

**SUPPORTING STATEMENT FOR
PAPERWORK REDUCTION ACT 1995 SUBMISSIONS
OMB Control Number - 1205-0371 – Revision and Extension of Currently Approved
Information Collection Request
Consolidated Work Opportunity Tax Credit Program**

I. Justification

Q1: Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

A1: The Work Opportunity Tax Credit (WOTC) program was created by the Small Business Job Protection Act of 1996 (P.L. 104-188), and the Welfare-to-Work Tax Credit (WtWTC) was created by the Taxpayer Relief Act of 1997 (P.L. 105-34). The Working Families Tax Relief Act of 2004 (P.L. 108-311) reauthorized the WOTC/WtWTC, without changes, for a 24-month period from January 1, 2004 through December 31, 2005. The WOTC program experienced an 11-month hiatus that ended on December 20, 2006 **when Congress passed P.L. 109-432 in 2006** and within five months of this law **passed a second law, P.L. 110-28, in 2007** to further extend the WOTC Program beyond December 31, 2007. Specifically, on May 25, 2007, the President signed into law the *Small Business and Work Opportunity Tax Act of 2007* (P.L. 110-28). Section 8211 of this Act extended and modified the WOTC Program for a continuing 44-month period through August 31, 2011. The new provisions & amendments to certain target groups apply to new hires that begin to work for an employer after May 25, 2007. An earlier legislation, **the Tax Relief and Health Care Act of 2006 (P.L. 109-432)** signed into law on December 20, 2006, **extended the WOTC Program, retroactively, to December 31, 2005 for two additional years through December 31, 2007 and consolidated the program by merging the Welfare-to-Work Tax Credit into the WOTC.**

This Act also made several statutory amendments and introduced new provisions that streamline the program and make it easier for the business sector to participate. The statutory changes and new provisions required that the following program report, processing and administrative forms and other program related materials be revised and updated to reflect the new changes and provisions. They are: 1) ETA Form 9058 – Report 1; 2) ETA Forms 9057, 9059, 9061 – 9063, and 9065; 3) the February 2007 Addendum to ETA Handbook 408, Third Edition, November 2002; and 4) the Technical Assistance and Compliance Review Guide. To request a certification from a state workforce agency (SWA), employers or their representatives must submit not only IRS Form 8850 but also either ETA Form 9061 or 9062. SWAs cannot process timely filed but incomplete requests. IRS Form 8850 has already been cleared by OMB.

This Paperwork Reduction Act extension request builds on ETA's 2005 submission which included several measures that ETA undertook to reduce the states' reporting burden. At that time, ETA evaluated its administrative requirements and need for information and concluded that the previous three quarterly reports the states were required to provide to ETA could be reduced to a single report. Thus the existing –now revised-- ETA Form 9058 (formerly Report 2) was then updated to become the single required quarterly report, renamed as "Certification Workload and Characteristics of Certified Individuals – Work Opportunity Tax

Credit, Report 1.” The currently updated ETA Form 9058 – Report 1 will provide ETA with information on states’ workload, certifications issued by target group, denials, and the characteristics of the new employees found eligible for the 2007 reauthorized and 2006 consolidated WOTC. The previous additional quarterly reports – ETA Forms 9057 (Report 1) and 9059 (Report 3) – each was converted into summary worksheets that states may use for internal program management purposes. **Although ETA is seeking approval for revised versions of these forms, they are for the states’ internal use and will not be submitted by the states to ETA.**

The remaining four administrative forms included in this submission (ETA Forms 9061, 9062, 9063 and 9065), which are used by employers seeking WOTC certification and by states in processing those requests, have been continued and updated as necessary, primarily through the addition of statutorily-mandated new target group eligibility criteria for the former High-Risk Youth now called Designated Community Resident (DCR) and the Qualified Veteran groups. **Two of these four administrative forms are for the states’ internal use, and none of the four are submitted to ETA.**

This submission also reflects that, through automation of ETA reporting systems, we have improved information on workload. For example, we now know that there were 990,000 certification requests nationally in Fiscal Year 2003, the last full year during which there was no lapse in WOTC/WtWTC authorizations, and that 440,000 certifications were issued that year. We also have been able to reduce the state reporting burden through use of the more efficient Internet-based Tax Credit Reporting System (TCRS). The data collected under this submission is necessary for effective federal administration of the consolidated WOTC program, including allowing ETA and the Internal Revenue Service to oversee state administration of tax credits. Significantly, uniform program administration procedures and forms ensure that businesses, especially multi-state businesses, that utilize the WOTC tax credit receive consistent treatment from state to state regarding eligibility determinations and processing of their certification requests, and that the statutory rules for receipt of this tax credit are administered consistently.

