

Policy Area: Work Opportunity Tax Credit (WOTC)	
Title: WOTC Procedural Guidance	Number: WOTC-PRG-25-V1
Effective Date: November 18, 2025 Revision Date(s):	Review by Date: November 18, 2026
Approved by: Scott A Adkins	Approved Date: November 18, 2025

PURPOSE

The purpose of this policy is to provide comprehensive guidance on the administration and operation of the Work Opportunity Tax Credit (WOTC) program in West Virginia. This policy establishes the statewide framework, responsibilities, procedures, and requirements governing WOTC activities carried out by WorkForce West Virginia.

In addition, this policy incorporates and implements updated procedural requirements issued by the U.S. Department of Labor's Employment and Training Administration (USDOL ETA) under Training and Employment Guidance Letter (TEGL) 16-20, Change 1. These updates ensure continued compliance with federal expectations and consistency in program delivery.

This policy supersedes and replaces WOTC Policy 02-21, which is formally retired and rendered inactive effective November 18, 2025.

BACKGROUND

The WOTC is jointly administered by the U.S. Departments of Labor and Treasury and is set forth under Section 51 of the Internal Revenue Code of 1986, as extended and amended by the Protecting Americans from Tax Hikes (PATH) Act of 2015. WOTC is reauthorized until December 31, 2025, under Section 113 of Division EE of Public Law 116-260 (Taxpayer Certainty and Disaster Relief Act of 2020).

WOTC provides a federal tax credit to employers who hire individuals from certain targeted groups who consistently face significant barriers to employment. WorkForce West Virginia (WFWV) is the State Workforce Agency (SWA) statutorily authorized to administer the WOTC certification process in the State of West Virginia. All SWAs must administer the WOTC in accordance with guidance from the USDOL ETA and the requirements outlined in the WOTC Statement of Work (SOW).

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SCOPE

This policy applies to all WOTC program operations administered by WFWV , including staff responsible for processing certification requests and employer representatives involved in the application process. It is also applicable to all employers in the State of West Virginia seeking WOTC certification for eligible new hires.

REFERENCES

- **Internal Revenue Code of 1986, Section 51** – Defines WOTC eligibility and targeted groups.
- **TEGL 16-20, Change 1** – Provides federal guidance on WOTC administration, audits, and verification procedures.
- **IRS Form 8850** – Pre-Screening Notice and Certification Request for the WOTC.
- **ETA Forms 9061, 9062, and 9198** – Individual Characteristics Form, Conditional Certification, and Employer Representative Authorization.

POLICY

The WOTC is a federal incentive designed to encourage employers to hire individuals who have historically faced significant barriers to employment. By hiring eligible individuals from specific target groups, employers may qualify for a tax credit ranging from \$2,400 to \$9,600 per qualified employee, depending on the individual's category and employment circumstances. These credits can significantly reduce an employer's federal tax liability while also supporting inclusive hiring practices.

- **APPLICATION PROCESS**

As the SWA is designated to process the WOTC applications for target group certification, WFWV has updated the procedures currently in place to align with the new guidance provided in TEGL 16-20, change 1. The WOTC application process involves three distinct phases: Intake, Verification, and Notification.

- **Intake Phase**

During the intake phase, WFWV will collect all submitted forms and supporting documentation from employers seeking WOTC certification to verify employee eligibility. **Employers must submit the following forms together:**

- **IRS Form 8850** – Pre-Screening Notice and Certification Request for the WOTC
- **ETA Form 9061** – Individual Characteristics Form or ETA Form 9062 – Conditional Certification

