



Expanding Your Talent Pool: Fair Chance Hiring

Employer Guidebook

September 2019

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Introduction

For any company, there are a variety of factors that impact their bottom line—sales, inflation, the political climate, the economy, and even the availability of great workers.

One of the biggest challenges facing businesses is a shortage of labor. The economy is seeing record levels of job openings compared to job seekers, across many industries. That's due to a variety of factors, including the retirement of Baby Boomers as they age out of the workforce. From 2015 to 2035, the biggest group of working-age adults—those born in the U.S. whose parents were born in the U.S.—is expected to drop by 8%, or 8.2 million workers, according to PEW Research¹. As part of the Toledo Regional Chamber of Commerce's talent alignment strategy, it was learned that between 2010 and 2017 23,000 jobs were created in the region. During that same time, the workforce participation decreased by 9,000 people.

A 2018 report by the Work Institute estimated that 43 million employees quit their job voluntarily in 2018, representing more than one in four employees in the workforce. They expect that number to rise even more by the end of 2020. The Institute also estimates that the average turnover costs associated with an employee leaving is 33% of their salary.²

Because of these and other factors, employers are now considering communities with potential barriers to employment that may have been looked over in the past, including those who have a criminal background.

Why should an employer consider hiring someone with a criminal background? Surveys conducted by the Chamber and other studies show that compared to the general workforce, these individuals have **lower** turnover rates, **lower** absenteeism, **higher** retention rates, and **higher** loyalty. That results in lower training and turnover costs for your business allowing your business to continue to grow and be successful.

In response to requests for assistance from members in 2017, the Toledo Regional Chamber of Commerce created the Re-Entry Development Initiative (REDI) to provide assistance in the area of fair chance hiring. The Toledo Regional Chamber of Commerce strives to make the region a preferred place for diverse talent and economic opportunity. Assisting employers by helping them to expand their potential talent is one way that we are working to achieve that goal.

This guidebook is meant to serve as a resource and not intended to provide legal advice when considering fair-chance or other hiring practices. You are encouraged to work with your legal counsel to discuss specific situations and circumstances.

¹ <http://www.pewresearch.org/fact-tank/2017/03/08/immigration-projected-to-drive-growth-in-u-s-working-age-population-through-at-least-2035/>

² <http://www.workinstitute.com/retentionreport2018>

Incentives and Support

There are a number of incentives and support programs available to assist employers in mitigating their risk when hiring an individual with a criminal background. Just as important, there are services made available to those individuals to help them successfully transition to a new career opportunity.

Federal Bonding Program

The Federal Bonding Program provides important support for justice-involved individuals and other challenged job seekers, helping them secure employment and stay employed.

The Program primarily targets justice-involved individuals – people who have been previously incarcerated and are returning to the community – and other job seekers who have faced difficulties in finding employment. Bonds can be applied to any job with any employer, in any state, and covers any employee dishonesty committed on or away from the workplace. Full- or part-time employees receiving paid wages (with Federal taxes automatically deducted from pay) can be bonded, including those hired by “temp agencies.” Bonds can also be purchased to cover already employed workers who need bonding to prevent being laid off or to secure a transfer or promotion to a different job with a current employer.

Additional information and forms are located at <http://bonds4jobs.com/>.

Ohio Coordinator:

Ohio Central School System
Jeanette Woodruff, Executive Secretary
P.O. Box 779
London, OH 43140

Phone: 740-845-3240

Fax: 740-845-3387

Email: Jeanette.Woodruff@odrc.state.oh.us

Certificate of Qualification for Employment (CQE)

Senate Bill 337 became effective September 29, 2012, and created the “Certificate of Qualification for Employment” (CQE) in Ohio Revised Code 2953.25. The CQE will allow persons living in the community who have a previous felony or misdemeanor conviction to apply to the court to lift the collateral sanction that bars them from being considered for employment in a particular field.

How does a CQE benefit employers?

1. A CQE allows an employer to hire a candidate with a criminal record who was previously excluded from consideration.

2. A CQE provides immunity to employers for negligent hiring claims - indicates employer has done full due diligence in the hiring process.
3. A CQE assures the employer that the court has made the following findings: that granting the petition will materially assist the individual in obtaining employment or occupational licensing, that the individual has a substantial need for the relief requested in order to live a law-abiding life, and that granting the petition would not pose an unreasonable risk to the safety of the public or any individual.

What does it mean when a person holds a CQE?

CQEs turn a mandatory rule prohibiting occupational licensure based on certain criminal convictions into a discretionary bar. This allows licensing boards and employers to individually assess the person's fitness for the license and/or job in question. Additional information can be found on the Ohio Department of Rehabilitation & Correction's website at <https://drc.ohio.gov/cqe>

Work Opportunity Tax Credit

The Work Opportunity Tax Credit (WOTC) provides federal income tax credits that encourage employers to hire job seekers from defined target groups, many of which have barriers to employment.

A "qualified ex-felon" is a person hired within a year of:

- Being convicted of a felony or
- Being released from prison from the felony

The Ohio Department of Job & Family Services (ODJFS) is the designated agency responsible for administering the program. WOTC follows the rules and regulations set forth in the U.S. Department of Labor ETA (Employment, Training & Assistance) Handbook No. 408 in the validation of each request.

Applications for WOTC must be submitted within 28 days of the start-to-work date. The necessary forms for submission along with additional information regarding processing can be found on the WOTC web site at: www.jfs.ohio.gov/wotc.

The following are the current target groups: ex-felons, Veterans, 18-39 year-old Food Assistance Recipients, 18-39 year-old Empowerment Zone/Rural Renewal County Residents, 16-17 year-old Summer Youth, Vocational Rehabilitation Referrals, Supplemental Security Income (SSI) Recipients, and Long-Term Assistance Recipients).

