



April 13, 2005

**TO:** Job Service District Directors, WDB Directors, Job Service Supervisors, Job Center Managers, WIA Managers, TAA Managers, LVERs, DVOPs, DOL/VETS

**FROM:** Bruce Markert, State Veterans Program Coordinator  
Veterans' Unit  
Job Service Bureau

**Veteran Program Letter 01-05**

**SUBJECT: Implementing the Veterans' Priority Provisions of the "Jobs for Veterans Act" (P.L. 107-288).**

**I. PURPOSE:** To inform state agencies and other Department of Labor (DOL) funded workforce investment partners of the veterans' priority provisions of the 'Jobs for Veterans Act' and to provide guidance as to the implementation of these provisions.

**II. REFERENCES:** 'Jobs for Veterans Act' (Public Law 107-288), dated Nov. 7, 2002.

Implementing the Veterans' Priority Provisions of the "Jobs for Veterans Act" (P.L. 107-288), USDOL, ETA, TEGL No. 5-03, dated Sept. 16, 2003.

Implementing the Veterans' Priority Provisions of the "Jobs for Veteran Act" (PL 107-288), State Veteran Program Letter No. 3-04, dated Oct. 1, 2003.

Serving Military Service Members and Military Spouses under the Workforce Investment Act Dislocated Worker Formula Grant, USDOL, ETA, TEGL No. 22-04, dated March 22, 2005.

**III. BACKGROUND:** The Jobs for Veterans Act (P.L. 107-288), which was enacted on November 7, 2002 provides access to services with all Department of Labor integrated service delivery programs. Public Law 107-288 establishes "priority of service" requirement applicable to all DOL Employment and Training programs.

This Veteran Program Letter provides policy regarding this requirement as outlined in TEGL 05-03, which was issued by ETA to implement the Jobs for Veterans Act. WIA reauthorization will include veterans' priority guidance when re-issued.

For further information including performance standards associated with veterans' priority with specific DOL-funded workforce programs, go to <http://www.doleta.gov/programs/VETS>.

'Qualified job training program' is any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the Department of Labor.

'Priority of Service' means, with respect to any qualified job-training program, that a "covered person" shall be given priority over non-veterans in the receipt of employment, training, and placement services provided under the program.

Key implementation principles are:

- For all programs, veterans must first meet the program's eligibility provisions.
- Veterans' priority is not intended to displace the core function of the DOL programs.
- For programs with existing targeting provisions, the veterans' "priority" must be applied by assessing a person's status in light of both the existing program provision(s) and the veterans' priority provision.
- The exact manner in which the veterans' priority will be applied will vary considerably depending upon the services offered.

Programs Covered:

- WIA Adult Formula
- WIA Dislocated Worker Formula
- Wagner-Peyser Employment Services
- Trade Act Programs (TAA)
- National Emergency Grants (NEG)
- Senior Community Serve Employment Program (SCSEP)
- Migrant Seasonal Farmworker (MSFW)
- Indian and Native American Programs
- H-1B Technical Skills Training Grants
- Job Corps
- WIA Demonstration Projects
- Youth Opportunity Grants
- WIA Youth Formula
- Labor Market Information Formula Grants
- Pilot Programs
- Research and Development
- Career One-Stop Electronic Tools and Other Internet-Based Self-Service Tools Operated by USDOL Grantees

#### **IV. ELIGIBLE GROUPS:**

Under the Jobs for Veterans Act, "covered person" is defined as:

- A veteran (is an individual who served in the active military, naval, or air service, and who was discharged or released from such service under conditions other than dishonorable, which may include National Guard or Reserve personnel.), or
- The spouse of any of the following individuals:

- Any veteran who died of a service-connected disability;
- Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to section 556 of title 38 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than 90 days:
  - missing in action,
  - captured in line of duty by a hostile force, or
  - forcibly detained or interned in line of duty by a foreign government or power;
- Any veteran who has a total disability resulting from a service-connected disability; or
- Any veteran who died while a disability so evaluated was in existence.
- A Military Spouse is an individual who is married to an active duty service member including National Guard or Reserve personnel on active duty.

