this TEGL to the appropriate staff.

8. **Inquiries.** Questions regarding these allotments may be directed to the appropriate Regional Office. Information on allotments and planning requirements may also be found on ETA's Web site at:
<http://www.doleta.gov>.

9. **Attachments:**

- I. FY 2010 WOTC State Allotments
- II. WOTC Uniform State Plan Narrative (Statement of Work)

U. S. Department of Labor
Employment and Training Administration
Work Opportunity Tax Credits
FY 2010 State Allotments

State	Amount
Total	\$18,520,000
Alabama	243,221
Alaska	66,000
Arizona	394,394
Arkansas	233,704
California	2,287,884
Colorado	210,314
Connecticut	197,595
Delaware	66,000
District of Columbia	66,000
Florida	817,894
Georgia	585,186
Hawaii	66,000
Idaho	66,000
Illinois	845,352
Indiana	502,670
Iowa	259,688
Kansas	172,777
Kentucky	277,636
Louisiana	380,805
Maine	79,736
Maryland	303,782
Massachusetts	333,452
Michigan	642,363
Minnesota	267,248
Mississippi	194,335
Missouri	484,533
Montana	66,000
Nebraska	135,321
Nevada	108,911
New Hampshire	66,000
New Jersey	457,713
New Mexico	149,750
New York	935,998
North Carolina	500,319
North Dakota	66,000
Ohio	804,850
Oklahoma	250,378
Oregon	243,531
Pennsylvania	639,936
Puerto Rico	94,307
Rhode Island	66,000
South Carolina	202,405
South Dakota	68,562
Tennessee	709,716
Texas	1,352,370
Utah	121,866
Vermont	66,000
Virginia	392,904
Washington	452,191
West Virginia	127,381
Wisconsin	311,022
Wyoming	66,000
State Total	18,500,000
Virgin Islands	20,000

Work Opportunity Tax Credit Program
Uniform State Plan Narrative (Statement of Work)

Instructions.

State workforce agencies (SWAs) are to use Fiscal Year 2010 funds announced herein 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 of the IRS Form 8850 and ETA Form 9061 or 9062.
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 One-Stop Delivery 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 the audit activities.
7. Negotiating formal cooperative agreements with local WIA 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 agreements with appropriate Federal and state agencies, including the Departments of Health and Human Services, Agriculture, Housing and Urban Development, the Social Security Administration, and others 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 local WIA 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. Provisions of the Internal Revenue Code of 1986, Section 51, as amended, must be adhered to in conducting the program. By law, the SWAs are designated 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. SWAs must follow the conditions and standards of performance for administration and operation of the program found in the most current edition of the ETA Handbook 408 for the WOTC and its August 2009 Addendum. The state must maintain a verification and quality control process in accordance with guidance in this Handbook
3. Funding use will be reviewed against the quarterly spending plan and when expenditures are substantially below plan; ETA may de-obligate funds for redistribution.