The current OMB authorization for the consolidated WOTC program (OMB No. 1205-0371) – covering reporting and administrative forms, the Spanish version of ETA Form 9061, and ETA Handbook No. 408, Fourth Edition, April 2008, Reporting Guidance TEG, and Technical Assistance and Compliance Review Guide – initially expired on June 30, 2006. This office, however, requested an extension and OMB granted the extension through August 31, 2009. Because the Department of Labor (DOL) recognizes that the business sector needs not only IRS Form 8850 but also either ETA Form 9061 or 9062 to file a certification request with a SWA for each new hire under the consolidated program, after Congress passed and the President signed into law the two most recent pieces of legislation, we requested an emergency revision and extension for the updated forms and materials. OMB granted the emergency extension through April 31, 2008. This extension request has the following two-fold outcomes: 1) It will allow the businesses to continue the uninterrupted participation in the program according to Congressional intent and the SWAs to continue accepting and processing all timely filed certification requests for hires that began to work for an employer after December 31, 2006 and after May 25, 2007 and 2) It will allow ETA to finalize and publish the new Fourth Edition (4th Edition) of ETA Handbook 408 (the Handbook) in accordance with the most recent changes and new provisions introduced by Public Laws 109-432 and 110-28 and revise any of the forms and/or program materials according to any comments received during the Public Comment Period granted through March 10, 2008.

One of the new legislative changes amended the statutory provision that requires that employers or their representatives/consultants file their requests for certification within 21 days after the employment-start date of the new hire(s). The new change extends the filing period from 21 days to 28 days after the employment-start day of the new hire.

Citation of sections of laws that justify this information collection: The WOTC and the former WtWTC statutes are primarily codified at 26 U.S.C. §§ 51 and 51A. P.L. 109-432 rescinded §51A of the Internal Revenue Code effective December 20, 2006, when the WtWTC was merged into the WOTC program. The principal public laws affecting the original and newly consolidated WOTC program are cited in the first paragraph above.

Certification Testing Requirement and Authorization of Appropriations. **The Omnibus Budget Reconciliation Act of 1990, P.L. 101-508, sec. 11405(c), extended indefinitely** the \$5 million set-aside (cited below) for testing whether individuals certified as members of WOTC targeted groups are eligible for certification. As long as there is a WOTC appropriation, this requirement continues in force.

Section 261(f)(2) of P.L. 97-34 (the Economic Recovery Act of 1981), as amended by P.L. 97-248, section 233(e), P.L. 98-369, section 1041(b), and P.L. 99-514, section 1701(d) provide that: “There is authorized to be appropriated for fiscal years 1982 the sum of \$30,000,000, and for fiscal years 1983, 1984, 1985, 1986, 1987 and 1988 such sums as may be necessary, to carry out the functions described by the amendments made by paragraph (1) [amending subsections (d) (14) and (g) of this section], except that, of the amounts appropriated pursuant to this paragraph”--

“(A) \$5,000,000, shall be used to test whether individuals certified as members of targeted groups under section 51 of such Code [the Internal Revenue Code] are eligible for such certification (including the use of statistical sampling techniques), and (B) the remainder shall be distributed under performance standards prescribed by the Secretary of Labor.”

In brief, the processing and reporting forms were designed to collect the necessary program data to evaluate program performance and outcomes and in this way comply with the above mentioned requirements and facilitate the work of the Secretary of Labor, including tracking program accountability and integrity. These forms also support submission of data to the IRS and the Department of Treasury for budget and revenue estimates.

Justification for collection of Social Security Numbers (SSNs): Note. In the past, OMB has asked for a justification for the SWAs to collect SSNs. ETA forms for the tax credits require SSNs (specifically, ETA Form 9061) in order to accurately match each IRS Form 8850 filed by employers requesting certification under the WOTC. This match is required so the state offices can begin the eligibility verification and processing activities before they approve or deny a certification request. The IRS Form 8850 is a statutorily mandated form. IRS has decided that the SSN is necessary and has informed the public via the agency’s bulletins, rules, and regulations about the need for the SSN. Since this is a tax related program, and DOL (through ETA), and Treasury (through the IRS) jointly administer the program, the agencies have jointly agreed on this and many other program requirements that ensure the WOTC program’s smooth and uninterrupted operation.

Q2: Indicate how, by whom, and for what purpose the information is to be used. Except for

a new collection, indicate the actual use the agency has made of the information received from the current collection.

A2: Data on the consolidated WOTC program will be collected by the SWAs using the forms included in this submission. A small portion of the data collected by SWAs will be provided to ETA's Division of Adult Services, Office of Workforce Investment, Washington, D.C. through quarterly filing of ETA Form 9058 – Report 1 with the appropriate ETA regional offices. The data reported to ETA will be used for program management and outcome reporting, including monitoring, oversight, and the identification of technical assistance needs and training requirements. The data is also used in the annual administration and congressional budget justification.