For convenience purposes, reference in the VPL of the use of veterans and qualified spouses is synonymous with “covered persons.”

## **V. POLICY GUIDANCE:**

### **A. Workforce Investment Act (WIA) Adult and Dislocated Workers Program (also applicable to Welfare-to-work)**

1. Program operators will need to capture veterans’ status.
2. The veterans’ priority cannot be waived.
3. Eligibility for the WIA Adult and Dislocated Worker program is not affected by the veterans’ priority. The Jobs for Veterans Act (JVA) provides priority service only to veterans who meet the program’s eligibility requirements.
4. TEGL # 5-03 provides specific guidance on: (a) the interaction of the veterans’ priority with existing program requirements that target specific groups, and (b) makes note of the fact that local programs are not required to change their allocations among services to reserve funds for veterans, but (c) are required to ensure that eligible veteran participants are given priority over non-veterans for all available services.
5. TEGL # 22-04 states that the Department of Labor policy that being discharged (under honorable circumstances) either voluntarily or involuntarily terminates an employment relationship between an individual and the military and thus falls within the scope of the termination component of the WIA definition of dislocated worker. The separating military personnel must also satisfy the other criteria for dislocated worker eligibility, including the requirement that the individual is “unlikely to return to a previous industry or occupation.”
6. TEGL #22-04 states that a military spouse who leaves his/her job to follow his/her spouse can be served with dislocated worker formula grant funds in certain circumstances. When the spouse is unable to continue an employment relationship because of the service member’s permanent

change of military station, or the military spouse loses employment as a result of the spouse's discharge from the military, then the cessation of employment can be considered to meet the termination component of the WIA definition of dislocated worker, as discussed above. The military spouse must also satisfy the other criteria for dislocated worker eligibility, including the requirement that the spouse is unlikely to return to a previous industry or occupation. Additionally, a military spouse may also qualify to be served as a dislocated worker if he/she meets the definitional requirements for a displaced homemaker.

7. Dislocated workers who are veterans will receive priority over non-veterans. Veterans who are not dislocated workers cannot be served with dislocated worker funds. Current law requires that first priority for intensive and training services is given to public assistance recipients and low-income individuals when adult funds allocated to a local area are limited.
8. First to be served would be public assistance recipients and low-income individuals that are also veterans. The second group to be served would be public assistance recipients and low-income non-veterans. Among participants who are not public assistance recipients or low-income individuals, veterans will receive priority over non-veterans.
9. Current law on Welfare-to-Work (WtW) requires that program operators spend no more than 30 percent of the funds on individuals that meet the "other eligibles" eligibility provisions 20 CFR Part 645.213. The veterans' priority does not change the 30 percent limit on "other eligibles." In providing services to individuals under the 30 percent eligibility provision, the priority of service would be established as follows: First to be served would be individuals that qualify in the category as "other eligibles" who are also veterans. The second group to be served would be those individuals that qualify in the category of "other eligibles" who are non-veterans. If a program has reached the 30 percent limit, a person's status as a veteran does not permit the program to exceed the 30 percent limit on "other eligibles."

#### **B. Dislocated Worker Demonstration Grants (DW Demo).**

1. Program will be implemented in the same manner as the WIA formula dislocated worker program, except that the priority will apply only to the eligible target group for which the demonstration is being conducted, as identified in the SGA (Solicitation for Grant Application) and any award grants.
2. Each SGA and grant award document will include standard language regarding compliance with the Jobs for Veterans Act, which will also be included in subgrants or contracts which provide services procured as part of any demonstration project.
3. Those who meet the eligibility qualifications of the individuals to be served under a particular demonstration initiative, and are also covered veterans, will be given priority.
4. Also see Section V, A, items 5 and 6 for inclusion of military service members and military spouses.

