



DEPARTMENT OF LABOR

Employment and Training Administration

Work Opportunity Tax Credit (WOTC) Program

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: This Notice announces the revised administrative formula methodology that ETA uses to distribute annual allotment funding to State grantees (53 State Workforce Agencies (SWAs)) for the purpose of administering the Work Opportunity Tax Credit (WOTC).

Additionally, this Notice formally communicates the substantial changes to the administrative formula and announces the actualized State allotments for fiscal year (FY) 2024, the revised formula's implementation year, based on Congress' budgetary appropriations.

DATES: The FY 2024 allotment covers the period of October 1, 2023 – September 30, 2024.

FOR FURTHER INFORMATION CONTACT: LaToria Strickland, Office of Workforce Investment, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW, Suite C-4510, Washington, DC 20210, telephone: (202) 693-3980 (this is not a toll-free number) or by email: Ask.WOTC@dol.gov. For persons with a hearing or speech disability who need assistance to use the telephone system, please dial 711 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

Background: WOTC is a Federal tax credit available to eligible employers that hire and pay wages to first-time, qualifying members of WOTC targeted groups. Section 51 of the Internal Revenue Code of 1986, as amended, provides the legislative authority for the WOTC. (See [https://uscode.house.gov/view.xhtml?req=\(title:26%20section:51%20edition:prelim\)](https://uscode.house.gov/view.xhtml?req=(title:26%20section:51%20edition:prelim))). WOTC is authorized until December 31, 2025, under division EE, title I, section 113 of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260).

This Notice represents the second of a two-stage process. On February 21, 2023, ETA published a Request for Comment in which the Department proposed modifications to WOTC procedural guidance and the administrative formula (88 FR 10540), hereinafter referred to as the initial Notice. The 60-day public comment period closed on April 24, 2023. The initial Notice presented planning estimates for the modified administrative formula’s implementation year, FY 2024, and the FY 2022 actualized allotments. In the initial Notice, ETA committed to publishing modifications to WOTC procedural guidance in a Change 1 to Training and Employment Guidance Letter (TEGL) No.16-20, “*Updated Work Opportunity Tax Credit (WOTC) Procedural Guidance*,”¹ and publishing the updated administrative formula in the **Federal Register**. Based on the comments received during the public comment period and ETA's consideration of them, ETA finalized the WOTC administrative formula with updated data metrics in the formula methodology, as originally proposed in the initial Notice.

In this second stage, the finalized formula and actual FY 2024 State allotments are described further in this subsequent Notice. (The FY 2024 State allotments are also published in Change 2 to TEGL No. 06-23, “*Work Opportunity Tax Credit (WOTC) Initial Fiscal Year (FY) 2024 Funding Allotments*”).²

This subsequent Notice contains five sections, as follows:

- *Section I* provides the historical formula methodology used for WOTC State allotments, effective FYs 1996 – 2023.
- *Section II* reviews the proposed administrative formula that was described in the initial Notice (88 FR 10540), published in the **Federal Register** on February 21, 2023.

¹ ETA, TEGL No. 16-20, Change 1, “*Updated Work Opportunity Tax Credit (WOTC) Procedural Guidance*,” Nov. 20, 2023, <https://www.dol.gov/agencies/eta/advisories/tegl-16-20-change-1>.

² ETA, TEGL No 06-23, Change 2, “Change 2 to Training and Employment Guidance Letter No. 06-23, *Work Opportunity Tax Credit (WOTC) Initial Funding Allotments for Fiscal Year 2024*,” May 09 2024, <https://www.dol.gov/agencies/eta/advisories/tegl-06-23-change-2>.