For More Information:

Office of Workforce Development

P.O. Box 1618

Columbus, OH 43216-1618

Direct phone: (614) 644-0966

Email: wotc_contact@jfs.ohio.gov

- Ohio Department of Jobs & Family Services - <http://jfs.ohio.gov/wotc/Participate.stm>
- Internal Revenue Service - <https://www.irs.gov/businesses/small-businesses-self-employed/work-opportunity-tax-credit>

Community Support Programs

Reentry Coalition of Northwest Ohio (RCNWO)

A coalition of service agencies and individuals whose mission is to provide leadership, create partnerships, and promote shared accountability for successful community reentry with the goal of reducing recidivism and promoting public safety. Additional information and resources offered through the Coalition can be found at <https://www.reentry419.com/>.

Goodwill Industries of Northwest Ohio Re-Entry Services

Goodwill Industries of Northwest Ohio is dedicated to providing effective, comprehensive employment services to men and women with criminal convictions. Our re-entry services provide structure and supervision to returning citizens to foster the confidence and skill building necessary for a successful transition to a stable, productive life. Additional information about re-entry services can be found at <https://www.goodwillnwohio.com/reentry-services/>

The Ridge Project

The Ridge Project is a faith-based non-profit organization whose purpose is to build strong families. The Ridge Project offers preventative services that focus on building healthy youth leaders, intervention services that focus on equipping and empowering returning citizens with the leadership skills necessary to elevate themselves and their families, and redirection services that prepare individuals to succeed in the workplace. This is accomplished through the Ridge Project's proprietary, evidence-based TYRO programs. Through these programs The Ridge Project offers Fatherhood, Communication, Job Ethics, Leadership, Healthy Relationship, and vocational skills trainings, paired with intensive case-management. For more information on The Ridge Project visit www.theridgproject.com

Compliance

As with other hiring decisions, there are boundaries placed on employers when hiring individuals with background. The Equal Employment Opportunity Commission and the Fair Credit Reporting Act provide resources and guidance when making hiring decisions. These resources should be utilized in order to maximize opportunities and foster an inclusive environment.

Equal Employment Opportunity Commission (EEOC)

The EEOC has long taken the position that the use of an individual's criminal history may result in prohibited discrimination based upon race and national origin under Title VII of the Civil Rights Act of 1964. Discrimination could occur if an employer utilizes criminal conviction history against only certain individuals based on their race or national origin. However, the EEOC goes further to point out that a neutral policy of excluding certain applicants based upon criminal conviction history may also be unlawful if it results in a disparate impact on individuals protected under Title VII. Therefore, the EEOC requires employers to establish that the exclusion of individuals with criminal convictions must be job related and consistent with business necessity. Employers should conduct an individualized assessment to determine

whether the conviction would be disqualifying. Employers should consider: 1) the nature and gravity of the offense or conduct; 2) the time that has passed since the offense, conduct, and/or completion of the sentence; and 3) the nature of the job held or sought. The EEOC guidance states that conducting an individualized assessment will reduce the likelihood disparate impact discrimination will occur. More information regarding the EEOC Enforcement Guidance can be found at www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

Fair Credit Reporting Act (FCRA)

The Fair Credit Reporting Act requires employers who use third-party service providers (consumer reporting agencies or background checking companies) to conduct criminal background checks or credit checks on applicants or current employees to follow a strict procedures of providing notice, disclosure, and consent by the applicant/employee prior to taking any adverse action against the applicant/employee. Employers utilizing third party service providers to conduct criminal or credit background checks should be careful to utilize the forms provided by the Federal Trade Commission and/or the third party service provide to ensure compliance. Employers must obtain the consent of the applicant/employer prior to running the background check and then if the background check reveals information that disqualifies the applicant/employee from employment, employers must follow the procedure to provide a pre-adverse action notice and an adverse action notice. The employee also has the right to a copy of the results of the background check and instructions on how to contest the information with the third-party service provider. More information regarding the requirements of the FCRA can be found at www.ftc.gov.

Negligent Hiring

Ohio law allows an individual to hold an employer or company responsible for the actions of its employees under a legal principle called *respondeat superior*, which essentially means “employer liability for employee actions.”

It is important to note that there is no absolute freedom from risk of liability. Employers need to make informed judgement calls about hiring.

What types of roles are generally considered to be high risk for negligent hiring:

1. Jobs with access to valuables
 - Cash or property that can easily be converted to cash
 - Property that can easily be stolen
 - Property belonging to third-parties such as co-employees or customers
2. Jobs with unaccompanied access to vulnerable populations
 - Minors, elderly, women, hospital patients and other who have reduced ability to protect themselves physically
 - Under circumstances where others are not likely to provide protection, such as in a customer’s home
3. Jobs that require the use of dangerous implements

- The job involves the use of firearms, knives or other items that are clearly capable of causing serious injuries if not handled correctly
- 4. Jobs that require the operation of a motor vehicle
 - This includes indoor vehicles and other vehicles for which no drivers' license is required
- 5. Jobs that involve liquor
 - This includes bars and other establishments with easy access to liquor

Acknowledgments

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If you are interested in participating in the Chamber's REDI initiatives, please contact the Toledo Regional Chamber of Commerce at 419-243-8191.

