

**SUPPORTING STATEMENT FOR
OMB Control Number - 1205-0371
Work Opportunity Tax Credit Program**

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 allows businesses to request tax credits for hiring hard-to-employ members of nine target groups. In 1997, Congress created the Welfare-to-Work Tax Credit (WtWTC). The WtWTC expired on December 2005 and its Long-term TANF Recipient group was made part of the WOTC in 2006 by P.L. 109-432. State workforce agencies (SWAs) process these requests and certify eligible target group members. Other legislation that imposes requirements, such as new target groups, on the WOTC program includes the Tax Relief and Health Care Act (P.L. 109-432) passed in 2006, the Small Business and Work Opportunity Tax Act (P.L. 110-28) passed in 2007, the American Recovery and Reinvestment Act of 2009 (P.L. 111-5), the VOW to Hire Heroes Act of 2011 (P.L. 112-56), the American Taxpayer Relief of 2012 (P.L. 112-240), the Tax Increase Prevention Act of 2014 (P.L.113-295), and Section 51 of the Internal Revenue (IR) Code of 1986, as amended . Since its enactment, this program has experienced a series of authorization lapses and retroactive reauthorizations by Congress.

On December 19, 2014, President Obama signed into law the Tax Increase Prevention Act of 2014 (the Act) (P.L.113-295). On December 31, 2013 the legislative authority of the WOTC program had expired, but this Act retroactively reauthorized WOTC, without any changes to the program or the current target groups, through December 31, 2014. This retroactive extension applies to new hires who began to work for an employer on or after January 1, 2014 and before January 1, 2015. Though the WOTC program is currently expired, states are completing backlogs of certification requests, and use ETA's WOTC forms. The Department intends to submit a request to discontinue this information collection once it is no longer needed.

This submission includes five WOTC program forms as follows: 1) a reporting form (ETA 9058); 2) two processing forms (ETA Forms 9061 (English and Spanish versions) and 9062; and 3) two administrative forms (ETA Forms 9063 and 9065).

The data collected under this submission are necessary for effective Federal administration of the WOTC program, including allowing the Employment and Training Administration (ETA) and the Internal Revenue Service to oversee state administration of the tax credit. Uniform program administration procedures and forms assure that businesses, especially multistate 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 requests are administered in a consistent manner by the SWAs.

Citation of sections of laws that justify this information collection: The WOTC statute is primarily codified at 26 U.S.C. § 51. The requirement to collect WOTC data was created

by the Omnibus Budget Reconciliation Act of 1990, P.L. 101-508, Section 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.

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: The program data collected by the SWAs will be provided to ETA through the quarterly electronic submission of ETA Form 9058 via the web-based Tax Credit Reporting System (TCRS) of the Enterprise Business Services System (EBSS). The data reported to EBSS will be used for program management and outcome reporting, including monitoring through desk audits and onsite oversight visits as required, and the identification of technical assistance needs and training requirements. The data is also used to calculate funding allotments, specifically, certifications are used as a proxy for workload, one of the WOTC formula factors.

Overview and Description of the Administrative, Processing and Reporting WOTC Forms:

Overview.

States are required to use, without subsequent modification, three of the current five required WOTC reporting, administrative and processing forms (i.e., ETA Form 9058, 9061 and 9062). SWAs are free to design their own formats for the “Employer Certification” form (ETA Form 9063) and “Verification Results” form (ETA Form 9065) so long as they include all the information required in the optional forms.

ETA Form 9058 is used by SWAs to report to ETA information on processing of WOTC certification requests.

ETA Forms 9061, 9062, and 9063 are used by employers and SWAs. Form 9061 or 9062 is used by employers to submit certification requests (together with IRS Form 8850) to the SWAs, and contains all the information the SWAs need to process those requests consistent with statutory requirements and to ensure the program's integrity. The SWAs use the information on ETA Forms 9061 and 9062 to verify target group eligibility and process the employers' requests. Form 9063 is the form SWAs use to issue to employers or their representatives upon a positive target group eligibility determination. If audited, employers are to provide this Certification to the IRS. Finally, ETA Form 9065 is an internal worksheet SWAs use for the results of their quarterly internal audits. All employers and third parties serving under contract as an employer's representative, for purposes of the employer's participation in the WOTC program, are required to use IRS Form 8850 to request certifications from the SWAs.

All SWAs and participating agencies to which SWAs have delegated responsibility for issuing Conditional Certifications are required to use the "Conditional Certification" form (ETA Form 9062) without modification for pre-certifications of certain groups.

Specific Uses.

ETA Form 9058 – Report 1, Certification Workload and Characteristic of Certified Individuals. This form collects program activity by the SWAs and is submitted to the Employment and Training Administration on a quarterly basis.

ETA Form 9061, Individual Characteristics Form and its Instructions. This form is used by employers or their representatives together with IRS Form 8850 to request certification of their new hires under any target group, provided the new hire is eligible by meeting the target group's requirements.

ETA Form 9062, Conditional Certification, and its Instructions. This form can be used together with IRS Form 8850 in place of ETA Form 9061, when the new hire has been pre-certified in a specific target group by a Participating Agency.

ETA Form 9063, Employer Certification, and its Instructions. This form can only be issued by a SWA after verification of target group eligibility. The contents of this form cannot be modified by a SWA but its design or appearance can be modified. This form is issued by a SWA to an employer or representative to inform the employer that his new hire has been determined eligible under the target group requested and as a result the employer may claim a tax credit.