- *Section III* summarizes the comments that ETA received in response to the initial Notice and ETA's decisions concerning the allotment formula modifications, based on those comments.
- *Section IV* describes the formula's "stop-loss/stop-gain" provisions, which are designed to provide a staged transition from the old to the new funding levels for State allotments. Additionally, section IV describes the minimum funding provisions for States under the modified formula. These provisions were previously discussed in detail in the initial Notice (88 FR 10540).
- *Section V* describes the application of the modified formula (using congressional budgetary appropriations) for FY 2024 allotments and subsequent years. The table appended to this Notice reflects the actual FY 2024 distribution resulting from the revised allotment formula.

I. Historical Formula Methodology

The WOTC administrative formula was developed by ETA in 1996 for the purpose of distributing Federal funds to 52 State grantees (50 United States, District of Columbia, and U.S. Virgin Islands) to administer the WOTC and the Welfare-to-Work (WtW), enacted in 1997, tax credit programs. ETA published the original formula methodology in a **Federal Register** Notice (68 FR 15745) on April 1, 2003, announcing the FY 2003 WOTC and WtW program grants to States:

“After reserving \$584,200 for postage and \$20,000 for the Virgin Islands, funds are distributed to states by administrative formula with a \$64,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the prior year allotment share percentage.

The allocation formula is as follows:

- (1) 50 percent based on each state's relative share of total FY 2002 (the prior FY) certifications issued for the WOTC/WtW Tax Credit program;

- (2) 30 percent based on each state's relative share of the civilian labor force (CLF) for calendar year 2001 (the preceding calendar year); and
- (3) 20 percent based on each state's relative share of the adult recipients of Temporary Assistance for Needy Families (TANF) for FY 2001” (FY 2001 was the second preceding FY for which complete annual TANF data was available).

The WtW program, which focused on TANF recipients, was folded into WOTC in 2006 by division A, title I, section 105 of the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432). While ETA has made incremental modifications over time, including removing the set-aside for postage, increasing the minimum allotment from \$64,000 to \$66,000 (3% increase), and adding the Commonwealth of Puerto Rico as a State grantee, the WOTC administrative formula methodology has remained largely unchanged. ETA used this administrative formula recently for the FY 2023 allotments, as provided in TEGL No. 06-22, “*Work Opportunity Tax Credit (WOTC) Initial Funding Allotments for Fiscal Year 2023*,”³:

“After allocating \$20,000 to the Virgin Islands, ETA distributes the remaining funds to the SWAs by administrative formula with a \$66,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the previous year allotment percentage. The administrative formula is calculated as follows:

- (1) 50 percent is based on each state's relative share of total WOTC certifications issued from October 1, 2021 through September 30, 2022 (the prior fiscal year);
- (2) 30 percent is based on each state's relative share of the CLF averages for the 12-month period from October 1, 2021 through September 30, 2022 (the prior fiscal year); and
- (3) 20 percent is based on each state's relative share of adult recipients of TANF averages from October 1, 2020, through September 30, 2021 (the 12-month period from the second preceding fiscal year).”

³ TEGL 06-22, available at <https://www.dol.gov/agencies/eta/advisories/tegl-06-22>.

II. Formula Updates and Modifications

The WOTC administrative formula bases 50 percent of States' annual allotments on each State's relative share of total WOTC certifications issued in the most recently completed FY's available data (October 1 - September 30). Thirty percent is based on each State's relative share of CLF averages for the most recently completed FY's available data, and 20 percent is based on each State's relative share of adult recipients of TANF averages from the second preceding FY. The same three data metrics (certifications issued, CLF averages, and TANF averages) have been the basis of the administrative formula used to determine State allotments since 1996.