- Once WFWV staff have received all required forms and documentation together, an initial review will be conducted to ensure the certification request is both timely and complete.
- **Timeliness Requirements:**
 - All forms and supporting documentation must be submitted no later than the 28th calendar day after the employee begins working.
 - For electronically submitted applications, the submission date is the date and time the completed forms are successfully uploaded and transmitted through the designated electronic system.
 - For applications submitted by mail, the submission date is the postmark date indicated by the postal carrier.
 - Denials issued due to untimely submission are **final and not subject to appeal**, except when the appeal specifically contests the timeliness of the submission.
- **Submission Methods:**
 - **Preferred:** Direct entry into WFWV's secure online database
 - Employer access: [here](#)
 - Authorized Representatives (Consultants) access: [here](#)
 - **Alternative:** U.S. Postal Service with original signatures.
- **Form Integrity:**
 - Once signed ETA Form 9061/9062 must not be altered by authorized representatives or WFWV staff.
 - If unauthorized alterations are suspected, WFWV will contact the employer and employee to clarify.
 - Unauthorized changes may result in denial of the certification request.

○ **Verification Phase**

Once an employer or their authorized representative submits a complete and timely certification request, WFWV staff will review all forms and supporting documentation to determine whether the employee meets the eligibility criteria for the specific target group(s) identified in the submission.

- Staff will not evaluate eligibility for any target group that was not indicated on the application.
- Only one certification may be issued per employee. If an individual qualifies for more than one target group, WFWV will issue the certification for the group that provides the greatest tax benefit to the employer.

- Eligibility determinations are based on the information provided on ETA Forms 9061 or 9062, ETA Form 9198 (if an authorized representative is used), and all accompanying documentation. IRS Form 8850 is submitted with the request but is used primarily to identify the targeted group and the employee's hire information.
- WFWV staff will make determinations—either certification or denial—based solely on the documentation submitted. If the documentation provided does not sufficiently validate eligibility for the target group indicated, the request will be denied.
 - Employers may appeal a denial in accordance with the procedures outlined in the Appeals section of this policy.
- If adequate documentation is not available at the time of submission, employers may indicate that the evidence is “forthcoming ” by indicating as such in Box 22 on ETA Form 9061.
 - Applications submitted with this designation will be processed as Denial Pending More Information. For additional details, see the Notification Phase section of this policy.
- If the required documentation is incomplete, illegible, or untimely—for example, if it is submitted after the 28-day statutory deadline without Box 22 properly marked—WFWV will deny the certification request.

○ **Notification Phase**

The WFWV WOTC Unit will issue notifications to employers to inform them of the status of their certification requests. Notifications will indicate whether the application has been certified, denied, or denied pending additional information.

- **Certification**
 - A Certification Notification will be issued when WFWV staff determine that the employee meets the eligibility requirements for the targeted group specified on IRS Form 8850.
 - This notification serves as official confirmation that the employee has been certified for the WOTC.
- **Denial**
 - A Denial Notification will be issued when it is determined that the employee does not meet the criteria for the targeted group based on the validating information provided by the employer or authorized representative.

- Additional grounds for denial include:
 - Failure to submit required forms within the 28-calendar-day timeframe following the employee's start date.
 - The certification request was submitted by an unauthorized individual.
- Denial Pending More Information
 - A **Denial Pending More Information Notification** will be issued when additional information or documentation is required to complete a certification request.
 - These notifications—commonly referred to as **Employer Needs Letters**—will, at a minimum:
 - Clearly specify the additional information and/or documentation required to complete the eligibility determination; and
 - Provide the employer **365 calendar days** from the date of the notice to submit the requested documentation for a final determination.
 - If the required documentation is not received within the 365-day period, the denial becomes final and is not subject to appeal.
- **Additional information related to the WOTC program and its Targeted Categories can be found on the following sites:**
 - IRS website [here](#)
 - WorkForce West Virginia website [here](#)
 - The US Department of Labor website [here](#)

AUTHORIZED REPRESENTATIVES

Employers may designate an individual or entity to act as their authorized representative for WOTC purposes by submitting ETA Form 9198 (Employer Representative Authorization Form) to the State Workforce Agency (SWA).