States will be required to use, without modification, two of the current four required WOTC administrative and processing forms (the "Individual Characteristics Form (ICF)," ETA Form 9061, and the "Conditional Certification Form," ETA Form 9062). SWAs are free to design their own formats for the "Employer Certification" form (ETA Form 9063) and "Verification Results" forms (ETA Form 9065) as long as they include all the information required in the subject optional forms. The data collected through these forms will help the SWAs prepare their required quarterly report to ETA, and will help ETA and the IRS ensure the program's integrity.

Required Use (Standard) WOTC Forms: All employers and third parties serving under contract as an employer's agent/consultant for purposes of the employer's participation in the WOTC program are required to use IRS Form 8850, as modified pursuant to IRS Notice 95-52, and the "Individual Characteristics Form (ICF)" (ETA Form 9061) or the "Conditional Certification" (ETA Form 9062) as the case may require. The ICF must be used without modification.

All SWAs and participating agencies to which SWAs have delegated responsibility for conditional certification are required to use the "Conditional Certification" form (ETA Form 9062), without modification, when issuing original and revalidated conditional certifications (e.g., this applies to the Summer Youth target group only). This form is not to be confused with the revised and optional Conditional Certification Summary Worksheet (ETA Form 9057, which SWAs may choose to use to capture the number of Conditional Certifications issued within the quarter. In addition, and in accordance with ETA's report streamlining efforts, this office revised all reporting and administrative/processing forms and their requirements. They are described in detail in the following paragraphs.

Summary and Overview of Reporting and Processing Reduction Changes and Requirements:

Quarterly Reporting Forms and Requirements: Only one form is now required to be reported by the SWAs to ETA on a quarterly basis – the "Certification Workload and Characteristics of Certified Individuals – Work Opportunity Tax Credit Report 1" (ETA Form 9058), previously known as Report 2. This report is required to be used, without modification, to summarize and report to ETA regional and national offices the number of certifications issued and the characteristics of the target group individuals certified on a quarterly basis. The previous Addendum to Report 2 was discontinued since the O*NET Occupational Codes were added to the body of the revised report. The option to report occupations using the Dictionary of Occupational Codes was discontinued.

Additional and Revised Administrative/Processing Forms: This office converted the previous Conditional Certification -- Report 1 (ETA Form 9057) to an optional “Conditional Certifications Issued -- Summary Worksheet.” We have also converted the previous Verification Results – Report 3 (ETA Form 9059) to an optional “Verification Results -- Audit Summary Worksheet” Both revised forms have been added to the existing four WOTC administrative/processing forms for use in state administration of the program. **States are no longer required to submit these two reports to ETA on a quarterly basis.**

Optional Use WOTC Forms: SWAs have the option to use the following forms in their state administration of the program: “Agency Declaration of Verification Results” (ETA Form 9065); “Employer Certification” (ETA Form 9063); “Conditional Certifications Issued – Summary Worksheet” (ETA Form 9057); and “Verification Results – Audit Summary Worksheet” (ETA Form 9059). SWAs electing not to use the ETA optional forms may design or format their own forms to meet state needs but must assure that state form(s) include all of the contents or information requested on the original optional forms.

SWAs and participating agencies are not required to execute an Individual Characteristics Form (ICF) (ETA Form 9061) when issuing a Conditional Certification (ETA Form 9062). However, SWAs and participating agencies are encouraged to use the ICF as a worksheet to identify the WOTC target group under which an individual qualifies and to aid building a detailed record that supports the decision to issue a Conditional Certification.

WOTC Quarterly Reporting and Administrative Forms: The WOTC streamlined administrative and reporting procedures are outlined in the revised and updated July 2007, Addendum to the November 2002, Third Edition of ETA Handbook No. 408 and will be added to the new April 2008, Fourth Edition of ETA Handbook 408 (the Handbook). Copies of these forms appear in Appendices II and III of this Addendum and the new Fourth Edition of the Handbook. Administrative and quarterly reporting forms for the consolidated WOTC program and related program guidance are discussed in detail below.

Detailed Description of Administrative/Processing Forms:

(1) The WOTC Pre-Screening Notice and Certification Request (PSN/CR), IRS Form 8850, is to be used (pursuant to IRS Notice 96-52, Announcement 96-116, and the updated Instructions) by employers or their consultants to establish a record of their belief that a job applicant is a member of a WOTC target group. The IRS notice provides administrative and procedural information relevant to the requirements of the program and information pertaining to the employer's use of the pre-screening notice.

(2) The “Individual Characteristics Form – Work Opportunity Tax Credit (ICF),” (ETA Form 9061) is a DOL/ETA form required to be used, without modification, by all employers or third parties serving under contract as an agent of the employer for purposes of the employer's participation in the consolidated WOTC program. The purpose of the ICF is to expedite certification processing by enabling the individual for whom a certification is requested to be identified with a specific target group.