Additional Resources

US Department of Labor

U.S. Department of Labor ETA (Employment, Training & Assistance) Handbook No. 408

https://www.doleta.gov/business/incentives/opptax/docs/ETA_Handbook_408_Nov_2002_3rd_Edition.pdf

EEOC

Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.

https://www.eeoc.gov/laws/guidance/upload/arrest_conviction.pdf

Fair Credit Reporting Act text

https://www.ftc.gov/system/files/545a_fair-credit-reporting-act-0918.pdf

Appendix

1. Department of Labor – Work Opportunity Tax Form
2. IRS Pre-Screening Notice and Certification Request for the Work Opportunity Credit Form and Instructions



1. Control No. (For Agency use only)	APPLICANT INFORMATION (See instructions on reverse)		2. Date Received (For Agency Use only)
EMPLOYER INFORMATION			
3. Employer Name	4. Employer Address and Telephone	5. Employer Federal ID Number (EIN)	
APPLICANT INFORMATION			
6. Applicant Name (Last, First, MI)	7. Social Security Number	8. Have you worked for this employer before? Yes ___ No ___ If YES, enter last date of employment: _____	
APPLICANT CHARACTERISTICS FOR WOTC TARGET GROUP CERTIFICATION			
9. Employment Start Date	10. Starting Wage	11. Position	
12. Are you at least age 16, but under age 40? If YES, enter your <i>date of birth</i> _____			Yes ___ No ___
13. Are you a Veteran of the U.S. Armed Forces? 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? If YES, enter name of <i>primary recipient</i> _____ and <i>city and state</i> where benefits were received _____. OR, are you a veteran entitled to compensation for a service-connected disability? If YES, were you discharged or released from active duty within a year before you were hired? 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 ___ Yes ___ No ___ Yes ___ No ___ Yes ___ No ___
14. Are you a member of a family that received Supplemental Nutrition Assistance Program (SNAP) (formerly Food Stamps) benefits for the 6 months before you were hired? OR, received SNAP benefits for at least a 3-month period within the last 5 months But you are no longer receiving them? If YES to either question, enter name of <i>primary recipient</i> _____ and <i>city</i> And <i>state</i> where benefits were received _____.			Yes ___ No ___ Yes ___ No ___
15. Were you referred to an employer by a Vocational Rehabilitation Agency approved by a State? OR, by an Employment Network under the Ticket to Work Program? OR, by the Department of Veterans Affairs?			Yes ___ No ___ Yes ___ No ___ Yes ___ No ___
16. Are you a member of a family that received TANF assistance for at least the last 18 months			

before you were hired?	Yes___ No___	
OR , are you a member of a family that received TANF benefits for any 18 months beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended within 2 years before you were hired?	Yes___ No___	
OR , did your family stop being eligible for TANF assistance within 2 years before you were hired because a Federal or state law limited the maximum time those payments could be made?	Yes___ No___	
If NO , are you a member of a family that received TANF assistance for any 9 months during the 18-month period before you were hired?	Yes___ No___	
If YES, to any question , enter name of <i>primary recipient</i> _____ and the <i>city and state</i> where benefits were received _____.		
17. Were you convicted of a felony or released from prison after a felony conviction during the year before you were hired?	Yes___ No___	
If YES , enter <i>date of conviction</i> _____ and <i>date of release</i> _____.		
Was this a Federal ___ or a State conviction ___? (Check one)		
18. Do you live in an Empowerment Zone or Rural Renewal County (RRC)?	Yes___ No___	
19. Do you live in an Empowerment Zone and are at least age 16, but not yet 18, on your hiring date?	Yes ___ No ___	
20. Did you receive Supplemental Security Income (SSI) benefits for any month ending within 60 days before you were hired?	Yes___ No___	
21. Are you a veteran unemployed for a combined period of at least 6 months (whether or not consecutive) during the year before you were hired?	Yes___ No___	
22. Are you a veteran unemployed for a combined period of at least 4 weeks but less than 6 months (whether or not consecutive) during the year before you were hired?	Yes___ No___	
23. Are you an individual who is or was in a period of unemployment that is at least 27 consecutive weeks and for all or part of that period you received unemployment compensation?	Yes___ No___	
If YES , what state did you receive unemployment compensation in? _____ (Enter state where UI compensation was received)		
24. Sources used to document eligibility: (Employers/Consultants: List all documentation provided or forthcoming. For SWA Staff: List all documentation used in determining target group eligibility and enter your initials and date when the determination was made.		
I certify that this information is true and correct to the best of my knowledge. I understand that the information above may be subject to verification.		
25(a). Signature: (See instructions in Box 25.(b) for who signs this signature block)	25.(b) Indicate with a ✓ mark who signed this form: <input type="checkbox"/> Employer, <input type="checkbox"/> Consultant, <input type="checkbox"/> SWA, <input type="checkbox"/> Participating Agency, <input type="checkbox"/> Applicant, or <input type="checkbox"/> Parent/Guardian (if applicant is a minor)	26. Date:

INSTRUCTIONS FOR COMPLETING THE INDIVIDUAL CHARACTERISTICS FORM (ICF), ETA 9061. This form is used together with IRS Form 8850 to help state workforce agencies (SWAs) determine eligibility for the Work Opportunity Tax Credit (WOTC) Program. The form may be completed, on behalf of the applicant, by: 1) the employer or employer representative, the SWA, a participating agency, or 2) the applicant directly (if a minor, the parent or guardian must sign the form) and signed (Box 25a.) by the individual completing the form. This form is required to be used, without modification, by all employers (or their representatives) seeking WOTC certification.

Boxes 1 and 2. **SWA.** For agency use only.

Boxes 3-5. **Employer Information.** Enter the name, address including ZIP code, telephone number, and employer Federal ID number (EIN) of the employer requesting the certification for the WOTC. Do not enter information pertaining to the employer's representative, if any.