- **Authorization Requirement:**
 - Only individuals listed on a valid ETA Form 9198 may submit IRS Form 8850 or facilitate certification requests on behalf of the employer.
 - Each consultant or third-party representative may designate up to ten (10) authorized representatives per employer.
 - Form 9198 includes space to list only two (2) representatives. If an employer or consultant wishes to designate more than two:

- In the space to the right of Line 2, write: “See attached for additional representatives.”
- Attach an additional “page 1” of Form 9198 for each set of additional representatives.
- Continue this process until all designated representatives—up to the maximum of ten (10)—are listed.
- If using the WOTC online consultant portal, the additional page one must be uploaded within the ‘Upload or View ETA Form 9198 Documentation’ link in the ‘Upload 9198 Addition/Removal of Representatives’ section.
- Employer authorization on ETA Form 9198 cannot exceed **five (5) years** and automatically terminates on the expiration date unless revoked.
- The ETA Form 9198 must be **on file at the time of submission** of a certification request for the representative to act.
- An authorized representative will only receive communications if the Employer grants permission by checking Box 2 on ETA Form 9198.
- **Retention and Submission:**
 - The WFWV WOTC Unit will maintain all submitted ETA Form 9198(s) on file. Employers are not required to submit this form with each IRS Form 8850.
 - ETA Form 9198 must be submitted via U.S. Postal Service (with original signatures) or the WFWV WOTC online portal; electronic signatures are accepted.
 - Forms signed and dated after a certification request is submitted will not be accepted.
- **Scope of Authority:**

An authorized representative may act on behalf of the employer throughout the certification process, including, but not limited to:

 - Submission of ETA Form 9198 and the employee forms ETA Form 9061 or ETA Form 9062.
 - Submission of missing or supplemental information necessary to complete a certification request.
 - Providing updates, clarification, or other communications regarding an employer’s certification request.

NOTICES AND COMMUNICATIONS

WFWV will issue all notices and communications directly to employers and, when applicable, to authorized representatives listed on a valid ETA Form 9198. Communications will be provided to an authorized representative only if:

- The ETA Form 9198 is on file at the time the employer submits the certification request, and

- **Box 2** of the form is checked, granting permission for the representative to receive communications.

For additional information regarding the ETA Form 9198, visit the U.S. Department of Labor WOTC resources page: <https://www.dol.gov/agencies/eta/wotc/resources>.

APPEALS

An employer may appeal a denial of a certification request within 90 calendar days from the date the WFWV WOTC Unit issues the denial letter for a complete and timely filed certification request.

- Denials resulting from untimely submission of WOTC certification requests are generally not subject to appeal, in accordance with federal guidance. An appeal may only be considered if the employer demonstrates that the timeliness of the submission itself is at issue, such as when there is a dispute over the official submission date or postmark.
- Appeals must be submitted to the WFWV WOTC Unit and may be submitted either by U.S. Postal Service or through the online portal. Appeals should clearly:
 - Explain why the employer believes the denial was incorrect;
 - Provide any additional documentation or clarifying information not originally submitted; and/or
 - Identify potential misinterpretations or errors in the initial review.
- Appeals submitted by authorized representatives must be submitted by individuals listed on a valid **ETA Form 9198** on file at the time of the original certification request.
- If the employer remains dissatisfied with the appeal outcome, they may escalate the appeal to the regional or national WOTC offices. Instructions for further appeal will be included in all final determination notices.
- Employers or authorized representatives may direct questions regarding this policy, appeals, the WFWV WOTC database, or any other WOTC-related matters to:
 - WorkForce West Virginia – WOTC Unit
% WOTC - State Coordinator
1900 Kanawha Boulevard, East
Building 3, 4th Floor, Suite 400
Charleston, WV 25305
Phone: (304) 558-5050
Email: WOTC@wv.gov

MONITORING AND AUDITS

To ensure the integrity of the WOTC program and minimize the risk of certifying ineligible individuals, WFWV conducts quarterly audits. These audits serve as a verification mechanism to assess the accuracy and compliance of WFWV's certification process with federal regulations.

