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| EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210 | CLASSIFICATION "Jobs for Veterans Act" |
| | CORRESPONDENCE SYMBOL OWI |
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 5-03

TO: ALL STATE WORKFORCE LIAISONS
 ALL STATE WORKFORCE AGENCIES
 ALL ONE-STOP SYSTEM LEADS
 ALL STATE RAPID RESPONSE COORDINATORS
 ALL STATE BUSINESS RELATIONS GROUP CONTACTS
 ALL ETA DISCRETIONARY GRANTEES
 ALL ETA COMPETITIVE GRANTEES
 ALL ETA DEMONSTRATION GRANTEES

/s/

FROM: EMILY STOVER DeROCCO
 Assistant Secretary

SUBJECT: Implementing the Veterans' Priority Provisions of the "Jobs for Veterans Act"
 (PL 107-288)

1. Purpose. To inform states and other Department of Labor (DOL)-funded workforce investment system partners of the veterans' priority provisions of the "Jobs for Veterans Act" and to provide general guidance as to the implementation of these provisions.

2. References. "Jobs for Veterans Act" (Pub. L.107-288)

3. Background. On November 2, 2002, President Bush signed the "Jobs for Veterans Act" (Pub. L. 107-288). Section 2(a) of the Act 38 U.S.C. 4215(a) creates a priority of service for veterans (and some spouses) "who otherwise meet the eligibility requirements for participation" in DOL training programs.

4. Policy Guidance. Twenty DOL-funded workforce programs are covered by the section 4215 veterans' priority. Most of these programs have only general program eligibility requirements and do not target specific participant groups. DOL also administers a number of programs that have existing statutory targeting provisions that must be taken into account when applying the veterans' priority.

The programs affected include, but are not limited to: the Workforce Investment Act (WIA) Adult and Dislocated Worker formula-funded program, Wagner-Peyser Employment Services, the Trade Act programs, National Emergency Grants, the Senior Community Service Employment Program (SCSEP), the Migrant and Seasonal Farmworker program, the Indian and Native American program, H-1B Technical Skills Training Grants, Job Corps, WIA

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Demonstration Projects, Youth Opportunity Grants, the WIA Youth formula-funded program, Labor Market Information Formula Grants, Pilots, Research and Development, and the Career One-Stop Electronic Tools and other Internet-based self-service tools operated by DOL grantees.

For most DOL programs, implementing the veterans' priority will pose few practical difficulties. However, in a few programs, the veterans' priority will compete with existing statutory priorities that favor certain population groups. These programs include SCSEP, the WIA-funded Adult and Youth programs, and the Welfare-to-Work (WtW) program.

Individual guidance will be issued separately for each affected ETA program. This will include guidance on electronic and other self-service service delivery methods where the priority is applicable. In the interim, the purpose of this Training and Employment Guidance Letter (TEGL) is to provide the workforce investment system with general guidance regarding the statute and its scope, as well as an understanding of how the veterans' priority will affect current business processes as it is implemented. For WIA, this TEGL is applicable to operations under current law. At the time of WIA reauthorization, veterans' priority guidance will be updated.

5. Interaction of Veterans' Priority With Existing Program Requirements That DO NOT Target Specific Groups. While the exact manner in which the veterans' priority is applied will vary considerably depending upon the services offered, the law requires that the individual receiving priority must first meet the program's existing eligibility requirements. Thus, for all programs, veterans must meet the program eligibility requirements in order to obtain priority of service.

6. Interaction of Veterans' Priority With Existing Program Requirements That DO Target Specific Groups. For programs with existing targeting provisions, the veterans' priority must be applied by assessing a person's status in light of both the veterans' priority and the existing provision(s). The terms used for these targeting provisions (such as priority, preference, and spending requirements or limitations) may vary by program. The specific term used for these targeting provisions is not as important as the effect the provisions have on the program. It is important to distinguish the targeting provisions that are statutory and mandatory compared with those that are regulatory and/or optional. The veterans' priority is a statutory mandate, but one that is not intended to displace the core function of the program.

