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NEW YORK STATE WORKFORCE DEVELOPMENT SYSTEM TECHNICAL ADVISORY

Workforce Development System Technical Advisory #09-14.1

TO: Workforce Development Community

DATE: December 30, 2009

SUBJECT: Implementation of Veterans' Priority of Service for Covered Persons in Qualified USDOL Job Training Programs

I. Purpose

To communicate New York State Department of Labor (NYSDOL) guidance on Veterans' Priority of Service as promulgated in Federal regulation.

Please note, TA #09-14.1 supersedes TA #09-14 previously released on April 29, 2009 and rescinds TA #06-17 previously released on September 29, 2006. This advisory refines and updates the previously issued policy.

II. Background

On January 19, 2009 Federal regulation went into effect via Final Rule (Part VIII, 20 CFR Part 1010) requiring the United States Department of Labor (USDOL) to implement priority of service for all veterans and eligible spouses of veterans as part of the publicly-funded workforce investment system.

One-Stop Centers, as a result of this Federal regulation, are now required to implement priority of service because they are the delivery point for a significant percentage of qualified job training programs and services covered under the Final Rule. All One-Stop Centers will need to have clear strategies for providing veterans and eligible spouses of veterans with the highest quality of service at every phase of services offered. These services can range from basic functions of the One-Stop System, such as assistance with job search and identification of needed skills, to more customized initiatives such as creating career pathways, or other strategies which allow covered persons to advance their careers in high growth sectors of the economy.

To assist, NYSDOL has developed this Technical Advisory (TA) designed to provide general guidance and implementation strategies for priority of service.

III. Guidelines

The Final Rule governing priority of service incorporates specific terminology, procedures, and processes that require further clarification and discussion. Highlighted below is guidance that is designed to assist in the implementation of priority of service as mandated in Federal regulation.

A. Definitions

Important terminology applicable to priority of service is defined in Attachment A.

B. Implementation of Priority of Service

1. Signage

In order for priority of service to be implemented successfully, NYSDOL recognizes that proper signage will play a pivotal role. As such, NYSDOL has designed and published appropriate signage that was distributed in September 2009 to all local One-Stop Centers and affiliate service sites throughout the state.

Signage must be placed prominently at or near the entrance as this may encourage customers to register first so that veteran status can be determined and documented as soon as possible. The placement of additional signage is required; however, the location of this additional signage is at the discretion of the One-Stop Center. It is strongly advised that the additional signage be placed in strategic locations and high traffic areas throughout the center, such as resource rooms and common waiting areas.

Other possible uses of signage might include “reserving” computer workstations for veterans, posting notices about veterans’ rights and priority of service in areas of the career center beyond the reception area, and directing veterans to a dedicated veterans’ service area.

2. Improvement of Self-Service Resources and Electronic Strategies

In order to improve access by and information for veterans, local areas will need to redesign their websites to include language that clearly identifies the priority of service policy. This redesign should include posting the actual priority of service policy document to the local area website.

Local area websites must include veterans’ priority of service informational language on the homepage as shown below:

Veterans Come First!

[Insert name of LWIA] is proud to offer Priority of Service to veterans and their eligible spouses.

What does this mean? If you served in the military, you will be:

- **Served first by the next available staff member.**
 - **Given first priority for jobs and training for which you are eligible and qualified.**
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In addition, local areas must also include on their homepage a link to the veterans' portal of the NYSDOL website (<http://www.labor.state.ny.us/VETs/VETINTROPAGE.shtm>) and the NYS Division of Veterans Affairs website (<http://www.veterans.ny.gov>). Websites must be updated no later than February 15, 2010.

Please note NYSDOL is continually looking at ways to modify and enhance its own website to include information on priority of service for specific program services offered through the state's One-Stop system. NYSDOL will advise if future state level website design enhancements are to be replicated at the local level.

3. Outreach

USDOL does not compel program operators through regulation to commence or enhance outreach efforts; however, NYSDOL suggests that One-Stop Center providers consider the development of outreach efforts in conjunction with other programs and services (e.g., publicity, advertising, and brochures) in an effort to spotlight veterans' priority of service to One-Stop Center customers. Such outreach may include: fact sheets targeted to veterans or veterans groups, and the marketing of One-Stop Center veterans' services and resources at orientation sessions.

4. Application of Priority of Service by All Sub-Recipients

The Final Rule specifically states that all program activities (including those obtained through Requests for Proposals (RFP), solicitation for grant awards, sub-grants, contracts, sub-contracts, and Memoranda of Understanding) issued or executed by qualified job training program operators, must be administered in compliance with priority of service.

As a result of this regulation, NYSDOL has added language to its own contract boilerplate and RFP boilerplate documents to ensure awareness of priority of service requirements with state level grantees. Similarly, all local workforce investment areas must revise their contract template, RFP and sub-agreement language to include the priority of service provision.

5. Functional Alignment and Customer Flow

All One-Stop Center staff members are required to provide priority of service to veterans and eligible spouses and to serve these customers first. "Covered Person" Determination Worksheets can be found under Attachment B and should help all staff quickly identify the status of an individual as a "covered person" or not.

