

January 13, 2025

Office of Information and Regulatory Affairs
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

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Employment and Training Administration
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Submitted via https://www.regulations.gov/commenton/DOL_FRDOC_0001-2417
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To Whom It May Concern:

The undersigned submit this Comment in response to the Department of Labor's notice (89 Federal Register 239) soliciting public feedback for the Office of Management and Budget on the practical utility of a proposed Work Opportunity Tax Credit (WOTC) Implementation Evaluation, and ideas for enhancing the utility, quality, and clarity of the evaluation.

We are organizations with a shared dedication to ensuring that all workers in the United States have equitable access to good quality, stable employment. We believe that governmental programs and policies, including the WOTC, should promote universal access to good jobs.

Several decades have passed without robust evaluation of the WOTC, purportedly designed to incentivize the employment of workers who face barriers to finding jobs. It is unknown whether and to what extent the tax credit influences employers' hiring and retention decisions. And data that do exist suggest that the WOTC may be subsidizing low-quality, temporary employment for categories of workers that are disproportionately people of color.¹ We commend the Department of Labor (DOL) for authorizing a long overdue implementation evaluation of the WOTC that can help to shed light on these issues. With the WOTC up for congressional reauthorization at the end of 2025, we hope that findings from the evaluation will inform needed changes.

Below we offer feedback on the evaluation design, as described in the Final Evaluation Design Report (V3) by Economic Systems, Inc., and on survey instruments for American Jobs Centers, WOTC-certified employees, employers who are WOTC recipients, and State Workforce Agencies, crafted by Economic Systems, Inc.

A. Evaluation Design

Priority research questions

¹ National Employment Law Project, National Legal Advocacy Network (now Grassroots Law and Organizing for Workers), Action Center on Race and the Economy, Beyond the Bars et al. comment in response to 88 Federal Register 10540. April 24, 2023, available at <https://www.nelp.org/insights-research/comments-in-response-to-88-fr-10540/>.

We are pleased to see that the latest list of priority research questions for the evaluation has been expanded from the previous version to include questions about the demographics (including race/ethnicity, gender, and age) of WOTC-certified workers, whether workers are represented by a union, and whether workers signed forced arbitration and non-compete agreements.² We have specific feedback on survey questions that explore some of those issues below.

We strongly urge the DOL and Economic Systems, Inc. to include questions about the number and dollar value of WOTC credits issued in recent years, and about top recipients of WOTCs. These questions were in the first draft evaluation plan and are very important.³ Policymakers and their constituents have a right to know the number and value of WOTCs being disbursed and which employers are benefiting most from the tax credit. These questions would entail analysis of administrative data, as outlined by Economic Systems, Inc. in its initial evaluation plan. We propose including questions about the following: the number of tax credits issued (different from WOTC certifications) by the IRS annually from 2019-2023; for the U.S., the total dollar value of tax credits issued by the IRS annually from 2019-2023; for the U.S., the median dollar value of credits by employer industry from 2019-2023; for each state, the top 20 companies that hired the most WOTC-certified workers in 2023; and the top 20 recipients of WOTC credits nationally for each of the years 2019-2023, the value of credits received, and a breakdown by WOTC target group.

Survey and interview participant outreach

The evaluation report states that Economic Systems, Inc. has “obtained support from the National Employment Opportunity Network (NEON) to encourage survey responses from employer representatives.” While the DOL and Economic Systems, Inc. cannot prevent members of the NEON network from participating in the survey or interviews, and most of the third-party contractors that help employers secure credits are likely members who should participate, we urge the DOL and Economic Systems, Inc. not to rely on or work with NEON to do survey or interview recruitment. NEON has a vested financial interest in seeing the WOTC grow and expand.⁴ To protect the integrity of the evaluation, we suggest that evaluators instead work with State Workforce Agencies to identify employers and their representatives to participate in the evaluation.

Interview sample

We are pleased that the evaluation plan includes interviews in addition to surveys. The plan states that 6-9 employees will be interviewed. While some workers belong to multiple WOTC target groups, 6-9 interviews may not capture members of all WOTC target groups. We urge the DOL and Economic Systems, Inc. to ensure that members of all WOTC target groups are represented in the pool of workers who are interviewed.⁵

B. American Job Center Survey Instrument

Our feedback on the American Job Center Survey instrument⁶ is below.

² See pp14-15 of “Work Opportunity Tax Credit (WOTC) Evaluation: Evaluation Design Report, submitted by Economic Systems, Inc., December 27, 2023, under contract #1605C2-23-0010.

³ See pp15-18 of “Work Opportunity Tax Credit (WOTC) Evaluation: Evaluation Design Report, submitted by Economic Systems, Inc., December 27, 2023, under contract #1605C2-23-0010.