The ICF also provides other information needed to support verification and reporting. SWAs may attach supplemental information to the ICF that causes it to contain state-specific information. Examples of such information include the residential address of the two WOTC youth target groups, which denotes that the applicant’s “place of abode” must be located in an

Empowerment Zone, Enterprise, Renewal Community, and/or Rural Renewal County; the name of a person that may be contacted; or a "help number" that may be called to have questions answered. Supplemental information may also include material that expresses, in easy to understand terms, the characteristics that establish eligibility under the various WOTC target groups, or describes the supporting documentation that will be accepted as proof of eligibility under a WOTC target group category.

SWAs must accept the type of documentation indicated in the new April 2008, Fourth Edition of ETA Handbook No. 408, "Work Opportunity Tax credit Program," and may not require additional documentation from employees, employers and/or consultants that sets a higher standard of proof of eligibility.

Employers and their consultants must submit an ICF as part of the certification process except where an employer's certification request is based on a valid Conditional Certification. No ICF is required to be filed for employer certification requests that are based on a valid Conditional Certification form.

For employers' certification requests that are not based on a Conditional Certification, the ICF may be executed at any time during the employment selection and hiring process. The ICF may also be executed after an employee begins work. Employers should be advised that the processing of a WOTC certification request cannot proceed without an ICF on file. Thus, SWAs are advised to develop processing guidelines that encourage employers (and their consultants) to attach an executed ICF to each IRS Form 8850 that is submitted. The exception is an ICF that is filed electronically and therefore cannot be attached to the IRS 8850 or PSN/CR. In this case, the SWA should take the necessary steps to match the ICF with the relevant IRS 8850 or PSN/CR.

Employers and consultants may execute the ICF by interviewing job applicants and employees either in person or electronically (e.g., via telephone) or by using information obtained from records under the employer's or consultant's control or other accessible records. Employers have the obligation to notify the job applicant or employee that the information and supporting documentation collected in executing the ICF will be used to qualify the employer for a tax credit available through the consolidated WOTC program.

The ICF may be signed by: the person to whom the information on the form pertains or a person having legal status to verify the information on the form in the case of a minor; an authorized official directly employed by the employer; or an employer's consultant/Office of Human Resources' staff. Authorized officials of SWAs and participating agencies may also sign the ICF.

The ICF may be filed electronically, e.g. via fax or e-mail. ICFs filed electronically are presumed to be "signed" by the individual or corporate entity under whose authorization the filing was made.

Note. The PSN/CR (IRS Form 8850) may be filed electronically, per IRS Announcement 2002-44, "Electronic Submission of Form 8850" [2002-7 I.R.B. 809, April 29, 2002. (For a copy of this announcement, see Appendix IV, "IRS Forms/Publications" of the May 2005 Addendum to ETA Handbook No. 408 available at WOTC's Website <http://www.doletas.gov/business/Incentives/opptax>).

When the ICF is filed electronically, employers and consultants are encouraged to take steps that enable the ICF to be matched with the relevant IRS Form 8850 or PSN/CR and supporting documentation if the documentation is not transmitted simultaneously by electronic means. For example, one method is to attach a note to the IRS Form 8850 or PSN/CR to the effect that an ICF has been filed electronically. Such notation will avoid processing delays that could arise because the SWA had no notice that an ICF had been "filed" in conjunction with the PSN/CR, but under separate cover.

Likewise, supporting documentation should have identifiers that associate the documentation with the PSN/CR and ICF. For example, in addition to the name and social security number of the individual for whose employment the tax credit will be claimed, the supporting documentation should also indicate when the IRS Form 8850 was filed, and when and how (electronically or otherwise) the ICF was filed. The purpose of this suggestion is to protect the privacy of the employers.

It is the responsibility of the SWA to take reasonable steps to assure that the documentation needed to make a certification decision is available. While SWAs may accept documentation provided by an employer or consultant as part of a strategy to meet this responsibility, SWAs may not rely solely on an employer's or consultant's efforts to secure documentation that establishes eligibility. At a minimum, SWAs should attempt to obtain adequate documentation from participating agencies (e.g., through a Memorandum of Understanding). If a SWA's efforts fail to secure the needed documentation after a reasonable effort conducted over a reasonable period of time, the SWA shall deny certification and inform the employer of the reason for the denial.

Employers may list sources of information (such as parole officer's name and address) to aid the SWA in establishing eligibility in a timely manner. Employers also may obtain a letter from the agency that administers the relevant program, indicating that the employee meets one of the eligibility requirements. For example, an employer may obtain a letter from the state welfare office that establishes that the employee has been on welfare for nine out of the last 18 months and the employee's case number. Employers also may secure from the employee copies of the following documentation: birth certificates, drivers' licenses, school I.D. cards, work permits, pay stubs, military discharge papers and utility bills. The employer should not request, obtain or provide to the SWA the actual documentation for the remaining categories. For example, it would not be appropriate for an employer to request an employee's food stamp benefit history.