In the initial Notice (Feb 2023), ETA proposed modifications to its administrative formula to factor in the SWAs' output workload to include denials issued and to adjust for inflation. The proposed allotment formula includes two formula factors: (1) total number of determinations issued by the SWA (certifications and denials) for the most recently completed FY's available data, based on SWAs' certified performance data; and (2) each State's relative share of CLF averages for the most recently completed FY's available data. States report their annual certification performance data on ETA Form 9058, *Certification Workload and Characteristics of Certified Individuals*, through an existing information collection under the "Work Opportunity Tax Credit" ICR, approved under OMB Control Number 1205-0371.⁴ A description of how the data is used to calculate the State allotments using the proposed modified formula is provided below:

(1) *40 percent* based on each State's relative share of certifications issued for the most recently completed fiscal year's available data (October 1-September 30),

(2) *40 percent* based on each State's relative share of denials issued for the most recently completed fiscal year's available data (October 1-September 30), and

(3) *20 percent* based on each State's relative share of CLF averages for the most recently completed fiscal year's available data (October 1-September 30).

⁴ ETA Form 9058, *Certification Workload and Characteristics of Certified Individuals* - ETA Form 9058 (dol.gov).

In addition to populating the administrative formula with updated metrics, ETA proposed modifications that would raise the minimum allotment to the States and improve the formula's accuracy in terms of estimating the true administrative workload of the SWAs. The proposed modifications were a result of ETA's review of SWAs' quarterly performance data, WOTC State/regional coordinators' feedback, and inquiries received from program stakeholders.

A summary of changes under the proposed modified formula (as detailed in Section IV of the initial Notice) are provided below:

- The formula will no longer factor in States' share of adult TANF recipient averages. With this formula modification, the administrative workload of the SWA (annual certifications and denials issued) is the primary indicator used to determine fiscal year funding.
- To align the funding formula more closely with the SWAs' workload, ETA will lessen the formula weight of the CLF averages used in the allotment formula. States with larger population sizes (*i.e.*, California, Florida, New York, and Texas) have a larger number of eligible employers participating in WOTC. These States process a higher volume of certification requests leading to a larger volume of the determinations issued, and consequently receive a larger relative share of the Federal funding allocation.

ETA believes that focusing on the SWAs' workload outcomes (certifications and denials issued) is the most appropriate metric on which to base WOTC State allotments. To gradually phase in State funding allotment changes due to the updated formula, ETA will continue to use the 95 percent stop-loss/120 percent stop-gain funding provisions which are currently used in WOTC allotment formula calculations. This provision is described further in Section V of this subsequent Notice.

III. Summary of Public Comments Received

Although not required by Federal statute or regulations, ETA sought public comment on the proposed administrative formula modifications in the initial **Federal Register** Notice (88 FR 10540; Feb. 21, 2023). As with all grant formulas, changing calculation metrics will result in

changes to each State's relative share of Federal funding. Two commenters [SWAs] concurred with the modified formula as announced in the initial Notice, two commenters [SWAs] proposed adjusting the weight of formula calculation metrics (i.e., lessening the weight for denials issued), and one commenter [SWA] raised concern for States that may receive up to a five percent decrease in allotment during the implementation year (FY 2024). ETA considered these comments and proceeded with updating the WOTC administrative formula for State allotments as originally proposed in the initial Notice. SWAs expend resources to process a growing number of employer certification requests, regardless of the application's outcome (certification or denial). In FY 2023, SWAs issued 3,708,081 denials, representing 48 percent of the national total workload, compared to 1,918,901 certifications, representing 25 percent of the total workload.⁵ ETA recognizes this impact and, in the initial Notice, adjusted the administrative formula to better align State funding with SWA workloads by including 'denials issued' at the same weight as 'certifications issued' in the new formula.

IV. Description of Stop-Loss/Stop-Gain and Minimum Funding Provisions

ETA mitigates large changes in State allotments (which may be caused by changes to formula methodology) by using the "Stop-Loss/Stop-Gain" provision, which gradually phases in State funding allotment changes due to updated formula metrics. ETA will continue to use the 95 percent stop-loss/120 percent stop-gain funding provisions in the WOTC allotment formula calculations. This approach is based on a State's previous year allotment percentage, which is its relative share of the total formula allotments. The stop-gain provision provides that no State grantee will receive an amount that is more than 120 percent of their previous year's allotment percentage. The stop-loss provision provides that no State grantee will receive an amount less than 95 percent of their previous year's allotment percentage. The prior (pre-FY 2024)