Boxes 6-11. **Applicant Information.** Enter the applicant's name and social security number as they appear on the applicant's social security card. In Box 8, indicate whether the applicant previously worked for the employer, and if Yes, enter the last date or approximate last date of employment. This information will help the "48-hour" reviewer to, early in the verification process, eliminate requests for former employees and to issue denials to these type of requests, or certifications in the case of "qualifying rehires" during valid "breaks in employment" (see pages III-12 and III-13, Nov. 2002, Third Ed., ETA Handbook 408) during the first year of employment.

Boxes 12-23. **Applicant Characteristics.** Read questions carefully, answer each question, and provide additional information where requested.

The Protecting Americans from Tax Hikes Act of 2015 retroactively reauthorized current target groups for a 5-year period, January 1, 2015 through December 31, 2019, and extended the Empowerment Zones designations for a two-year period, January 1, 2015 through December 31, 2016. The Act introduced a new target group, Qualified Long-term Unemployment Recipient (LTUR), for new hires that begin to work for an employer on or after January 1, 2016– December 31, 2019, see Box 23. For guidance see IRS Relief Period in TEGL No. TEGL 25-15 and IRS Notice 2016-22 and 2016-40.

Box 24 **Sources to Document Eligibility.** The applicant or employer is requested to provide documentary evidence to substantiate the **YES answers** in Boxes 12 - 23. List or describe the documentary evidence that is attached to the ICF or that will be provided to the SWA. Indicate in parentheses next to each document listed whether it is attached (A) or forthcoming (F). Some examples of acceptable documentation are provided below. A letter from the agency that administers a program may be furnished specifically addressing the question to which the applicant answered YES. For example, if an applicant answers YES to either question in Box 14 and enters the name of the primary recipient and the city and state in which the benefits were received, the applicant could provide a letter from the appropriate SNAP (formerly Food Stamp) agency stating to whom SNAP benefits were paid, the months for which they were paid, and the names of the individuals included on the grant for each month. SWAs use this box to list the sources used to verify target group eligibility, followed with their initials and the date the determination was completed.

Description of Examples of Documentary Evidence and Collateral Contacts. Employers/Consultants: You may check with your SWA to find out what other sources you can use to prove target group eligibility. (You are encouraged to provide copies of documentation or names of collateral contacts for each question for which you answered **YES**.)

QUESTION 12

- Birth Certificate or Copy of Hospital Record
- Driver's License
- School I.D. Card¹
- Work Permit¹
- Federal/State/Local Gov't I.D.¹

QUESTION 13

- DD-214 or Discharge Papers
- Reserve Unit Contacts
- Letter of Separation or other agency documents issued only by the Department of Veterans Affairs (DVA) on DVA Letterhead certifying the Veteran has a service-connected disability and signed by the individual who verified this information.

QUESTIONS 14 & 16

- TANF/SNAP (Food Stamp) Benefit History or Case Number Identifier
- Signed statement from Authorized Individual with a specific description of the months benefits that were received

QUESTION 15

- Vocational Rehabilitation Agency Contact
- Veterans Administration for Disabled Veterans
- Signed letter of separation or related document from authorized Individual on DVA letter head or agency stamp with specific description of months benefits were received.
- **For SWAs:** To determine *Ticket Holder* (TH) eligibility, Fax page 1 of Form 8850 to MAXIMUS at: 703-683-1051 to verify if applicant: 1) is a TH, and 2) has an Individual Work Plan from an Employment Network.

QUESTION 17

- Parole Officer's Name or Statement
- Correction Institution Records
- Court Records Extracts

QUESTION 18 & 19

- To determine if a Designated Community Resident lives in a RRC, visit the site: www.usps.com. **Click on Find Zip Code; Enter & Submit Address/Zip Code; Click on Mailing Industry Information; Download and Print the Information**, then compare the county of the address to the list in the January 2012 Instructions to IRS 8850.
- To determine if the DCR or a Summer Youth lives in an Empowerment Zone, use the Empowerment Zones (EZ) Locator Address Lookup tool available on the WOTC site: <https://www.doleta.gov/business/incentives/opptax/wotcResources.cfm>.

QUESTION 20

- SSI Record or Authorization
- SSI Contact
- Evidence of SSI Benefits

QUESTIONS 21, 22

- Unemployment Insurance (UI) Claims Records
- UI Wage Records

QUESTION 23

- UI Wage Records
- UI Claims Records
- Self-Attestation Form, ETA Form 9175

QUESTION 24

- **Employers/Representatives:** List All sources used and provided to the SWA to document target group eligibility. **SWA Staff:** List all documentation used to determine/verify eligibility in the target group requested by the employer/rep., to reach the final determination.

Notes:

1. Where a Federal/State/Local Gov't., School I.D. Card, or Work Permit does not contain age or birth date, another valid document must be obtained to verify an individual's age.
2. ESPL No. 05-98, dated 3/18/98, officially rescinded the authority to use Form I-9 as proof of age and residence. **Therefore, the I-9 is no longer a valid piece of documentary evidence.**

Box 25.(a) **Signature.** The person who completes the form signs the signature block.

Box 25(b) **Signature Options.** (a) Employer or Authorized Representative, (b) SWA staff, (c) Participating Agency staff, or (d) Applicant (If applicant is a minor, the parent or guardian must sign).

Box 26. **Date.** Enter the month, day and year when the form was completed.

Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Respondent's obligation to reply to these questions is required to obtain and retain benefits per law 104-188. Public reporting burden for this collection of information is estimated to average 20 minutes per response including the time for reading instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing burden to the U.S. Department of Labor, Employment and Training Administration, Division of National Programs, Tools, and Technical Assistance, 200 Constitution Ave., NW, Room C-4510, Washington, D.C. 20210 (Paperwork Reduction Project Control No. 1205-0371).