SWAs should advise employers and consultants regarding the time frame in which supporting documentation should be received. Within 90 days of filing the IRS Form 8850 or PSN/CR and ICF is a suggested time standard. The objective of the standard is to expedite the SWA's certification decision. However, SWAs cannot cite failure to submit supporting documentation within 90 days of filing a PSN/CR and ICF as the reason for denial of certification.

Program success requires limiting the number of "doorways" that employers must cross to gain access to the program. Therefore, while SWAs may use written agreements with employers where the SWA's strategy to process certification requests emphasizes receiving supporting documentation from employers or their consultants/representatives, SWAs may not require an employer to execute such an agreement. Agreements of this kind should be used only where they clearly serve to facilitate employers' participation in the program. They may not serve as a condition for an employer's participation in the program.

(3) The "Conditional Certification – Work Opportunity Tax Credit" (ETA Form 9062) is a required DOL/ETA form that must be used, without modification, by all SWAs and all participating agencies and programs to which the SWAs may delegate responsibility for conditional certification authority. The Conditional Certification form establishes that the named individual has been tentatively determined eligible as a member of the WOTC targeted group indicated, and therefore hiring this person may lead to an employer Certification under the WOTC program. When the employer declaration is executed, this form, together with an executed IRS Form 8850 (PSN/CR), is submitted to the SWA by the employer or consultant to request full certification. No ICF needs to be submitted by the employer when a valid Conditional Certification form is filed with an IRS 8850 or PSN/CR.

If an employer seeks WOTC certification for a job applicant who has a Conditional Certification when the PSN/CR is executed, the SWA may render a certification decision based on the employer's timely submission of the PSN/CR and a copy of the Conditional Certification form that displays an expiration date confirming that the named individual continues to qualify as a member of the specific WOTC target group given the hiring date indicated on the IRS 8850 or PSN/CR.

A participating agency is a federal, state, county, or local government agency or a grantee of the SWAs. A participating agency may include, but is not limited to: SWAs, One-Stop Career Centers, Job Corps Centers, WIA grantees, School-to-Work programs, Transition Grantees, Vocational Rehabilitation Agencies, Employment Networks, city and county welfare offices, Veterans Affairs offices, and other veterans' serving organizations.

SWAs have the responsibility to assure through the terms of participating agency agreements and through SWAs' verification activities that all participating agencies and programs maintain a file (paper or electronic) that is available for inspection on demand and contains the supporting documentation and other evidence used to render a pre-determination of eligibility for each individual to whom a Conditional Certification was issued.

In specifying the supporting documentation that will be accepted as proof that an individual qualifies as a member of a WOTC target group, SWAs must accept the type of documentation indicated in the Handbook, or the back of ETA Form 9061 and may not require additional documentation from participating agencies and programs that sets a higher standard of proof of eligibility.

(4) The "Employer Certification – Work Opportunity Tax Credit" (ETA Form 9063) is an optional ETA form. The form provides the employer with a record of the results of the SWA's action on the employer's certification request. In accordance with Public Law 104-188, this form can only be issued by a State Employment Security Agency (now SWA) created under the Wagner-Peyser Act of 1933, as amended, or a Designated Local Agency (DLA).

If a SWA opts to develop and use a state-specific employer certification form, the state-specific form must contain all of the information that appears on the optional ETA form. This form can only be issued by the SWA or DLA.

Issuing an *Employer Certification* cannot be made contingent on the SWA or DLA conducting a personal or "walk-in" interview of the person whose employment establishes the employer's claim to the tax credit. Although personal or walk-in interviews may be used in conjunction with issuing a Conditional Certification, they may not be mandated as part of the SWA's certification process that follows an employer's submission of a certification request (IRS Form 8850 and ETA Form 9061 or 9062).

(5) The "Agency Declaration of Verification Results – Work Opportunity Tax Credit," [now "Audit Summary Worksheet] (ETA Form 9065) is an optional ETA form for internal SWA use in recording the results of verification activities conducted by the SWA. If the SWA elects to use an alternative form to record verification results, the alternative form must contain ALL of the information that appears in the optional ETA form.

Q3: Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

A3: Automation of Quarterly Reporting ETA Form 9058: In 2003, ETA successfully implemented an Internet-based reporting system that allows the SWAs to file this WOTC quarterly report to ETA, electronically, via the Internet. **As a result, the total state burden hours remain at a reduced level since the reporting system was automated.**

Automation of Processing ETA Forms 9061, 9062, 9063 and 9065: Almost all SWAs utilize some type of automated system to support their WOTC certification process and some states have adopted software programs developed by private sector consulting firms. For example, some states permit electronic filing of ETA Form 9061, Individual Characteristics Form (ICF) via fax or e-mail. When filed electronically, employers and contractors are encouraged to take steps that enable the ICF to be matched with the relevant IRS Form 8850/PSN/CR and supporting documentation if the documentation is not transmitted simultaneously by electronic means. One method used by states is to attach a note to the PSN/CR to the effect that an ICF has been filed electronically. Such notation will avoid processing delays that could arise because the SWA had no notice that an ICF had been "filed" in conjunction with the IRS form 8850 but under separate cover.