⁵ National Tax Credit Certification Reporting by Fiscal Year, available at <https://www.dol.gov/agencies/eta/wotc/performance>.

administrative formula was calculated with 95 percent stop-loss/120 percent stop-gain provisions, and this did not change in the modified formula for FY 2024 and subsequent years. Under the proposed new formula, the new State allotment minimum would be raised to \$119,000 (\$36,000 for U.S. Virgin Islands), adjusted for inflation. As previously mentioned, the stop-gain provision provides that no State grantee will receive an amount that is more than 120 percent of their previous year's allotment percentage, and using the proposed new formula, some State grantees would require over a 20 percent increase of their FY 2023 allotment percentage to reach the FY 2024 allotment minimum. To phase in the increased minimum allotment, which also impacts other States' allotments, ETA will use the stop-gain provision to gradually increase the minimum funding allotment amount to reach the new \$119,000 minimum by FY 2026. The minimum State allotment increased to \$79,131 in FY 2024, which represents a 20 percent share increase from the prior minimum of \$66,000 in FY 2023, and it will increase by 20 percent each fiscal year, to reach the new \$119,000 minimum by FY 2026. A State grantee that would receive less than \$119,000 by application of the FY 2024 formula will, at the option of ETA, continue to receive an allotment that is proportional to the SWA's current fiscal year allotment and anticipated administrative workload.

V. Revised WOTC Administrative Formula, Effective FY 2024 State Allotments:

ETA will determine State allotments for normal WOTC operations according to the following methodology, effective with the FY 2024 State allotments:

After allocating \$36,000 to the U.S. Virgin Islands, ETA distributes the remaining funds to the SWAs by administrative formula with a \$119,000 minimum allotment and a 95 percent stop-loss/120 percent stop-gain from the previous year allotment percentage. The administrative formula is calculated as follows:

- (1) *40 percent* based on each State's relative share of certifications issued for the most recently completed fiscal year's available data (October 1-September 30);

- (2) *40 percent* based on each State's relative share of denials issued for the most recently completed fiscal year's available data (October 1-September 30); and
- (3) *20 percent* based on each State's relative share of CLF averages for the 12-month period of the most recently completed fiscal year's available data (October 1-September 30).

The State allotments set forth in the table appended to this subsequent Notice reflect the distribution resulting from the revised allotment formula described above. In FY 2023 and FY 2024, Congress appropriated \$18,485,000 in funding for State grantees (SWAs) to administer WOTC. The figures in column 1 show the actual FY 2023 formula allotments to State grantees. Column 2 shows the percentage of each States' allotment in proportion to the total funding appropriated. Column 3 shows the actual FY 2024 formula allotments with the application of the 95 percent stop-loss/120 percent stop-gain, and \$119,000 minimum funding provisions. Column 4 shows each State's relative share of total FY 2024 allotments and column 5 shows the percentage share difference between FY 2024 and FY 2023 State allotments. Additional information on FY 2024 funding allocations may be referenced in TEGl No 06-23, *Work Opportunity Tax Credit (WOTC) Initial Funding Allotments for Fiscal Year 2024*, available at <https://www.dol.gov/agencies/eta/advisories/tegl-06-23>.