### **C. Dislocated Worker National Emergency Grants Program.**

1. Program will be implemented in the same manner as the WIA formula dislocated worker program, except that the priority will apply only to the eligible target group (e.g., workers dislocated or being dislocated from XYZ corporation, or workers dislocated as a result of a disaster) as identified in each NEG grant.
2. Veterans' priority cannot be waived.
3. Grantees of NEG funds will be required to ensure that project operators have systems in place to comply with the changes and implementation of the priority for the dislocated worker who is a veteran and is from the eligible, specific target population of NEG grants. Those workers being laid off by the companies for which a NEG grant is awarded, and who are veterans, will receive priority over non-veterans. Generally, awarded funds are sufficient to provide needed service for all workers impacted by a covered mass layoff or plant closure, or other eligible dislocation event.

Veterans who are dislocated workers from companies other than those covered under a NEG project, are not eligible to receive assistance under a NEG, but would be served in the local One-Stop Career Center with funds from the local formula-funded dislocated worker program.

4. Until a more standardized approach is developed by the Department of Labor, grantees and applicable project operators and service providers will need to collect veteran status information on those served, as well as the veteran status of the workers laid off from the mass layoff or plant closure covered under a particular NEG.

### **D. The Workforce Investment Act (WIA) Youth Formula Funded Program.**

1. The principles expressed in Training and Employment Letter #5-03 (which provides overall guidance on how the veteran's priority applies to all workforce system programs) must be implemented. It is, therefore, likely that program operators may need to do things such as design registration forms and other program materials to capture veterans' status, if this is not already being done, and modify ways of doing business in order to carry out the intent of the law.
2. The veterans' priority cannot be waived.
3. The Employment and Training Administration (ETA) will execute unilateral modification to existing grants in order to assure that the new statute is emphasized and included. Grantees will be informed and will be expected to pass the requirements down as necessary to sub-grantees and contractors.
4. Eligibility for the WIA Youth program is not affected by the veterans' priority. The Jobs for Veterans Act provides priority service only to veterans who meet the program's eligibility requirements. TEG #5-03 provides specific guidance on: (a) the interaction of the veterans' priority with existing program requirements that target specific groups, and (b) the fact that local programs are not required to change their allocations among services to reserve funds for veterans, but (c) are required to ensure that eligible veteran workers are given priority over non-veterans for all available services.

For example:

- WIA youth funds are available to serve low-income youth age 14-21 with one or more barriers to employment.
- The priority provision at WIA sec. 129 (c)(4) requires, with limited exceptions, that program operators ensure that at least 30 percent of local area funds be used to serve out-of-school youth.
- The veterans' priority does not change these requirements.
- In providing services to both in-school and out-of-school youth, priority should be given to any veterans who qualify under the WIA eligibility requirements.
- However, a person's status as a veteran does not permit the program to avoid the 30 percent out-of-school youth requirement (that is, a program may not exceed 70 percent of expenditures on account of veteran status.)

#### **E. The United States Employment Service (USES) Program.**

1. USES has historically provided veterans' priority of service in the public labor exchange system.
2. This priority includes, but is not limited to:
  - Registration and Assessment
  - Counseling
  - Referral to supportive services
  - Job Development
  - Workshops
  - Job Order Referral and Access to Job Openings
3. See Section H. on veteran's priority relative to "The Career One-Stop National Electronic Tools and State-Developed Self-Service Web Sites."

#### **F. Trade Adjustment Assistance Program (TAA).**

1. It is not anticipated that extensive changes in the way the Trade Adjustment Assistance Program is administered would be necessary. Petitioning for certification, investigating those petitions and making determinations would follow existing procedures.
2. However, individual veterans would be afforded priority, if certified as a trade affected worker, in having their training services, job search and relocation allowances funded by the states.

#### **G. The Unemployment Insurance Program (UI).**

1. The Unemployment Insurance Program Letter (UIPL), No. 41-91, pertaining to the Worker Profiling and Reemployment Services System, will need to be amended. The amendment will include two options for state workforce agencies:
  - a. In cases where the profiling statistical model produces identical probabilities for a number of claimants, break the tie by providing veterans' preference when determining who would be referred to services;

- b. Simply refer all people in the tied group to services, precluding any issues of unfairness.
2. 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 will still be referred to services first. 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's status at the time they do their referrals, they can use this to resolve ties produced by their statistical model. Alternatively, they can opt to simply refer all people in the tied group, which should preclude any issues of unfairness.