Likewise, supporting documentation should be submitted with identifiers that associate the documentation with the PSN/CR (IRS 8850) and ICF (ETA Form 9061). For example, in addition to the name and social security number of the individual for whose employment the tax credit will be claimed, the supporting documentation should also indicate when the IRS Form 8850 was filed, and when and how (electronically or otherwise) the ICF was filed. The purpose of this suggestion is to protect the privacy of the employers.

In tandem with the readily visible and tangible benefits of the EBSS/TCRS, most states have automated parts of their processing, verification and certification systems. For example,

many states have adopted software programs developed by consulting firms. The revised electronic ETA Form 9058 – Report 1 and its corresponding instructions appear in the enclosed ETA Tax Credits’ Reporting System Guide and in Appendix III – “WOTC Report Form” in the Fourth Edition of ETA Handbook No. 408. ETA Form 9061 and all other program related forms and materials may be downloaded from the Internet and printed by visiting the WOTC Program Website at <http://www.doleta.gov/business/Incentives/opptax>.

Q4: Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

A4: This information is not duplicated in any other system or available source. The information is not available anywhere else.

Q5: If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

A5: This information collection does not have a significant impact on small, medium or large businesses/entities. The burden has been minimized to the extent possible, as described in the response to Question 1. SWAs or designated participating agencies process all administrative and reporting forms. Employers (or their consultants/representatives) and job seekers complete only two forms -- IRS Form 8850 and ETA Forms 9061 and/or 9062 and submit them to the states for processing.

Q6: Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

A6: If the reporting system and administrative forms were not available, the work of the SWAs and DOL’s ETA office would be more costly and require greater staff involvement. Program oversight would require greater and more frequent on-site field-visits to oversee WOTC program operations and to acquire program data. DOL assesses the SWAs’ program outcomes and other local participating organizations' performance through periodic and annual compliance reviews, mid-year funding status reports, and analyses and charts of the quarterly reports. DOL also provides program data to the Department of Treasury and the IRS so that those agencies can develop reports and studies on whether the tax credit program is “tax-revenue neutral.” Data is also provided to businesses and employer groups that use the program data to evaluate the success of the tax credit program. In addition, each year the data from the most recent two quarterly reports is used in the funding formula to allocate funds to the states for program administration.

Q7: Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**
- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

A7: Federal regulations at 5 CFR 1320.5 are adhered to, including a 4-year retention of tax-related records for certifications issued and one-year retention for denials issued, as required by the IRS in case of employer lawsuits.

Q8: If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.5, soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

A8: **Federal Register Notice.** In compliance with the Paper Reduction Act (PRA) of 1995, 5 CFR 1320.5, a 60-day Notice for Public Comment was published in the Federal Register to provide the public with the opportunity to review revised forms and program materials and provide comments through Federal Register Notice (FRN), Volume 73, No. 6 published on January 9, 2008. The period for public comments expired on March 10, 2008. DOL received a number of useful suggestions from one employer consultant group and six states, specifically, for improving the use and legibility of the content of the updated ETA Form 9061. The comments recommended the use of a bigger font size and wider box spaces even

if this meant going from a one-page format to a multiple-page format. Overall, the comments provided were thoughtful and helped us customize the original revised form to a more user-friendly style in line with the needs of the business sector.

The following table provides a summary of the comments received and the Department’s responses and actions.

