

U.S. Department of Labor
Employment and Training Administration, Work Opportunity Tax Credit
200 Constitution Ave. NW, Suite C-4510
Washington, DC 20010

Re: Agency Information Collection Activities; Comment Request; Work Opportunity Tax Credit; OMB Control Number 1205-0371

The HIRE Coalition respectfully submits these comments in response to the Department of Labor (“DOL”) Employment and Training Administration’s request for public comment regarding the Work Opportunity Tax Credit (“WOTC”). The HIRE Coalition represents stakeholders engaged in workforce participation initiatives and tax credit administration and appreciates the opportunity to provide technical feedback intended to improve program administration while maintaining statutory integrity. The HIRE Coalition supports renewal of the WOTC and encourages the adoption of these recommendations so that the State Workforce Agencies (“SWA”) can operate as efficiently as possible upon reenactment.

The HIRE Coalition agrees that information collection is necessary for verification of an applicant’s target group eligibility and timeliness of the certification request. However, we believe here are three key information collection practices that need to be addressed because they provide little practical utility relative to the administrative burden placed on employers. In certain cases, these practices are preventing the timely submission of certification requests or resulting in erroneous denials.

1. DOL should clarify the purpose and permitted uses of ETA Form 9198, Employer Representative Declaration (“ERD”)

The SWAs’ increasing reliance on the ERD as a prerequisite to processing certification requests has resulted in a significant reduction in WOTC certifications. The ERD was designed to authorize an individual or third party to act on behalf of an employer in connection with WOTC matters. In practice, however, many SWAs now require a completed ERD for each legal entity (“FEIN”) associated with a certification request before any certification requests are reviewed.

Since the ERD was implemented, some states have required each FEIN to be registered in the state, have a physical location in the state, have a legal entity name that exactly matches the name of the business registered in the state, and have paid wages into the unemployment insurance (“UI”) system in the state. Failure to meet these requirements results in delays in ERD processing, downstream delays in processing certification requests, and, in some cases, denials. These denials often occur after the 28-day deadline for notifying employers that their submission was not accepted, leaving no option to appeal with a corrected FEIN. While the ERD was intended to authorize employer representatives, it has created unintended administrative barriers to employers receiving WOTC certifications.

Employers that are part of aggregated groups, use employee lease-back arrangements, or engage professional employer organizations (“PEO”) are particularly impacted. In these contexts, the entity that performs hiring functions, the entity identified on Form 8850, and the entity that ultimately issues wages may differ. Many SWAs require the Form 8850 to match the entity that ultimately pays the employee wages. However, the entity that completed the Form 8850 may not be a registered employer (in which case the employer is prevented from submitting the certification request) or the entity the applicant ultimately works for is not the same one that submitted the Form 8850 (in which case the SWA denies the certification request). As a result, the implementation of the ERD has inadvertently harmed employers who meet all program requirements and prevented the certification of targeted individuals facing barriers to employment.

The HIRE Coalition recommends that DOL clarify that Form 9198 should function solely as a representative authorization mechanism and should not operate as a prerequisite to certification processing. Additional guidance addressing common multi-entity and PEO scenarios would further promote consistent administration and reduce unnecessary barriers to participation.

2. DOL should instruct SWAs to consider the state of the applicant’s home address when reviewing certification requests for target groups with benefits requirements

Several target groups require the applicant to have received (or be a member of a family that has received) benefits from programs such as the Supplemental Nutrition Assistance Program (“SNAP”), Temporary Assistance for Needy Families (“TANF”), and long-term unemployment benefits. In general, these benefits are administered by the state where the applicant resides. In today’s world, many employees do not live and work in the same state: they may be out-of-state remote employees or commute across state lines, which creates a mismatch between where they receive benefits and where they work.

Current DOL guidelines instruct employers to send certification requests to the state where the employee is expected to report to work. Since many states are unable to verify out-of-state benefits, many of the certification requests for out-of-state employees are significantly delayed or, worse yet, erroneously denied. In the case of denials, employers must expend a significant amount of time and effort to appeal and overturn the denial.

For example, under DOL guidelines, if an applicant lives in and receives benefits from Tennessee but is expected to commute to Georgia for work, the employer will send the certification request to Georgia. Similarly, if the applicant is assigned to an office location in Illinois but is expected to work remotely in Texas and receives benefits from Texas, the employer will send the certification request to Illinois. In both cases, the state where the applicant receives benefits – the key criteria for WOTC eligibility – is not the state reviewing the certification request.

The Senate Appropriations Committee addressed this issue in its report to accompany the FY2026 Department of Labor Appropriations bill. The report encourages the DOL to issue guidance to “encourage State workforce agencies to enter into cooperative information exchange agreements with Federal and State agencies that have the data needed to determine WOTC eligibility.” It also states, in pertinent part: “the Committee recognizes that processing requests for remote workers may be best accomplished in the State where the workers reside and not where the employer is located.”

The HIRE Coalition’s recommendation aligns with the Senate Appropriations Committee’s report: the DOL should 1) update its guidance for benefits-related target groups to allow employers to submit certification requests to the state where the applicant resides and 2) advise SWAs to request information from the state of the applicant’s home address if they are unable to confirm receipt of applicable benefits in their state.

3. DOL should revert to the previous version of ETA Form 9061, Individual Characteristics Form (“ICF”), for purposes of the Veterans target groups

Currently, the ICF combines all veterans target group categories into one question:

13. Qualified Veteran

Check here if the job applicant is a veteran of the U.S. Armed Forces

If the job applicant (veteran) is a member of a family receiving Supplemental Nutrition Assistance Program (SNAP) benefits, enter the name of the **primary benefits recipient**: _____ and the **city and state(s)** where benefits were received: _____.

Note: Additional information may be requested to determine the job applicant’s qualified veteran eligibility, such as proof of being entitled to compensation for a service-connected disability or having aggregate periods of unemployment.

This question oversimplifies the complexity of the criteria for the various veteran target group categories, requires SWAs to review all the potential categories, and has resulted in delays in veteran-related certifications. The prior version of the ICF gave the SWAs an indication as to the applicable veteran target group category, allowing them to focus their review efforts on the applicable category:

13. Are you a Veteran of the U.S. Armed Forces? Yes No

If NO, go to Box 14.

If YES, are you a member of a family that received Supplemental Nutrition Assistance Program (SNAP) benefits (Food Stamps) for at least 3 months during the 15 months before you were hired? Yes No

If YES, enter name of *primary recipient* _____ and *city and state* where benefits were received _____.

OR, are you a veteran entitled to compensation for a service-connected disability? Yes No

If YES, were you discharged or released from active duty within a year before you were hired? Yes No

OR, were you unemployed for a combined period of at least 6 months (whether or not consecutive) during the year before you were hired? Yes No

Since many SWAs have limited resources and do not have time to review all veteran target group categories, we encourage the DOL to update the ICF to allow employers to indicate the applicable veteran target group category. We believe this will reduce the review burden

on the SWAs and help employers by improving the timeliness of veteran-related certifications.

Collectively, the recommendations above would reduce administrative burden, improve program integrity, and align with modern employment patterns. The HIRE Coalition welcomes continued engagement with DOL and the SWAs regarding these recommendations.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tim Parrish', written in a cursive style.

Tim Parrish

President

HIRE Coalition