#### **H. The Career One-Stop National Electronic Tools and other State-Developed Self-Service Web Sites.**

1. The veterans' priority established by the Jobs for Veterans Act applies to the Career One-Stop National Electronic Tools and applies to any state-developed self-service tools using Wagner-Peyser Act, WIA, or America's Labor Market Information System (ALMIS) funds in their development. There will be little change to the Career One-Stop National Electronic Tools required. The amount required of state-developed self-service sites depends on what type of priority was already being given to veterans.
2. Veteran's priority cannot be waived.
3. Language will be added to each of the grants provided to develop the Career One-Stop National Electronic Tools. State-developed web sites will be covered by the grant awards under Wagner-Peyser, WIA, etc.

#### **I. Senior Community Service Employment Program.**

1. The Jobs for Veterans Act establishes priority for veterans and qualified spouses for receipt of services ONLY IF the veteran or his/her qualified spouse meets program eligibility requirements.
2. The veterans' priority is a statutory mandate, but it is not intended to displace the core function of the program.
3. The specific order of priority for selection of participants will be as follows:
  - a. Veterans and qualified spouses who are at least 60 years old.
  - b. Other individuals who are at least 60 years old.
  - c. Veterans and qualified spouses who are 55-59 years old.
  - d. Other individuals who are 55-59 years old.
4. These priorities will be harmonized with the special consideration preferences of section 502(b)(1)(M) the OAA, as amended, to the extent feasible. These statutory preferences apply to the following individuals: 1) those who have incomes below the poverty line; 2) those who have poor employment prospects and who have the greatest social and/or economic need; and 3) those who are eligible minorities, limited English speakers, or Indians. These preferences should be considered within the context of the statutory priorities. For example, among eligible veterans and qualified spouses age 60 and

over, to the extent practicable, preference should be given to individuals within these three categories.

**J. Job Corps.**

1. Job Corps will amend its Policy and Requirement Handbook (PRH) and related procedures as necessary to reflect the implementation of the Jobs for Veterans Act. The PRH provides overall guidance on all aspects of the administration of the Job Corps Program and all the operational systems and procedures are based on it.
2. Veterans' priority may not be waived.
3. Basic eligibility is not changed but the priority may affect enrollment. This is the major area for Job Corps to amend its policies and procedures to implement the Jobs for Veterans Act. Job Corps has drafted the following new language in its policy on outreach and admission: "An individual who meets all of the eligibility requirements listed above and is a veteran of the Armed Forces of the United States (Army, Navy Air Force, Marine Corps, or Coast Guard) or spouse of a veteran as specified in the Eligibility Criteria section, will receive priority in enrollment at Job Corps centers."

**K. The Indian and Native American Employment and Training Program (DINAP).**

1. DINAP will issue a DINAP Bulletin with implementation instructions and guidance for the priority provisions of P.L. 107-288. Grantees will have to address this service priority in their comprehensive service plans. Formal inclusion of this priority in section 166 grant documents will also occur.
2. Veterans' priority may not be waived.
3. Except for the requirements to provide service priority to eligible veterans, the section 166 eligibility requirements will not change at all – any individual served must still (by law) be an Indian, Alaska Native, or Native Hawaiian as documented by the grantee at time of enrollment and/or program participation.

**L. National Farm Worker Jobs Program (NFJP).**

1. NFJP authorized by Section 167 of the Workforce Investment Act of 1998, establishes specific eligibility criteria for migrants and seasonal farmworkers seeking services from the program. The Jobs for Veterans Act states that to obtain priority of service, a veteran must meet that program's eligibility requirements; therefore, we do not anticipate a change in the way the program is administered.
2. Division of Seasonal Farmworkers Programs (DSFP) will work with the Office of Grants and Contracts Management to determine the specific boiler plate language that should be included in the grant documents to ensure compliance with P.L. 107-288.