SUMMARY OF PUBLIC COMMENTS	DOL’S RESPONSES/ACTIONS
1. NEON, a group of private sector employer representatives, found the revised new form too busy, the print too small and hard to read. They recommended the use of a bigger font size and providing wider box spaces even if this meant sacrificing the one-page format to a multiple-page format.	DOL agreed w/the recommendation and changed the font size and reformatted the boxes to allow for wider spaces to collect information in a friendlier two-page format plus the two instruction pages.
2. NEON requested dropping the employer telephone number in Box 4 to allow for more space.	DOL successfully allowed for more space and retained the telephone number in ETA Form 9061 for the benefit of the state reviewers who must conduct a “48-hour review” of each certification request received. Removing the number would result in the states having to look up the employer tel. number on the IRS 8850 not a time-effective practice.
3. NEON requested DOL to, officially, grant a “transition period” allowing employers/ consultant to use the prior July 2002 and June 2007 versions of ETA Form 9061with a reasonably expiration date.	DOL will consider this request when issuing its official guidance to the SWAs with the release of the new ETA Form 9061. DOL understands the employers’ concerns but must balance those concerns against the requirements under the reauthorizing legislation
4. NEON inquired about the expiration date in the new ETA Form 9061 of April 30, 2008, incorrectly interpreting it as the new effective date.	DOL clarified to NEON that this is OMB’s expiration date for the “emergency approval” granted to this office to allow states and employers uninterrupted use of the newly revised reports, administrative forms and updated materials. . DOL will issue official guidance to the states when OMB approves this final form. The guidance will indicate the new OMB expiration date.
5. NEON requested clarification for two documentary evidence items under Instructions for Q18, possibly a typographical error.	DOL revised both items by adding the missing bullets.
6. NEON requested that the fax number for MAXIMUS be added to Q15.	DOL agreed to the request even though the fax telephone number does not appear in previous forms. DOL agreed to the request seeing it as convenient and time effective and added the fax number to Q15.
7. NEON requested that the W-4 be again added under Q18 and allowed to be used as proof of residence pending IRS approval.	DOL agreed w/the recommendation and added the W-4 to Q18 of the Instructions to ETA Form 9061 in accordance with IRS guidance.
COMMENTS FROM REGS/STATES	DOL’S RESPONSES/ACTIONS
8. NY informs that the average 20-minute calculation to complete this form has decreased significantly across the nation for those states that have developed some form of electronic (database) system.	DOL agrees and for the next submission will conduct a survey sampling certain states to obtain the most accurate time calculations. DOL is also aware that there are many states that still conduct these activities with a manual system due to lack of e-funds and as a result the manual processing times will have to be factored in when calculating

	the total completion time.
9. NY explains that IRS in 2002 authorized the SWAs to develop an e-system for the electronic filing and receipt of IRS Form 8850s via Announcement 2002-44. NY requests that DOL provide the states with a written National “E-WOTC Protocol” ASAP and claims that without a national protocol the “SWAs are likely to develop their own systems further fragmenting the reporting and processing system and increasing the burden on employers; this must be avoided.”	DOL will take this comment into consideration as it revises its official guidance related to implementation of the WOTC. Any guidance related to e-protocols will have to take into account available funds for program implementation.
10. A group of states also recommended a larger font and more space in the different boxes to allow the collection of information in a clearer and easy to read way. Two states reorganized the information by separating the Yes___ No___ items and aligning them w/the right margin of the page allowing for an easier read and a less busy look.	DOL agreed and made the changes using a bigger font, allowing for more space within each box and expanding the one-page format to a two-page format (without instructions) for an easier read.
11 Several states recommended removing the Date request in Box 8., “ Have you worked for this employer before? Yes ___ No ___ ” If YES, enter Date _____ , as not necessary and, possibly, confusing.	DOL disagrees w/this request and has already explained to the states the reason for asking for the date. For every YES answer, the date will be a time-effective addition for all those states conducting the “48-hour-review.” It will help the SWAs to reach a denial determination in a faster and informed way. If the answer is NO, there is nothing else the applicant or the state has to do.
12. KY recommends that when the answer is YES for boxes 13, 14, and 16 DOL delete the individual request for the name of “primary recipient of benefits” plus “city and state” as in the old form thinking this is redundant information.	DOL disagrees. The space problem has been successfully addressed w/o sacrificing the integrity of the information requested for each of boxes 13, 14 and 16. There was very little space in the July 2002, ETA Form 9061 and that is the only reason we had to instruct: “If YES, see Item #17. The new ETA Form 9061 was designed to provide a complete and accurate record of the information collected for each applicant.
13. KY raises the concern that Box 16 is not logical on the premise that if the answer to the first question is NO then the answer to the second question cannot be YES.	DOL disagrees and explains/clarifies that Box 16 now combines Boxes 11 and 18 of the old form as a result of the consolidation e.g., information on the WOTC short-term IV-A Recipient group and the new merged Long-term TANF Recipient group, formerly under the WtWTC. Clarification: The statutory requirements for each of these two target groups are very much in effect despite the merging of the WtWTC. This requires answers for two separate groups with two separate statutory requirements, and two separate credit tiers and periods of benefits (as in 1 year vs. a 2-year period for the latter group). The consultant/applicant and the state will recognize these differences immediately.
14. KY raises the question about the last question of Box 16, which applies to the 3 rd . statutory definition for the Long-term TANF Recipient (new) group.	DOL disagrees but understands the initial reasoning behind the analysis, though incorrect, for this target group definition. This statement/question was crafted by the IRS Counsel based on the correct statutory language under Sec. 51 of the Internal Revenue Code for the definition

	of the “Long-term TANF Recipient” who is a member of a family that...and this definition has three statutory parts. (See language in the old and new IRS Forms 8850 and in the old and new ETA Forms 9061).
15. SC provided positive comments on the existing consolidated electronic quarterly reporting EBSS TCRS form as: “Very efficient and user friendly and not burdensome.”	DOL accepts the accolade/recognition.