Cases Where The Existing Targeting Is Required By Law

For example, certain targeting provisions are derived from a statutory mandate that requires a priority or preference for a particular group of participants or requires spending a certain portion of program funds on a particular group of participants. These are mandatory priorities. For these programs, the veterans' priority is applied as follows:

- An individual meeting both the veterans' and the mandatory priorities or spending requirement or limitation would obtain the highest preference for the program.

- Non-veterans within the program's mandatory priority would receive a preference over eligible veterans outside the program-specific mandatory priority or spending requirement or limitation.
- Similarly, eligible veterans outside the program-specific mandatory priority or spending requirement or limitation would receive priority over non-veterans outside the priority or spending requirement or limitation (once the spending requirement or limitation is met).

Cases Where the Existing Targeting is Discretionary and Not Required By Law

Other targeting provisions may require the program to focus on a particular group of participants, or to make efforts to provide a certain level of service to such a group, but do not specifically mandate that the favored group be served before other eligible individuals. Whether these provisions are found in statute or regulation, these are discretionary or optional priorities. The veterans' priority is applied as follows:

- The veterans' priority would take precedence over these priorities. Within the program as a whole, grantees are required to implement the veterans' priority in advance of the opportunities and services provided to the population group covered by the optional priority.

As mentioned earlier, individual guidance for implementing the veterans' priority provisions of the Jobs for Veterans Act for each DOL program will be issued separately.

7. Impact on Workforce Investment System Processes. Assuming that workforce investment system state and local policies, operational management decisions, and related work processes do not inherently discriminate against veterans, priority of service to veterans should be provided within the context of existing policies, operational management, and related work processes.

Specific guidance will soon be issued pertaining to individual DOL programs. In the interim, this TEGL provides several broad examples to illustrate how the veterans' priority principles will be applied to a number of workforce investment system processes.

- *Worker Profiling and Reemployment Services Program* - States currently develop their own statistical models for profiling unemployment insurance claimants for referral to services. The veterans' priority requirement will not impose a change in state profiling models but rather in the way claimants are referred to services. Claimants with the highest probabilities of exhaustion, including veterans, will still be referred to services first. This means that non-veterans with a higher probability of exhaustion will be referred ahead of veterans with a lower probability of exhaustion. However, in cases where the statistical model produces identical probabilities for a number of claimants, veterans will receive priority in referral to service. If states have information on veteran status at the time they do their referrals, they can use this to resolve ties produced by their statistical model by giving priority to veterans over non-veterans with the identical probability of exhaustion. Alternatively, states can opt to simply refer all people in the tied group.

- *Adult/Dislocated Worker Local Resource Allocation and Individual Training Accounts (ITAs)* - Consistent with the principle that veterans' priority must be applied within the existing context of the relevant Department of Labor program, the Jobs for Veterans Act does not change the requirement that participants must qualify as eligible under the Workforce Investment Act, nor does it change local area ability to budget funds among core, intensive, training and supportive serves. Local programs are not required to change their allocations among services to reserve funds for veterans, but are required to ensure that eligible veteran workers are given priority over non-veterans for all available services.
- *National Programs such as the Senior Community Services Employment Program (SCSEP) or Employment and Training Programs for Native Americans* - Perhaps more than any others, national programs such as these most clearly reflect situations where targeting is required by law. They will, therefore, need to follow the principles outlined earlier in section six of this guidance in order to assure that the dual intentions of Congress (i.e., to serve carefully specified populations and to provide priority service to veterans) are simultaneously accomplished.
- *Program Registration* - When there is a registration requirement associated with receipt of services for an impacted program or grant, collection of the individual's veteran status will be necessary.
- *Self-Service Tools* - Any informational or service delivery Web site developed with funding from an impacted program or grant will be expected to provide information on veterans' priority and how to access assistance via the nearest One-Stop Center in receiving priority service from any applicable program or grant. Specific, forthcoming policy guidance on the veterans' priority as it applies to self-service tools will provide further detail. It is important to note that self-service tool instructions on accessing veterans' priority assistance will be expected to go beyond mention of, or referral to, Local Veteran Employment Representatives and Disabled Veterans Outreach Programs.