- **Quarterly Audit Process:**

- **Sample Review:** The Employment Programs Analyst in WFWV's Management Analysis Unit reviews a sample of all processed WOTC requests, including certifications, denials, and revocations, to ensure compliance with policy and federal regulations. The sample size is determined based on the total volume of processed requests, as outlined in Table 1.0.

Table 1.0: Sample Size for Quarterly Verification

SAMPLE SIZES FOR QUARTERLY VERIFICATION	
<u>Universe Size</u>	<u>Sample Size</u>
Below - 1,200	10% Sample
1,200 - 1,300	129
1,301 - 1,400	130
1,401 - 1,500	131
1,501 - 1,700	132
1,701 - 1,900	133
1,901 - 2,100	134
2,101 - 2,300	135
2,301 - and above	142

- **Corrective Action:** If monitoring identifies deficiencies, WFWV will require prompt corrective action and provide the necessary staff training to bring activities back into compliance.

- **Quarterly Audit Verification Focus Areas**

Audits will examine the following elements, consistent with ETA guidance:

- Timely submission of all required forms and supporting documentation.
- Completeness of forms, including signatures, dates, and required fields.
- Accuracy of supporting documentation (e.g., Unemployment Insurance Wage Records, public welfare benefit verification letters).
- Submission of information by the employer or the employer's authorized representative.
- Verification that the applicant is a first-time hire for the employer seeking certification.

- **First-Time Hire Verification**

- Consistent with TEGL 16-20, Change 1, verification that an employee is a first-time hire is conducted during quarterly audits.
- Pursuant to Section 51(i)(2) of the Internal Revenue Code, a nonqualifying rehire—an individual previously employed by the employer before the current hire date—is ineligible for WOTC certification.

- During the quarterly audit, WFWV staff compare employer-provided information on IRS Form 8850—including EIN, social security number, and hire date—with available state wage and employment records to confirm that:
 - The employee received wages from the employer after the current hire date.
 - The employee did not receive wages from the employer prior to the current hire date.
- If a certification was issued in error for a nonqualifying rehire, WFWV will take corrective action.

INCORRECT DETERMINATIONS

If a certification is issued in error or an eligible employee is incorrectly denied, WFWV will take corrective action.

- **Incorrect Denials:**
 - If an eligible employee was incorrectly denied, staff will redetermine eligibility and issue a certification if requirements are met.
- **Incorrect Certifications:**
 - If a certification was issued in error, WFWV will revoke the certification in accordance with federal guidance.

NOTICE OF REVOCATION (NOR)

A Notice of Revocation (NOR) will be issued to the employer, any authorized representative (if applicable), and the IRS when a certification is determined to have been issued in error. WFWV Staff will transmit the NOR to:

Internal Revenue Service
 Small Business/Self-Employed Campus Compliance Services
 Fax: 1-855-242-6540

The NOR will include:

- The reason the employee is not a member of the targeted group.
- The effective date of revocation.
- Notification that wages paid to the ineligible employee, after receiving the NOR, cannot continue to be treated as “qualified wages” for WOTC purposes.

RECORD RETENTION

All records must be maintained and retained for a minimum of three (3) years, unless a longer period is required due to audit, review, investigation, or legal action. In such cases, records must be retained until all matters are fully resolved and official notice is given that normal retention periods may resume.

- The retention period begins on the date the WOTC certification or denial is issued.

Version Control

Version	Effective Date	Description of Changes	Author/Editor	Approval Date
1.0	November 18, 2025	Revision to align with federal guidance (TEGL 16-20, Change 1); incorporated updated audit procedures, first-time hire verification, notification processes, and appeals. Reformatted sections to comply with new WorkForce WV policy standards, naming conventions, and document structure.	WorkForce Unit	November 18, 2025