.....
(Cut along dotted line and keep in your files)

TO: THE JOB APPLICANT OR EMPLOYEE,

Privacy Act Statement: *The Internal Revenue Code of 1986, Section 51, as amended and its enacting legislation, P.L. 104-188, specify that the State Workforce Agencies are the "designated" agencies responsible for administering the WOTC certification procedures of this program. The information you have provided completing this form will be disclosed by your employer to the State Workforce Agency. Provision of this information is voluntary. However, the information is required for your employer to receive the federal tax credit. IF THE INFORMATION YOU PROVIDE IS ABOUT A MEMBER OF YOUR FAMILY, YOU SHOULD PROVIDE HIM/HER A COPY OF THIS NOTICE.*

Pre-Screening Notice and Certification Request for the Work Opportunity Credit

► Information about Form 8850 and its separate instructions is at www.irs.gov/form8850.

Job applicant: Fill in the lines below and check any boxes that apply. Complete only this side.

Your name _____ Social security number ► _____

Street address where you live _____

City or town, state, and ZIP code _____

County _____ Telephone number _____

If you are under age 40, enter your date of birth (month, day, year) _____

- 1 Check here if you received a conditional certification from the state workforce agency (SWA) or a participating local agency for the work opportunity credit.

- 2 Check here if **any** of the following statements apply to you.
 - I am a member of a family that has received assistance from Temporary Assistance for Needy Families (TANF) for any 9 months during the past 18 months.
 - I am a veteran and a member of a family that received Supplemental Nutrition Assistance Program (SNAP) benefits (food stamps) for at least a 3-month period during the past 15 months.
 - I was referred here by a rehabilitation agency approved by the state, an employment network under the Ticket to Work program, or the Department of Veterans Affairs.
 - I am at least age 18 but **not** age 40 or older and I am a member of a family that:
 - a. Received SNAP benefits (food stamps) for the past 6 months; **or**
 - b. Received SNAP benefits (food stamps) for at least 3 of the past 5 months, **but** is no longer eligible to receive them.
 - During the past year, I was convicted of a felony or released from prison for a felony.
 - I received supplemental security income (SSI) benefits for any month ending during the past 60 days.
 - I am a veteran and I was unemployed for a period or periods totaling at least 4 weeks but less than 6 months during the past year.

- 3 Check here if you are a veteran and you were unemployed for a period or periods totaling at least 6 months during the past year.

- 4 Check here if you are a veteran entitled to compensation for a service-connected disability and you were discharged or released from active duty in the U.S. Armed Forces during the past year.

- 5 Check here if you are a veteran entitled to compensation for a service-connected disability and you were unemployed for a period or periods totaling at least 6 months during the past year.

- 6 Check here if you are a member of a family that:
 - Received TANF payments for at least the past 18 months; **or**
 - Received TANF payments for any 18 months beginning after August 5, 1997, **and** the earliest 18-month period beginning after August 5, 1997, ended during the past 2 years; **or**
 - Stopped being eligible for TANF payments during the past 2 years because federal or state law limited the maximum time those payments could be made.

- 7 Check here if you are in a period of unemployment that is at least 27 consecutive weeks and for all or part of that period you received unemployment compensation.

Signature—All Applicants Must Sign

Under penalties of perjury, I declare that I gave the above information to the employer on or before the day I was offered a job, and it is, to the best of my knowledge, true, correct, and complete.

Job applicant's signature ► _____

Date _____

For Employer's Use Only

Employer's name _____ Telephone no. _____ EIN ► _____

Street address _____

City or town, state, and ZIP code _____

Person to contact, if different from above _____ Telephone no. _____

Street address _____

City or town, state, and ZIP code _____

If, based on the individual's age and home address, he or she is a member of group 4 or 6 (as described under *Members of Targeted Groups* in the separate instructions), enter that group number (4 or 6) ► _____

Date applicant:

Gave information _____ Was offered job _____ Was hired _____ Started job _____

Under penalties of perjury, I declare that the applicant provided the information on this form on or before the day a job was offered to the applicant and that the information I have furnished is, to the best of my knowledge, true, correct, and complete. Based on the information the job applicant furnished on page 1, I believe the individual is a member of a targeted group. I hereby request a certification that the individual is a member of a targeted group.

Employer's signature ► _____ **Title** _____ **Date** _____

Privacy Act and Paperwork Reduction Act Notice

Section references are to the Internal Revenue Code.

Section 51(d)(13) permits a prospective employer to request the applicant to complete this form and give it to the prospective employer. The information will be used by the employer to complete the employer's federal tax return. Completion of this form is voluntary and may assist members of targeted groups in securing employment. Routine uses of this form include giving it to the state workforce agency (SWA), which will contact appropriate sources to confirm that the applicant is a member of a targeted group. This form may also be given to the Internal Revenue Service for administration of the Internal Revenue laws, to the Department of Justice for civil and

criminal litigation, to the Department of Labor for oversight of the certifications performed by the SWA, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** . . . 6 hr., 27 min.
- Learning about the law or the form** 24 min.
- Preparing and sending this form to the SWA** 31 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from www.irs.gov/formspubs. Click on "More Information" and then on "Give us feedback." Or you can send your comments to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send this form to this address. Instead, see *When and Where To File* in the separate instructions.

Instructions for Form 8850

(Rev. March 2016)



Department of the Treasury
Internal Revenue Service

Pre-Screening Notice and Certification Request for the Work Opportunity Credit

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 8850 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form8850.

What's New

The Protecting Americans from Tax Hikes Act of 2015 made the following changes.

- The work opportunity credit has been extended to cover certain individuals who began working for you after December 31, 2014, and before January 1, 2020. For information about transitional relief, see [Who Should Complete and Sign the Form](#) and [When and Where To File](#).
- Empowerment zone designations have been extended to cover 2015 and 2016. For details, see [Empowerment Zones](#).
- A new targeted group has been added for qualified long-term unemployment recipients who begin work after 2015. For details, see [Members of Targeted Groups](#).