#### **M. Pilot, Demonstration and Research Grants Program.**

1. The priority will not result in extensive changes, but some changes will be necessary. Program operators may need to do things such as design registration forms and other program materials to capture veterans' status if this is not already being done, and modify ways of doing business in order to carry out the intent of the law.
2. Veterans' priority may not be waived.
3. The Employment and Training Administration (ETA) will execute unilateral modifications to existing grants in order to assure that the new statute is emphasized and included. No action by grantees will be necessary, except that they will be expected to pass the requirements down as necessary to sub-grantees and contractors.
4. Eligibility for the Pilot, Demonstration and Research Grants program is not affected by the veterans' priority. The Jobs for Veterans Act provides priority service only to veterans who meet the program's eligibility requirements. TEGL #5-03 provides specific guidance on (a) the interaction of the veterans' priority with existing program requirements that target specific groups, and (b) makes note of the fact that local programs are not required to change their allocations among services to reserve funds for veterans, but (c) are required to ensure that eligible veteran workers are given priority over non-veterans for all available services.

Generally, pilot, demonstration and research grants are awarded to specific target groups. Individuals must first meet the eligibility criteria for the program group, and then the order of service priority would depend on the veteran status.

#### **N. H-1B Technical Skills Training Grant Program.**

1. H1-B grantees may need to do things such as design registration forms and other program materials to capture veterans' status, if this is not already being done, and modify ways of doing business in order to carry out the intent of the law. The Department of Labor will not be issuing regulations or detailed operational requirements which H-1B grantees must follow (requiring, for example, that an individual must show proof of veteran status using documentation such as the Department of Defense Form 214 in order to qualify for priority service). H1-B grantees may be obliged to do so at their own discretion and are encouraged to work with State and local Workforce Investment Boards who may be able to provide assistance on developing operational requirements.
2. Veterans' priority may not be waived.
3. The Employment and Training Administration (ETA) will execute unilateral modifications to existing grants in order to assure that the new statute is emphasized and included. No action by grantees will be necessary, except that they will be expected to pass the requirements down as necessary to sub-grantees and contractors.

4. See Section XIII D paragraph one for H-1B guidance. Among H-1B participants, individuals who are veterans receive priority for training over non-veteran H-1B participants.

## **VI. ACTION REQUIRED:**

This veteran program policy letter should be shared with all appropriate staff including Board staff, WIA staff, DOL program staff, and all Job Center staff.

Local WDBs must develop a local policy that addresses how priority of services to veterans and other covered persons will be applied. This policy must apply to all DOL-funded programs identified under the Policy Guidance section.

Local procedures should be developed to implement requirements under the Jobs for Veterans Act. Procedures should be developed to ensure that each covered person who applies to, or is assisted by, a program is informed of the employment-related rights and benefits to which they are entitled. Procedures should be developed to monitor compliance with the Act, including compliance by all contractors. Procedures should be developed to review the area's service levels to veterans including the percentage of program participants that are veterans, the percentage of participants who are veterans who received intensive and training services, and an analysis of whether the representation of veterans is in proportion to the incidence of their representation in the labor market.

DOL-funded grants or contracts issued locally must include specific language provided by DOL through the state to ensure that all LWIA grantees/contractors are fully aware of the Jobs For Veterans requirements and of their obligation to design and deliver services accordingly. Existing grants and contracts must be modified to include such language.

Outreach, marketing and self-service tools, including DOL-funded web sites and brochures, must provide information on veterans' priority (employment-related rights and benefits to which they are entitled under the Jobs for Veterans Act) and how to access assistance in receiving priority service.

**Local 5-Year Plan Modification:** The Board, with CEO approval, must modify the local five-year plan to incorporate veterans' priority provisions, in accordance with previous planning instructions contained in WIA Technical Assistance and Information Letter No. 99-6 (Services to Special Populations section of the Plan).

## **VII. INQUIRIES:**

Inquires regarding this Veteran Program Letter should be made to the State Veteran's Coordinator, Veterans Unit, Job Service Bureau, Department of Workforce Development, 201 E. Washington Ave., Room G-200, PO Box 7972, Madison, WI 53707.

## **VIII. EFFECTIVE DATE:**

Immediately.

## **IX. EXPIRATION DATE:**

Continuing.