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**U. S. Department of Labor
Employment and Training Administration
Work Opportunity Tax Credit (WOTC) State Allotment Grants
Impact of Formula Changes on FY 2024 Allotments to States**

State	FY 2023 (Actual)		FY 2024 (Actual)		Percentage Share Difference (FY 2024 vs FY 2023) (5)
	Allotment (1)	Percentage Share (2)	Allotment (3)	Percentage Share (4)	
Total	\$18,485,000	100%	\$18,485,000	100%	+/-
Alabama	275,882	1.5%	284,832	1.5%	3.3%
Alaska	66,000	0.4%	79,131	0.4%	20.0%
Arizona	344,353	1.9%	326,852	1.8%	-5.0%
Arkansas	129,340	0.7%	155,074	0.8%	20.0%
California	2,463,406	13.3%	2,338,208	12.7%	-5.0%
Colorado	299,388	1.6%	284,172	1.5%	-5.0%
Connecticut	170,021	0.9%	161,380	0.9%	-5.0%
Delaware	80,968	0.4%	97,077	0.5%	20.0%
District of Columbia	66,000	0.4%	79,131	0.4%	20.0%
Florida	996,142	5.4%	945,515	5.1%	-5.0%
Georgia	481,902	2.6%	483,737	2.6%	0.5%
Hawaii	83,407	0.5%	100,002	0.5%	20.0%
Idaho	74,748	0.4%	89,620	0.5%	20.0%
Illinois	706,132	3.8%	693,500	3.8%	-1.7%
Indiana	273,250	1.5%	259,363	1.4%	-5.0%
Iowa	218,776	1.2%	207,657	1.1%	-5.0%
Kansas	146,904	0.8%	139,438	0.8%	-5.0%
Kentucky	353,854	1.9%	335,870	1.8%	-5.0%
Louisiana	288,003	1.6%	294,826	1.6%	2.5%
Maine	66,000	0.4%	79,131	0.4%	20.0%
Maryland	398,705	2.2%	378,442	2.1%	-5.0%
Massachusetts	380,504	2.1%	361,166	2.0%	-5.0%
Michigan	574,630	3.1%	545,425	3.0%	-5.0%
Minnesota	288,016	1.6%	273,378	1.5%	-5.0%
Mississippi	207,390	1.1%	196,850	1.1%	-5.0%
Missouri	378,621	2.1%	359,378	1.9%	-5.0%
Montana	66,000	0.4%	79,131	0.4%	20.0%
Nebraska	133,374	0.7%	126,596	0.7%	-5.0%
Nevada	166,333	0.9%	162,766	0.9%	-2.1%
New Hampshire	66,000	0.4%	79,131	0.4%	20.0%
New Jersey	326,817	1.8%	354,620	1.9%	8.6%
New Mexico	169,874	0.9%	161,240	0.9%	-5.0%
New York	1,253,665	6.8%	1,189,950	6.4%	-5.0%
North Carolina	510,810	2.8%	522,119	2.8%	2.3%
North Dakota	66,000	0.4%	79,131	0.4%	20.0%

Ohio	720,311	3.9%	825,339	4.5%	14.7%
Oklahoma	260,321	1.4%	247,091	1.3%	-5.0%
Oregon	260,465	1.4%	247,227	1.3%	-5.0%
Pennsylvania	710,605	3.8%	674,490	3.7%	-5.0%
Puerto Rico	81,519	0.4%	97,738	0.5%	20.0%
Rhode Island	71,478	0.4%	85,699	0.5%	20.0%
South Carolina	250,468	1.4%	267,444	1.4%	6.9%
South Dakota	66,000	0.4%	79,131	0.4%	20.0%
Tennessee	653,761	3.5%	620,535	3.4%	-5.0%
Texas	1,310,072	7.1%	1,507,945	8.2%	15.2%
Utah	108,459	0.6%	119,000	0.6%	9.8%
Vermont	66,000	0.4%	79,131	0.4%	20.0%
Virginia	414,000	2.2%	392,959	2.1%	-5.0%
Washington	415,914	2.3%	394,776	2.1%	-5.0%
W. Virginia	118,367	0.6%	119,000	0.6%	0.6%
Wisconsin	320,045	1.7%	308,525	1.7%	-3.5%
Wyoming	66,000	0.4%	79,131	0.4%	20.0%
Total	18,465,000	100%	18,449,000	100%	
Virgin Islands (non-formula)	20,000	n/a	36,000	n/a	

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