Purpose of Form

Employers use Form 8850 to pre-screen and to make a written request to the state workforce agency (SWA) of the state in which their business is located (where the employee works) to certify an individual as a member of a targeted group for purposes of qualifying for the work opportunity credit.

Submitting Form 8850 to the SWA is but one step in the process of qualifying for the work opportunity credit. The state work opportunity tax credit (WOTC) coordinator for the SWA must certify the job applicant is a member of a targeted group. After starting work, the employee must meet the minimum number-of-hours-worked requirement for the work opportunity credit. Generally, an employer elects to take the credit by filing Form 5884, Work Opportunity Credit. However, a tax-exempt organization that hires a qualified veteran should report the work opportunity credit on Form 5884-C, Work Opportunity Credit for Qualified Tax-Exempt Organizations Hiring Qualified Veterans.



You must receive the certification from the SWA before you can claim the related credit on Form 5884 or Form 5884-C.

Who Should Complete and Sign the Form

If the job applicant will begin working for the employer after May 31, 2016, the job applicant gives information to the employer on or before the day a job offer is made. This information is entered on Form 8850. If the employer believes the applicant is a member of a targeted group (as defined under [Members of Targeted Groups](#)), the employer completes the rest of the form no later than the day the job offer is made. Both the job applicant and the employer must

sign Form 8850 no later than the date for submitting the form to the SWA.

If the job applicant began working for the employer on or after January 1, 2015, and on or before May 31, 2016, Form 8850 can be completed and signed as described above at any time as long as it is completed, signed, and submitted to the SWA by June 29, 2016.

Instructions for Employer

When and Where To File

Do not file Form 8850 with the Internal Revenue Service. Instead, you must generally submit it to the SWA of the state in which your business is located (where the employee works) no later than the 28th calendar day after the date the member of a targeted group begins working for you. However, for members of targeted groups who began working for you on or after January 1, 2015 (January 1, 2016, for qualified long-term unemployment recipients), and on or before May 31, 2016, you have until June 29, 2016, to submit Form 8850 to the SWA.

Although facsimile filing of Form 8850 is permitted, not all states are equipped to accept a faxed copy of Form 8850. Contact your state WOTC coordinator as discussed below and see Notice 2012-13 for details. Notice 2012-13, 2012-9 I.R.B. 421, is available at www.irs.gov/irb/2012-09_IRB/ar07.html.

Although electronic filing of Form 8850 is permitted, not all states are equipped to receive Form 8850 electronically. Contact your state WOTC coordinator as discussed next and see Announcement 2002-44 and Notice 2012-13 for details. You can find Announcement 2002-44 on page 809 of Internal Revenue Bulletin 2002-17 at www.irs.gov/pub/irs-irbs/irb02-17.pdf.

To get the name, address, phone and fax numbers, and email address of the WOTC coordinator for your state, visit the Department of Labor Employment and Training Administration (ETA) website at www.doleta.gov/business/Incentives/opptax.



*Never attach Form 8850 to a tax return or otherwise send it to the IRS, regardless of the employee's targeted group. Form 8850 **must** be submitted to the SWA of the state in which your business is located (where the employee works).*

Additional Requirements for Certification

In addition to filing Form 8850, you must complete and send to your state WOTC coordinator either:

- ETA Form 9062, Conditional Certification Form, if the job applicant received this form from a participating agency (for example, the Jobs Corps); or
- ETA Form 9061, Individual Characteristics Form, if the job applicant did not receive a conditional certification. Additional

information may be required for qualified long-term unemployment recipients.

You can get ETA Form 9061 from your local public employment service office or you can download it from the ETA website at www.doleta.gov/business/Incentives/opptax.

Recordkeeping

Keep copies of Forms 8850, any transmittal letters that you submit to your state WOTC coordinator, and certification letters you receive from your WOTC coordinator as long as they may be needed for the administration of the provisions relating to the work opportunity credit. Records that support the credit usually must be kept for 3 years from the date any income tax return claiming the credit is due or filed, whichever is later.

Members of Targeted Groups

A job applicant may be certified as a member of a targeted group if he or she is described in one of the following groups.

1. **Qualified IV-A recipient.** An individual who is a member of a family receiving assistance under a state plan approved under part A of title IV of the Social Security Act relating to Temporary Assistance for Needy Families (TANF). The assistance must be received for any 9 months during the 18-month period ending on the hiring date.

2. **Qualified veteran.** A veteran who is any of the following.

- A member of a family that has received Supplemental Nutrition Assistance Program (SNAP) benefits (food stamps) for at least a 3-month period during the 15-month period ending on the hiring date.
- Unemployed for a period or periods totaling at least 4 weeks (whether or not consecutive) but less than 6 months in the 1-year period ending on the hiring date.
- Unemployed for a period or periods totaling at least 6 months (whether or not consecutive) in the 1-year period ending on the hiring date.
- Entitled to compensation for a service-connected disability and is hired not more than 1 year after being discharged or released from active duty in the U.S. Armed Forces.
- Entitled to compensation for a service-connected disability and was unemployed for a period or periods totaling at least 6 months (whether or not consecutive) in the 1-year period ending on the hiring date.

Note. Requesting the information in box 4 or box 5 of Form 8850 is an exception to the Americans with Disabilities Act's prohibition on pre-offer disability-related inquiries. The purpose of this request is to support the hiring of certain disabled veterans, which will entitle the employer to a larger work opportunity credit than the hiring of other targeted group members.