Q9: Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

A9: There is no payment to respondents.

Q10: Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

Justification for collection of Social Security Numbers (SSNs): In the past, OMB has asked for a justification for the SWAs to collect SSNs. ETA forms for the tax credits require SSNs (specifically, ETA Form 9061) in order to accurately match each IRS Form 8850 filed by employers requesting certification under the WOTC. This match is required so the state offices can begin the eligibility verification and processing activities before they approve or deny a certification request. The IRS Form 8850 is a statutorily mandated form. **IRS has decided that the SSN is necessary and has informed the public via the agency’s bulletins, rules, and regulations about the need for the SSN.** Since this is a tax related program, and DOL (through ETA), and Treasury (through the IRS) jointly administer the program, the agencies have jointly agreed on this and many other program requirements that ensure the WOTC program’s smooth and uninterrupted operation.

Additionally, the SSN is used during verification activities –against UI wage records to help the SWA staff determine whether a prospective applicant has worked before for the employer hiring him/her as a new employee under the WOTC Program.

ETA Form 9061 has a disclosure of information paragraph (p. 3) for the applicant to tear off and keep in his/her files. Each form also provides information on disclosure of information as provided for and required by OMB.

Q11: Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

A11. No questions of a sensitive nature are contained on any form.

Q12: Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies**

should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Q14.

State Burden:

REQUIREMENT	TOTAL RESPONDENTS	FREQUENCY	ANNUAL RESPONSES	AVERAGE RESPONSE TIME (Hrs)	ANNUAL BURDEN HOURS
Form 9058	52	Quarterly	208	1.00	208
Employer/Jobseeker Complete Form 9061	990,000	On Occasion	990,000	.33	326,700
States Process Form 9061	52	On Occasion	990,000	.33	326,700
Form 9062	52	On Occasion	40	.33	13
Form 9063	52	On Occasion	440,000	.33	145,200
Form 9065	52	Quarterly	208	1.00	208
Record Keeping	52	Annually	52	931	48,412
Form 9057	52	Quarterly	208	1.00	208
Form 9059	52	Quarterly	208	1.00	208
Planning Guidance	52	One Time	52	8.00	416
Modification Planning Guidance	52	One Time	52	1.00	52
Total	990,520	////////////////////	2,421,028	////////////////////	848,325

Total State Burden Hours: 848,325

Q13: Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).

The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment,

the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.

If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

A13: Total Burden Cost (capital/startup): 0. Total Burden Cost (operating/maintaining): 0
Note. Since the WOTC reporting and certification requirements are required activities under the state WOTC grants, the administrative resources provided a part of the WOTC grants off-set costs associated with the collection of data and certification process. As such there are no additional costs to respondents.

Q14: Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

A14: Estimates for the burden cost for the collection of data by Federal staff were based on the Office of Personnel Managements Federal Salary Chart, Salary Table 2006-DCB. The calculations are as follows:

Federal staff annual salary (GS-13)	\$95,398.00
Divided by annual hours (26 x 80 hours = 2080 yields the following hourly rate):	<u>\$ 45.86/hr</u>
multiplied by 25% annual time spent reviewing data collected electronically = (2080 x \$45.86 x 25%) =	\$23,847.20

Q15: Explain the reasons for any program changes or adjustments to reporting in Items 13 or 14 of the OMB Form 83-I.

A15: Although there is no burden change calculated for purposes of the present submission, significant changes to this collection of information occurred on December 20, 2006 (P.L. 109-432) and again on May 25, 2007 (P.L. 110-28), when Congress not only extended the WOTC Program through December 31, 2007 and again through August 31, 2011, for the first time in the program's legislative history, but also modified and expanded several

WOTC target groups. These two pieces of legislation 1) increased the maximum age requirement for Food Stamp Recipients and High-Risk Youth --now called Designated Community Residents (DCRs)-- from 18 to 39 and expanded their residence to now also include DCRs living in Rural Renewal Counties; eliminated the earnings test for Ex-felons; merged the WtWTC provisions into the WOTC Program increasing the first year (out of a two-year period credit) WOTC from 35 to 40 percent of wages capped at \$10,000; and expanded the definition of Veterans to now include "disabled veterans" who meet certain eligibility requirements and increased qualified wages for this group only from \$6,000 to \$12,000.

Although the new amendments and provisions may increase the number of certifications issued nationwide, requiring from the SWAs additional burden hours for the expanded workload, the overall effect of the amendments is not yet calculable. When the changes wrought by the amendments have been in effect long enough to be **evaluated**, the number of certifications will be recalculated and a change request will be submitted to OMB **with the required justification and supporting data**.

Q16: For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates.

A16: Publication of information is not part of the request and is not planned.

Q17: If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

A17: ETA will display the OMB expiration date on each reporting form.

Q18: Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

A18: There are no exceptions.

Q19: Collection of Information Employing Statistical Methods.

A19: No.