⁴ “About NEON,” NEON organizational website, accessed January 10, 2025, <https://wotcmeansjobs.org/neon/>; “NEON Response to ProPublica,” NEON organizational website, September 2022, <https://wotcmeansjobs.org/propre/>.

⁵ See p17 of “Work Opportunity Tax Credit (WOTC) Evaluation: Final Evaluation Design Report (V3),” Submitted to the U.S. Department of Labor by Economic Systems, Inc., July 30, 2024, under contract number 1605C2-23-A-0010.

⁶ AJC survey instrument at https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202409-1290-001.

- Following Question #15: Question #15 asks about the number of employers the American Job Center (AJC) has identified as promoting workplaces for WOTC target groups over the past years. We propose adding a related question about whether the AJC has entered into any formal or informal agreements with employers or their representatives to supply employers with workers likely to be WOTC-eligible. If so, we would like the AJC to list the employers. As a ProPublica investigation uncovered, temporary help and staffing agencies, as well as employers with a history of labor violations, like Amazon and Dollar General,⁷ are top recipients of WOTCs.⁸ It is important to know whether AJCs have formal or informal agreements with specific employers to supply them with WOTC-eligible job candidates. Such questions would shed light on whether the universe of job opportunities presented to workers by AJCs is shaped by agreements with employers or their representatives. Such agreements could be funneling WOTC-eligible workers into low-quality, temporary jobs and hindering their access to higher quality, long-term jobs with career ladders within their communities. As such, the questions are important to a robust evaluation of the WOTC.
- Questions #18 and #19: These questions ask about which WOTC target groups employers are interested in and which they avoid, respectively. We suggest making the answer choices “select all that apply” rather than “select up to three” since it is important to know the full list of target groups that employers are interested in and the full list that they avoid.

C. WOTC-Certified Employee Survey Instrument

Our feedback on the Employee Survey instrument⁹ is below.

- Following Question #7: After a question about pay rate, add a question about whether employers take out any deductions for required uniforms or equipment, training, transportation, or anything else.
- Following Question #8: Question #8 asks “On average, how many hours per week did you work in this position to start?” Add a follow-up question that will help evaluators understand whether underemployment is an issue for WOTC-certified workers, along the lines of “Would you prefer more hours?”
- Question #10: For this question about the circumstances under which workers receive extra pay, we suggest making the answer choices “select all that apply.”
- Following Question #15: After a question about whether workers received job training, add a question about safety training along the lines of “Did you receive the safety training you needed to do your job safely? Yes, and it prepared me to safely do my job/Yes, but it was not adequate/No safety training/Not applicable.”
- Following Question #20: After a series of questions (#7-#20) about various job quality measures, consider adding a question about differences between job terms promised at the time of hire and actual job terms after hire. Question: “Which of the following statements about the terms of your job are true? Select all that apply.” Answer choices: “My pay rate was lower than what I was told it would be at the time of my hire. / I received fewer benefits than I was told I would receive at the time of my hire. / I was scheduled for fewer work hours than I was told I would get at the time of my hire. / My shift times or days were

⁷ Good Jobs First’s Violation Tracker findings on Dollar General at <https://violationtracker.goodjobsfirst.org/parent/dollar-general> and on Amazon at <https://violationtracker.goodjobsfirst.org/?company=amazon>.

⁸ Emily Corwin, “A Tax Credit Was Meant to Help Marginalized Workers Get Permanent Jobs. Instead It’s Subsidizing Temp Work,” *ProPublica*, April 23, 2022, <https://www.propublica.org/article/work-opportunity-tax-credit-temp-permanent-employment>.

⁹ Employee survey instrument at https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202409-1290-001.

different from what I was told they would be at the time of my hire. / My job duties were different from those described to me at the time of my hire. / The duration of my employment was shorter than what I was told it would be at the time of my hire. / Other differences: (specify).”