To be considered a veteran, the applicant must:

- Have served on active duty (not including training) in the Armed Forces of the United States for more than 180 days or have been discharged or released from active duty for a service-connected disability, and
- Not have a period of active duty (not including training) of more than 90 days that ended during the 60-day period ending on the hiring date.

3. **Qualified ex-felon.** An ex-felon who has been convicted of a felony under any federal or state law, and is

hired not more than 1 year after the conviction or release from prison for that felony.

4. **Designated community resident.** An individual who is at least age 18 but not yet age 40 on the hiring date and lives within an empowerment zone or rural renewal county (defined later).

5. **Vocational rehabilitation referral.** An individual who has a physical or mental disability resulting in a substantial handicap to employment and who was referred to the employer upon completion of (or while receiving) rehabilitation services by a rehabilitation agency approved by the state, an employment network under the Ticket to Work program, or the Department of Veterans Affairs.

6. **Summer youth employee.** An individual who:
- Performs services for the employer between May 1 and September 15;
 - Is at least age 16 but not yet age 18 on the hiring date (or if later, on May 1);
 - Has never worked for the employer before; and
 - Lives within an empowerment zone.

7. **Recipient of SNAP benefits (food stamps).** An individual who:

- Is at least age 18 but not yet age 40 on the hiring date, and
- Is a member of a family that:
 - a. Has received SNAP benefits for the 6-month period ending on the hiring date; or
 - b. Is no longer eligible for such assistance under section 6(o) of the Food Stamp Act of 1977, but the family received SNAP benefits for at least 3 months of the 5-month period ending on the hiring date.

8. **SSI recipient.** An individual who is receiving supplemental security income benefits under title XVI of the Social Security Act (including benefits of the type described in section 1616 of the Social Security Act or section 212 of Public Law 93-66) for any month ending during the 60-day period ending on the hiring date.

9. **Long-term family assistance recipient.** An individual who is a member of a family that:
- Has received TANF payments for at least 18 consecutive months ending on the hiring date; or
 - Receives TANF payments for any 18 months (whether or not consecutive) beginning after August 5, 1997, and the earliest 18-month period beginning after August 5, 1997, ended during the past 2 years; or
 - Stopped being eligible for TANF payments because federal or state law limits the maximum period such assistance is payable and the individual is hired not more than 2 years after such eligibility ended.

10. **Qualified long-term unemployment recipient.** An individual hired after 2015 who on the day before the individual begins work for the employer, or, if earlier, the day the individual completes Form 8850 as a prescreening notice, is in a period of unemployment that:

- Is not less than 27 consecutive weeks, and
- Includes a period (which may be less than 27 consecutive weeks) in which the individual received unemployment compensation under state or federal law.

Member of a Family

With respect to the qualified IV-A recipient, qualified veteran, recipient of SNAP benefits (food stamps), and long-term family assistance recipient, an individual whose family receives assistance for the requisite period meets the family

assistance requirement of the applicable group if the individual is included on the grant (and thus receives assistance) for some portion of the specified period.

Empowerment Zones

The following paragraphs describe areas that were designated empowerment zones. For the latest information about empowerment zone designations, go to www.irs.gov/form8850.

Urban areas. Parts of the following urban areas were designated empowerment zones. You can find out if your business or an employee's residence is located within an urban empowerment zone by using the EZ/RC Address Locator at www.hud.gov/crlocator.

- Baltimore, MD
- Boston, MA
- Chicago, IL
- Cincinnati, OH
- Cleveland, OH
- Columbia/Sumter, SC
- Columbus, OH
- Cumberland County, NJ
- Detroit, MI
- El Paso, TX
- Fresno, CA
- Gary/Hammond/East Chicago, IN
- Huntington, WV/Ironton, OH
- Jacksonville, FL
- Knoxville, TN
- Los Angeles, CA (city and county)
- Miami/Dade County, FL
- Minneapolis, MN
- New Haven, CT
- New York, NY
- Norfolk/Portsmouth, VA
- Oklahoma City, OK
- Philadelphia, PA/Camden, NJ
- Pulaski County, AR
- San Antonio, TX
- Santa Ana, CA
- St. Louis, MO/East St. Louis, IL
- Syracuse, NY
- Tucson, AZ
- Yonkers, NY

Rural areas. Parts of the following rural areas were designated empowerment zones. You can find out if your business or an employee's residence is located within a rural empowerment zone by using the EZ/RC Address Locator at www.hud.gov/crlocator.

- Aroostook County, ME (part of Aroostook County)
- Desert Communities, CA (part of Riverside County)
- Griggs-Steele, ND (part of Griggs County and all of Steele County)
- Kentucky Highlands, KY (part of Wayne County and all of Clinton and Jackson Counties)
- Mid-Delta, MS (parts of Bolivar, Holmes, Humphreys, Leflore, Sunflower, and Washington Counties)
- Middle Rio Grande FUTURO Communities, TX (parts of Dimmit, Maverick, Uvalde, and Zavala Counties)
- Oglala Sioux Tribe, SD (parts of Jackson and Bennett Counties and all of Shannon County)
- Rio Grande Valley, TX (parts of Cameron, Hidalgo, Starr, and Willacy Counties)

- Southernmost Illinois Delta, IL (parts of Alexander and Johnson Counties and all of Pulaski County)
- Southwest Georgia United, GA (part of Crisp County and all of Dooly County)

Rural Renewal Counties

A rural renewal county is a county in a rural area that lost population during the 5-year periods 1990 through 1994 and 1995 through 1999. Rural renewal counties are listed below.

Alabama. The counties of Butler, Dallas, Macon, Perry, Sumter, and Wilcox.

Alaska. The census areas of Aleutians West, Wrangell-Petersburg, and Yukon-Koyukuk.