8. WIA Planning and the Plan Modification Process. Under WIA, states are required to develop a five-year strategic plan for workforce investment. State plans include information on how a state's workforce investment system operates within the context of WIA relative to administration of Title I services to adults, dislocated workers, and youth, and the development of statewide One-Stop delivery systems. State plans are an important tool to ensure that veterans' priority is implemented relative to Title I program delivery, especially where there are cross-program-funded services in the context of the One-Stop system. Following WIA passage, ETA issued planning guidance for the required Strategic Five Year Plan for Title I of WIA and the Wagner-Peyser Act. Language in the planning guidance currently requires states to identify how services will be delivered to veterans in a state's One-Stop service delivery system. There are specific circumstances when a state plan must be modified, including when changes in federal or state law or policy substantially change the assumptions upon which the plan is based (20 CFR 661.230). The passage of the Jobs for Veterans Act is a federal law change that fits this definition. Because current state plans are effective through either Program Year (PY) 2003 or

PY 2004, and due to the fact that WIA is due to be reauthorized in 2003, the initial focus for implementation of the veterans' priority will be to require states to modify their existing state plans under current WIA regulations and planning guidance. After reauthorization has taken place, WIA regulations and planning guidance will be updated to include specific language on the veterans' priority.

9. Grant Agreement Language. Specific grant language on the veterans' priority will be required to ensure that all grantees are fully aware of the new law's requirements and of their obligation to design service delivery strategies accordingly. This is of particular importance for demonstration, discretionary, or competitive grants such as National Emergency Grants, Youth Opportunity Grants and WIA demonstration projects. ETA will provide all grantees with the necessary grant language (consistent across all grants) in the form of a unilateral modification which elaborates upon the existing ETA grant provision that currently requires compliance with all federal laws (including newly enacted ones). The letter will also cross-reference this policy guidance and all relevant, forthcoming specific policy guidance for the particular program or grant activity. No formal grant modification will be required. All subsequent Solicitations for Grant Award will also reference the veterans' priority and the relevant policy guidance.

10. Reporting and Data Collection. The Secretary of Labor is required to develop an annual report to Congress beginning in PY 2003 on whether veterans are receiving priority of service, whether they are being fully served by impacted programs/grants and whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market. To fulfill this requirement, programs/grants will need to collect veteran status information from individuals served by their programs/grants.

To develop a more standardized approach across various workforce programs as required by implementation of common measures for job training programs, ETA is in the process of revising its data collection systems. ETA will introduce this revised data collection system through publication of a Federal Register notice. Following a public comment period, ETA anticipates finalizing and implementing the revised data collection system.

ETA is engaged in a number of activities for performance measurement and reporting systems, including data validation and implementation of common measures for job training programs. With regard to veterans' priority, ETA intends for this revised data collection system to include the following features:

- (1) Data elements will be consistent across programs and grants and will include items such as number of veterans served by service component (i.e., services provided, programs/funding sources used, and outcomes).
- (2) Until new reporting systems are in effect, ETA will report on requirements under the Jobs for Veterans Act through existing processes.
- (3) The existing definition of veteran varies across programs and funding streams. In conjunction with the Veterans' Employment and Training Service, ETA will standardize this definition and apply it to affected programs/grants.

11. Action Required. States shall inform all appropriate staff, subgrantees, contractors and Local Workforce Investment Boards of the contents of these instructions. Discretionary grantees should similarly familiarize themselves, their subgrantees and subcontractors with this guidance. Planning should begin in anticipation of the release of specific program guidance from ETA in the form of a Question and Answer Web site within the next month.

12. Inquiries. States should direct all inquiries to the appropriate ETA Regional Office.