




MEMORANDUM FOR: **Brenda Aguilar**
Chief
Food, Health, and Labor Branch
Office of Management and Budget - OIRA

THROUGH: **Michel Smyth**
Departmental Clearance Officer
Office of the Chief Information Officer
Office of the Assistance Secretary for Administration and
Management

FROM: **Portia Wu** 
Assistant Secretary
Employment and Training Administration

Subject: **Paperwork Reduction Act Emergency Clearance
Procedures for Work Opportunity Tax Credit (Control
No. 1205-0371)**

The U.S. Department of Labor's Employment and Training Administration (ETA) requests that OMB approve an Information Collection Request using the Paperwork Reduction Act emergency processing procedures specified in regulations 5 C.F.R. § 1320.13 for the Work Opportunity Tax Credit Program (WOTC) program forms.

Summary

WOTC is a Federal tax credit available to employers for hiring individuals from certain target groups who have consistently faced significant barrier to employment. On December 18, 2015, President Obama signed into law the Protecting Americans from Tax Hikes Act (PATH) that retroactively reauthorizes the WOTC program target groups for a five-year period, from January 1, 2015 to December 31, 2019. Additionally, the PATH Act provides for an extension of the Empowerment Zones for a two-year period, from December 31, 2014 to December 31, 2016, and introduces a new target group, Qualified Long-term Unemployment Recipients, for new hires that begin to work for an employer on or after January 1, 2016 through December 31, 2019.

ETA proposes only minimal changes that reflect the statutory requirements authorized under the PATH Act for the following WOTC program forms:

- ETA Long-Term Unemployment Recipient Self-Attestation Form
- ETA form 9058 - Report 1, Revised (Rev.) April 2016 - Certification Workload and Characteristics of Certified Individuals
- ETA Form 9061, Rev. April 2016 - Individual Characteristics Form
- ETA Form Spanish 9061, Rev. April 2016 - Individual Characteristics Form
- ETA Form 9062, Rev. April 2016 - Conditional Certification
- ETA Form 9063, Rev. April 2016 - Employer Certification
- ETA Form 9065, Rev. April 2016 - Agency Declaration of Verification Results Worksheet

The data collected under this submission are necessary for effective Federal administration of the WOTC program, including allowing ETA and the Internal Revenue Service to oversee state administration of the tax credit.

Regular Clearance Procedures Not Feasible in this Situation

As previously noted, President Barack Obama signed the PATH Act into law on December 18, 2015. The PATH Act created a new target group, Qualified Long-term Unemployment Recipients, under WOTC. Since the legislative authority for the new group took immediate effect, January 1, 2016, ETA requests OMB approval for emergency clearance to remove the requirement for a public comment period, and to approve ETA's request by May 13, 2016. The Agency will seek public comment once the collection is in place in anticipation of submitting an extension request for a full three-year clearance.

Collection Essential to Agency's Mission

Legislative coordination between IRS and ETA is essential to administer the WOTC program. To ensure the agencies realized the intent of the PATH Act and issued clear guidance, ETA and the Internal Revenue Services (IRS) worked together to develop guidance and modify forms. To facilitate the eligibility determination and verification process for the new target group, ETA needs to release the aforementioned forms to the State Workforce Agencies at the earliest possible date. Without the ETA forms, States are not able to process certifications for the new target group. See [IRS Notice 2016-22](#) for information on how employers need to submit the IRS Form 8850 and ETA Forms 9061 or 9062, and the Self-Attestation Form together to determine eligibility for the new target group.

Approving an emergency clearance will allow ETA to fulfill its mission to promote employment opportunities for all jobseekers as well as to administer its WOTC Program in compliance with the PATH Act.

Public Harm on Employers and Long-term Unemployment Recipients

Without the ETA Forms, businesses are reluctant to submit WOTC applications for the new target group. Therefore, chronically unemployed individuals who would be eligible for the new target group are not being considered for employment opportunities and employers are not benefiting from the available tax credits.

Public Harm on State Workforce Agencies

Pursuing normal clearance procedures would further delay the certification process for the new target group and add burden to the States who are already experiencing backlog. At this point, we are over 4 months into the PATH Act, and without the ETA Forms, States have not been able to modify its forms or automated systems for the new target group even though IRS issued its Notice 2016-22 on March 7, 2016 and IRS 8850 Form on March 22, 2016. Many States are saying that they will not update their forms or systems until the Department of Labor issues its modified ETA Forms. Additionally, if OMB does not grant emergency clearance for the ETA Forms, States will not be able to use the transitional relief that was granted by IRS.

Revised Estimates of Burden

ETA has taken all practicable steps to consult with interested agencies, including IRS and the Department's Office of Unemployment Insurance, State Workforce Agencies, employers, and other members of the WOTC community in order to minimize the burden of the collection of information. Based on the feedback received from multiple stakeholders and lessons learned from previously added WOTC target groups under the American Recovery and Reinvestment Act of 2009, ETA proposes only minimal changes that reflect the statutory requirements authorized under the PATH Act. There is no additional time burden per response for Forms ETA-9058- Report 1, ETA-9061(English and Spanish), and ETA-9062.