ETA Form 9065, Work Opportunity Tax Credit, Audit Summary Worksheet is an optional ETA form for internal SWAs' use in recording the results of verification activities conducted by each SWA. This is not a required form to be submitted to ETA. The form's design and format is optional and states can change both the design and/or format. 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: Since 2002, ETA has encouraged automation of the states' eligibility determination, verification and certification processes specifically to those states with sufficient resources. That same year, ETA launched the national electronic and Internet-based Tax Credit Reporting System (TCRS) that allows the SWAs to file their WOTC quarterly reports electronically to ETA's EBSS.

Automation of Processing IRS Form 8850, ETA Forms 9061, 9062, 9063 and 9065:

In tandem with EBSS/TCRS, many SWAs use some type of automated system to support their WOTC verification and certification processes. 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 as a PDF file. When filed electronically, employers and contractors are encouraged to take steps that enable the Individual Characteristics Form to be matched with IRS Form 8850 and supporting documentation if the documentation is not transmitted simultaneously by electronic means. Other states are still processing and issuing certifications manually due to lack of funds.

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: In general, the burden on businesses is limited. This information collection does not have a significant impact on small entities. The burden has been minimized to the extent possible for all respondents. SWAs process all administrative and reporting forms. Employers (or their representatives/ consultants) and job seekers complete only two forms, IRS Form 8850 and ETA Forms 9061 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 ETA would be more costly and require greater staff involvement. Program oversight would require greater and more frequent on-site reviews to oversee WOTC program operations and to acquire program data. ETA assesses the SWAs' program outcomes and other local participating organizations' performance through periodic onsite reviews and/or desk-audits and analyses of the quarterly reports. ETA also provides program data to the Department of Treasury and the IRS so that those agencies can analyze the impact of the tax credit program. In addition, if this collection is not conducted, ETA would need to find alternative data for the 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: Information is not collected for WOTC in any of the manners outlined in the bullets above. SWAs must adhere to Federal regulations at 5 CFR 1320.5, including a three-year retention requirement (for SWAs and Participating agencies) of supporting documentation and certification request forms for certifications issued and a one-year retention requirement for denials issued.

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: A *Federal Register* notice was published on March 2, 2015, (See 80 FR 11231) in compliance with 5 CFR 1320.5, granting the public a 60-day opportunity to comment on this submission. **No comments were received.**

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.

A10: ETA Form 9061 has a disclosure of information paragraph (p. 3 of the form) for the applicant to tear off and keep in his/her files or to give to family members:
Privacy Act Statement: *The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the State Workforce Agencies are the "designated" agencies responsible for administering the WOTC certification procedures of this program. The information you have provided completing this form will be disclosed by your employer to the State Workforce Agency. Provision of this information is voluntary. However, the information is required for your employer to receive the federal tax credit. IF THE INFORMATION YOU PROVIDE IS ABOUT A MEMBER OF YOUR FAMILY, YOU SHOULD PROVIDE HIM/HER A COPY OF THIS NOTICE.*

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 data collection. 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, and 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, 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 Item 14.**

Burden Hours:

REQUIREMENT	TOTAL RESPONDENTS	FREQUENCY	ANNUAL RESPONSES	AVERAGE RESPONSE TIME (Hrs)	ANNUAL BURDEN HOURS
Form 9058*	52	Quarterly	208	1.00	208
Jobseekers 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	52	.33	17
Form 9063*	52	On Occasion	440,000	.33	145,200
Form 9065*	52	Quarterly	208	1.00	208
Record Keeping*	52	Annually		931	48,412
Unduplicated Totals	990,312	////////////////////	2,420,468	////////////////////	847,445

* Total State Burden Hours: 520,745¹

Total Employers/Jobseekers’ Burden Hours: 326,700

Estimated burden dollar value for the state burden hours: 520,745 x \$26.99 = \$14,054,907.

Source: Median Hourly Wage Rate for management analysts in state government obtained from information in the [Bureau of Labor and Statistics, 2015 Occupational Employment Statistics, “May 2014 National Industry-Specific Occupational Employment and Wage Estimates.”](#)

The estimated burden hours for jobseekers: 326,700 hours x \$7.25 [Federal minimum wage](#) = \$2,368,575.

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

1. The state burden hours (520,745) are derived by adding the total burden hours for the quarterly reporting workload (ETA Form 9058); processing of ETA Forms 9061 and 9062; issuing certifications, (9063); conducting internal quarterly audits (ETA form 9065); and record keeping (indicated by asterisks) for the 52 states and jurisdictions.

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

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 “Office of Personnel Managements Federal Annual Salary Chart (*Annual Rates by Grade and Step*), Effective January 2015,” as follows:

Federal staff (GS-13-09) hourly wages	\$55.12 ²
Time reviewing data annually	<u>200**</u>
Federal staff costs	\$11,024

**The current decrease in the number of reviewing hours is the result of a significant number of State Workforce Agencies automating their reporting and processing systems nationwide.

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

A15: This ICR proposes no program changes or adjustments to the public burdens.

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

² Source for GS-13 Step 9 Hourly Wage, “[SALARY TABLE 2015-DCB INCORPORATING THE 1% GENERAL SCHEDULE INCREASE AND A LOCALITY PAYMENT OF 24.22%; FOR THE LOCALITY PAY AREA OF WASHINGTON-BALTIMORE-NORTHERN VIRGINIA, DC-MD-VA-WV-PA TOTAL INCREASE: 1%; EFFECTIVE JANUARY 2015 Hourly Basic \(B\) Rates by Grade and Step Hourly Overtime \(O\) Rates by Grade and Step.](#)”

ending dates of the collection of information, completion of report, publication dates, and other actions.

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 the reporting forms.

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.