- Question #23: From “In the past 30 days how often did you feel bad because you did not have the transportation you needed?” remove “feel bad because you did,” amending the question to: “In the past 30 days how often did you not have the transportation you needed?”
- Following Question #24: After asking “Was this a union job?” add a question along the lines of “If not, were there other unionized workers at your workplace?” to help evaluators understand whether WOTC-certified workers have access to bargaining unit positions at an employer.
- Question #25: Define and/or provide examples of the language in forced arbitration and non-compete agreements because workers may not be familiar with the terminology.
- Question #27: This question—“Did you face discrimination during your employment with this organization? Yes/No”—may be too broad to produce meaningful findings. Consider changing the question to ask specifically about discriminatory treatment by a supervisor or manager, adding a follow-up question about the impact of the discrimination—whether on pay, promotion, work assignment, etc.—and adding another follow-up question asking respondents to identify the basis of discrimination, whether it was due to being a member of a WOTC target group (list them out) and/or a protected characteristic (list out race, gender, gender identity, sexuality, age, religion, etc.).
- Following Question #27: Following questions about workers’ experiences of discrimination at work, we suggest asking about whether they have experienced sexual or race-based harassment.
- Following Question #39: After this question about hours at a new job, add a question along the lines of “Would you prefer more hours?”
- Question #44: Check the verb tenses in the answer choices.
- Following Question #62: To this section that includes questions about children and economic security, add questions about the WOTC-certified workers’ number of dependents and whether they are the sole or main breadwinner.
- Following Question #66: Add a question about experience of hunger, which is surprisingly common among low-paid workers in the U.S.¹⁰

D. WOTC Recipient (Employer) Survey Instrument

Our feedback on the Employer Survey instrument¹¹ is below.

- Following Question #11: We suggest adding the following question: “Do you ask WOTC-certified workers to sign any of the following? Select all that apply.” Answer choices: “Mandatory arbitration agreement,” “Non-compete agreement,” and “None.”
- Question #19: For this question about whether WOTC hires require new training, we suggest changing the answer choices from “Yes/No” to “Always,” “Sometimes,” and “Never.”
- Question #21: Add “safety training” as an answer choice.

¹⁰ Dana Braga, “One-in-four U.S. parents say they’ve struggled to afford food or housing in the past year,” *Pew Research*, December 7, 2022,

<https://www.pewresearch.org/short-reads/2022/12/07/one-in-four-u-s-parents-say-theyve-struggled-to-afford-food-or-housing-in-the-past-year/>.

¹¹ Employer survey instrument at https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202409-1290-001.

- Following Question #25: Add a question along the lines of “Do you have an agreement with an AJC or similar organization to send, recommend, or suggest WOTC-eligible candidates to or for your company?”
- Following Question #26: Add two questions along the lines of “Are there WOTC target groups you do not hire? Select all that apply. [Answer choices should be a list of WOTC target groups]” and add a follow-up question of “Why not? [free response].”
- Question #44: Make the answer choices to this question about services provided by the employer representative “select all that apply.”
- Question #48: To the answer choices, add “agreements with AJCs/OneStops to send WOTC-eligible workers to your clients.”
- Question #58: Other survey questions suggest that response times may vary by WOTC target group and other factors, so consider modifying the question to how long it “typically takes” for SWAs to respond to submissions.
- Question #59: Make the answer choices “select all that apply.”

E. State Workforce Agency Survey Instrument

Our feedback on the SWA Survey instrument¹² is below.

- Questions #13 and #15: Change “We make presentations at organizations that serve target groups, like AJCs/One Stops, and/or other community service organizations that help people get jobs” to “We make presentations at organizations that serve target groups, like AJCs/One Stops, reentry service organizations, and/or other community service organizations that help people get jobs”
- Question 20: To the answer choices, add the “Temporary Help and Staffing Agencies” industry. This is a critical addition, as staffing agencies are top recipients of WOTCs.¹³
- Question #57: This question asks respondents to rank the top 4 factors causing the state’s WOTC backlog. We suggest duplicating the question and making the answer choices in the duplicate version select-all-that-apply to ensure that all reasons for the backlog are captured.
- Question #59: Clarify whether this question is asking about the number of companies that have submitted WOTC certification requests in the previous reporting year or the number that have pending requests. We believe that the former is more important.
- Following Question #59: Add a question about the top 20 companies (by number of certification requests) in the last reporting year (many states have already publicly revealed this information in response to FOIA requests)¹⁴.

Thank you for the opportunity to provide feedback on the WOTC Implementation Evaluation plan. Please contact Maya Pinto at mpinto@nelp.org with any questions.

Sincerely,

National Employment Law Project
Action Center on Race and the Economy
Athena
Beyond the Bars

¹² SWA survey instrument at https://www.reginfo.gov/public/do/PRAICList?ref_nbr=202409-1290-001.

¹³ *Supra* note 8.

¹⁴ *Supra* note 8.

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Center for Law and Social Policy
Chicago Jobs Council
Good Jobs First
Grassroots Law and Organizing for Workers
Green Workers Alliance
Jobs to Move America
Labor Resource Center at UMASS Boston
Legal Aid at Work
Maine Center for Economic Policy
Make the Road New Jersey
Maryland Center on Economic Policy
Mason Tenders' District Council of Greater New York and Long Island
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National Council for Occupational Safety and Health
National Immigration Law Center
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