

## TEXAS WORKFORCE COMMISSION LETTER

<b>ID/No:</b>	WD 24-10
<b>Date:</b>	May 3, 2010
<b>Keyword:</b>	Recovery Act; Veterans; WorkInTexas.com; WOTC
<b>Effective:</b>	Immediately

**To:** Local Workforce Development Board Executive Directors  
Commission Executive Offices  
Integrated Service Area Managers



**From:** Laurence M. Jones, Director, Workforce Development Division

**Subject:** **Work Opportunity Tax Credit Conditional Certification Process**

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### **PURPOSE:**

To provide Local Workforce Development Boards (Boards) with information and guidance regarding the Work Opportunity Tax Credit (WOTC) conditional certification process, including the addition of two new WOTC target groups.

### **BACKGROUND:**

On May 25, 2007, the Small Business and Work Opportunity Tax Act of 2007 was signed into law, extending WOTC through August 31, 2011.

On February 17, 2009, the President signed into law the American Recovery and Reinvestment Act of 2009, which amended §51 of the Internal Revenue Code to add unemployed veterans and disconnected youth as WOTC target groups for 2009 and 2010.

The intent of WOTC is to reduce the federal tax liability of private, for-profit employers that hire employees from the following target groups:

- Temporary Assistance for Needy Families (TANF) recipients
- Veterans (includes disabled veterans)
- Ex-felons
- Designated community residents
- Vocational rehabilitation referrals
- Summer youth
- Supplemental Nutrition Assistance Program (SNAP) recipients
- Supplemental Security Income (SSI) recipients
- Long-term family assistance recipients

- Unemployed veterans
- Disconnected youth

When a job seeker's eligibility for WOTC can be verified prior to the hire date, WOTC certification is issued on a conditional basis. Conditional certifications are hiring tools that job seekers in WOTC target groups present to prospective employers to alert the employers that there is a high probability they will be certified for WOTC if the job seeker is hired.

Conditional certifications benefit both employers and job seekers by offering employers a valuable tax credit and improving job seekers' chances of obtaining employment.

**PROCEDURES:**

Boards must be aware that the following two groups have been added to the list of WOTC target groups:

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- Unemployed veterans
- Disconnected youth

Boards must ensure that appropriate staff issues conditional certifications only for individuals from the following target groups, and for which documentation can be provided prior to the hire date:

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- Disabled veterans;
- Unemployed veterans (who are searching for a job in 2010);
- Ex-felons;
- Vocational rehabilitation referrals; and
- Disconnected youth (who are searching for a job in 2010).

Boards must ensure that appropriate staff verifies an individual's conditional certification eligibility as follows:

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- Disabled veterans must provide:
  - a U.S. Department of Veterans Affairs rating letter verifying the job seeker's disabled veteran service-connected disability status; and
  - Form DD-214 (Certificate of Release or Discharge from Active Duty), which verifies active military service.
- Unemployed veterans must provide:
  - Form DD-214; and
  - unemployment insurance (UI) documents that verify the receipt of UI benefits for four weeks. To verify receipt of UI benefits, use the UI Benefits System. A copy must be printed for file.
- Ex-felons must provide appropriate court documents.
- Vocational rehabilitation referrals must provide an Individualized Plan of Employment.
- Disconnected youth must provide:
  - age verification (e.g., driver license, etc.);

- a completed ETA Form 9154 (Youth Self-Attestation Form), available at [www.doleta.gov/business/incentives/opptax/PDF/Youth\\_Self\\_Attestation\\_Form.pdf](http://www.doleta.gov/business/incentives/opptax/PDF/Youth_Self_Attestation_Form.pdf); and
- a wages earned statement reflecting less than \$2,827.50. To verify wages, use the Wage Record Interchange System (see Attachment 1 for instructions). A copy must be printed for file.

Boards must ensure that appropriate staff assists the job seeker with preparing ETA Form 9062 (Conditional Certification Work Opportunity Tax Credit), which can be completed electronically using the Texas Workforce Commission's WOTC ES77 database. (ES77 instructions and an ES77 desk aid are included as Attachments 2 and 3, respectively.)

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Within three to five business days after the submission of a conditional certification, the ES77 database automatically mails the following items to the job seeker:

- Cover letter
- ETA Form 9062
- Blank IRS Form 8850 (available at [http://www.doleta.gov/business/Incentives/opptax/PDF/WOTC\\_IRS\\_Form\\_8850.pdf](http://www.doleta.gov/business/Incentives/opptax/PDF/WOTC_IRS_Form_8850.pdf))

Boards must ensure that appropriate staff:

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- informs job seekers that ETA Form 9062 and IRS Form 8850 will be delivered to the job seeker by mail; and
- advises job seekers to inform prospective employers that the official WOTC certification will be issued subsequently, if the job seeker maintains the eligibility requirements as determined by the WOTC Unit.

Boards must be aware that the WOTC Unit will issue the official WOTC certification once:

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- the job seeker is hired;
- the employer has timely filed the IRS Form 8850 application; and
- WOTC staff has verified the job seeker's eligibility by reviewing the ES77 database.

Boards must ensure that questions regarding the certification process for the remaining WOTC target groups are directed to the WOTC Unit at 1-800-695-6879:

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- TANF recipients
- Veterans
- Designated community residents
- Summer youth
- SNAP recipients
- SSI recipients
- Long-term family assistance recipients

Boards must ensure that, when eligible job seekers receive WOTC conditional certifications, appropriate staff enters the *TCE-WOTC Eligibility* job seeker service into WorkInTexas.com. **NLF**

Boards must ensure that cooperative agreements with service providers address the provision of WOTC services, including eligibility determinations. **NLF**

Boards must ensure that appropriate staff receives training prior to providing WOTC conditional certifications to eligible job seekers. For training or assistance, contact the WOTC Unit at 1-800-695-6879. **NLF**

Boards must retain hard copies of all conditional certifications and supporting documentation for a period of four years. **NLF**

**INQUIRIES:**

Direct inquiries regarding this WD Letter to [wfpolicy.clarifications@twc.state.tx.us](mailto:wfpolicy.clarifications@twc.state.tx.us).

**ATTACHMENTS:**

Attachment 1: Wage Record Interchange System Instructions for Disconnected Youth

Attachment 2: Work Opportunity Tax Credit ES77 Database Instructions

Attachment 3: Work Opportunity Tax Credit ES77 Database Desk Aid

**RESCISSIONS:**

WD Letter 28-08

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**REFERENCE:**

Small Business and Work Opportunity Tax Act of 2007 (Public Law 110-28)

American Recovery and Reinvestment Act of 2009 (Public Law 111-5)

Internal Revenue Code of 1986, Section 51, as amended

United States Department of Labor Training and Employment Guidance Letter No. 20-06, issued April 3, 2007, and entitled “Reauthorization of the Work Opportunity Tax Credit (WOTC) and Other Program Changes”

United States Department of Labor Training and Employment Guidance Letter No. 5-07, issued September 11, 2007, and entitled “Reauthorization of the Work Opportunity Tax Credit and Other Program Changes”

United States Department of Labor Training and Employment Guidance Letter No. 3-09, issued September 1, 2009, and entitled “Information and Guidance on the Two New Work Opportunity Tax Credit (WOTC) Targeted Groups Introduced by the American Recovery and Reinvestment Act of 2009”

**FLEXIBILITY RATINGS:**

**No Local Flexibility (NLF):** This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. All information with an NLF rating is indicated by “must” or “shall.”

**Local Flexibility (LF)**: This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter. All information with an LF rating is indicated by “may” or “recommend.”