Arkansas. The counties of Arkansas, Chicot, Clay, Desha, Jackson, Lafayette, Lee, Little River, Monroe, Nevada, Ouachita, Phillips, Union, and Woodruff.

Colorado. The counties of Cheyenne, Kiowa, and San Juan.

Georgia. The counties of Randolph and Stewart.

Illinois. The counties of Alexander, Edwards, Franklin, Gallatin, Greene, Hancock, Hardin, Jasper, Knox, McDonough, Montgomery, Pulaski, Randolph, Richland, Scott, Warren, Wayne, and White.

Indiana. Perry County.

Iowa. The counties of Adair, Adams, Appanoose, Audubon, Butler, Calhoun, Cass, Cherokee, Clay, Clayton, Emmet, Floyd, Franklin, Fremont, Hancock, Humboldt, Ida, Keokuk, Kossuth, Montgomery, Osceola, Palo Alto, Pocahontas, Poweshiek, Sac, Taylor, Union, Wayne, Winnebago, and Worth.

Kansas. The counties of Atchison, Barber, Barton, Brown, Clay, Cloud, Comanche, Decatur, Edwards, Elk, Ellsworth, Gove, Graham, Greeley, Greenwood, Harper, Hodgeman, Jewell, Kiowa, Labette, Lane, Lincoln, Marshall, Mitchell, Montgomery, Ness, Osborne, Phillips, Rawlins, Republic, Rooks, Rush, Russell, Scott, Sheridan, Sherman, Smith, Stafford, Trego, Wallace, Washington, Wichita, and Woodson.

Kentucky. The counties of Bell, Caldwell, Floyd, Harlan, Hickman, Leslie, Letcher, Pike, and Union.

Louisiana. The parishes of Bienville, Claiborne, Franklin, Jackson, Morehouse, St. Mary, Tensas, Vernon, and Webster.

Maine. The counties of Aroostook and Piscataquis.

Michigan. The counties of Gogebic, Marquette, and Ontonagon.

Minnesota. The counties of Big Stone, Chippewa, Cottonwood, Faribault, Jackson, Kittson, Koochiching, Lac Qui Parle, Lincoln, Marshall, Martin, Murray, Norman, Pipestone, Red Lake, Redwood, Renville, Stevens, Traverse, Wilkin, and Yellow Medicine.

Mississippi. The counties of Adams, Coahoma, Humphreys, Montgomery, Quitman, Sharkey, Tallahatchie, and Washington.

Missouri. The counties of Atchison, Carroll, Chariton, Clark, Holt, Knox, Mississippi, New Madrid, Pemiscot, and Worth.

Montana. The counties of Carter, Daniels, Dawson, Deer Lodge, Fallon, Garfield, Hill, Liberty, McCone, Petroleum,

Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Valley, and Wibaux.

Nebraska. The counties of Antelope, Banner, Boone, Box Butte, Boyd, Burt, Cedar, Chase, Deuel, Dundy, Fillmore, Franklin, Garden, Garfield, Greeley, Hayes, Hitchcock, Holt, Jefferson, Johnson, Logan, Nance, Nemaha, Nuckolls, Pawnee, Perkins, Red Willow, Richardson, Rock, Sheridan, Sherman, Thayer, Thomas, Valley, Webster, and Wheeler.

Nevada. The counties of Esmeralda, Lander, and Mineral.

New Hampshire. Coos County.

New Mexico. The counties of Harding and Quay.

New York. The counties of Clinton and Montgomery.

North Dakota. The counties of Adams, Barnes, Benson, Billings, Bottineau, Burke, Cavalier, Dickey, Divide, Dunn, Eddy, Emmons, Foster, Golden Valley, Grant, Griggs, Hettinger, Kidder, LaMoure, Logan, McHenry, McIntosh, McKenzie, McLean, Mercer, Mountrail, Nelson, Oliver, Pembina, Pierce, Ramsey, Ransom, Renville, Sargent, Sheridan, Slope, Stark, Steele, Stutsman, Towner, Traill, Walsh, Wells, and Williams.

Ohio. The counties of Crawford, Monroe, Paulding, Seneca, and Van Wert.

Oklahoma. The counties of Alfalfa, Beaver, Cimarron, Custer, Dewey, Ellis, Grant, Greer, Harmon, Harper, Kiowa, Major, Roger Mills, Seminole, Tillman, and Woodward.

Pennsylvania. The counties of Venango and Warren.

South Carolina. Marlboro County.

South Dakota. The counties of Aurora, Campbell, Clark, Day, Deuel, Douglas, Faulk, Grant, Gregory, Haakon, Hand, Harding, Hutchinson, Jones, Kingsbury, Marshall, McPherson, Miner, Perkins, Potter, Sanborn, Spink, Tripp, and Walworth.

Texas. The counties of Andrews, Bailey, Baylor, Borden, Briscoe, Brooks, Castro, Cochran, Coleman, Collingsworth, Cottle, Crane, Culberson, Deaf Smith, Dimmit, Eastland, Fisher, Floyd, Foard, Gray, Hall, Hardeman, Haskell, Hemphill, Hockley, Hutchinson, Kenedy, Kent, Knox, Lamb, Martin, McCulloch, Morris, Nolan, Oldham, Reagan, Reeves, Refugio, Roberts, Scurry, Stonewall, Terrell, Terry, Upton, Ward, Wheeler, Wilbarger, Winkler, Yoakum, and Zavala.

Virginia. The counties of Buchanan, Dickenson, Highland, and Lee, and the independent cities of Clifton Forge, Covington, Norton, and Staunton.

West Virginia. The counties of Calhoun, Gilmer, Logan, McDowell, Mercer, Mingo, Summers, Tucker, Webster, Wetzell, and Wyoming.

Wyoming. The counties of Carbon and Niobrara.