Staff members identified as either Disabled Veteran Outreach Program (DVOP) Specialists or Local Veterans Employment Representatives (LVER) have federally mandated roles and responsibilities that are further defined in the Jobs for Veterans State Grant (JVSG) State Plan for Federal Fiscal Years 2010-2014. The JVSG State Plan has been federally approved and provides a comprehensive overview of the Veterans' Program at NYSDOL. The complete JVSG State Plan can be accessed at:

<http://www.labor.state.ny.us/workforcenypartners/PDFs/JVAStatePlanNarrative.pdf>.

DVOP Specialists focus on providing and facilitating intensive case management services to veterans with service-connected disabilities, particularly those with barriers to employment. To maximize services to these veterans, DVOP Specialists will conduct outreach activities as

required. These outreach activities are detailed in the JVSG State Plan.

LVER staff members provide and facilitate a full range of employment and training services to meet the needs of veteran customers, focusing their efforts on providing intensive services to 'recently separated veterans.' They advocate on behalf of veterans for employment and training opportunities with business, industry and community organizations.

Local areas should ensure that their functional alignment and customer flow processes address the special functions of DVOP Specialists and LVER staff members while also ensuring that all staff members provide priority of service to veterans.

C. Local Workforce Investment Area Strategic Plan

NYSDOL developed local planning guidance, issued in Technical Advisory #09-16, May 26, 2009, that addressed the requirement that local priority of service policies be incorporated into the Program Year 2009 strategic local plan. Local Plan Modifications for 2009-2010 were required to contain information on local policies for implementing priority of service.

Written copies of local priority of service policies should be maintained at all service delivery points and, to the extent practicable, should be posted in a way that makes it possible for members of the general public to easily access them.

D. Compliance

Monitoring priority of service will be performed jointly between the Veterans' Employment and Training Service and NYSDOL. Failure to provide priority of service to covered persons will be handled in accordance with the specific USDOL program's established compliance review processes. In addition to the remedies available under the program's compliance review processes, a corrective action plan to correct such failure may be required.

E. Verification Process

The Final Rule provides direction that verification of the status of an individual as a veteran or eligible spouse at the point of entry is not required. USDOL has indicated in those instances in which eligibility determination and enrollment take place at the point of entry, the covered person should be enrolled and given immediate priority and then be permitted to follow-up subsequently with any required verification of his/her status as a covered person. For programs or services that cannot rely on self-attestation (e.g., classroom training), verification only needs to occur at the point at which a decision is made to commit outside resources to one individual over another.

The status of a veteran or an eligible spouse can be verified by referring to a variety of official documents, including, but not limited to:

- A DD 214 (issued following separation from active duty);
 - An official notice issued by the Department of Veterans Affairs that establishes entitlement to a disability rating or award of compensation to a qualified dependent;
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- An official notice issued by the Department of Defense that documents the eligibility of an individual, based on the missing or detained status of that individual's active duty spouse; or
- An official notice issued by a State veterans' service agency that documents veteran status or spousal rights, provided that the State veterans' service agency requires Federal documentation of that information.

F. Application of Priority of Service

Three categories of qualified job training programs affect the application of priority of service: universal access, discretionary targeting, and statutory targeting. One-Stop Center staff awareness of each qualified job training program and respective category associated with that program is important to ensure the proper application of priority of service.

Attachment C has been prepared to highlight available USDOL-funded workforce preparation programs for which priority of service is applicable. This document is only a template and should be revised at the local level to reflect current local policies and conditions. All front-line and impacted staff should use the contents of this document as a resource for assisting veterans and spouses of veterans.

It is important to note that state and local program operators do not have the discretion to establish further priorities within the overall priority established by the regulations. The Jobs for Veterans Act reserves that authority to the Secretary of Labor and it was not exercised in the current regulations.

G. Data Collection and Reporting of Information

USDOL has not yet released an effective date for data collection and reporting. In the Final Rule, it is written that guidance will be forthcoming on the implementation processes and timeframes applicable to data collection and reporting along with significant technical assistance in support of this implementation. NYSDOL will advise the Local Workforce Investment Areas and One-Stop Centers as soon as information is made available at the federal level.

USDOL has acknowledged that program operators will need to adjust manual and electronic intake processes to accommodate the new reporting requirements. **At this time, however, no action is required.**

H. Utilization of Training Funds

1. Selection Process

The American Recovery & Reinvestment Act of 2009 (ARRA) provides an unprecedented opportunity for expanded access to training and related services for both employed and unemployed individuals. However, ARRA funds (coupled with WIA formula funds) do not guarantee that unlimited training funds will be available to support all customer requests for training. Local areas need to be aware of the following as it relates to priority of service and the demand for training services:

- Local areas must not place a portion of available training funds (including needs-related payments and supportive services) “on reserve” to be used solely for those individuals who are eligible for priority of service.
- Individuals not eligible for priority of service and who have been *approved* for a qualified job-training course are guaranteed a spot in that training class and cannot be displaced by an individual who is subsequently identified as eligible for priority of service.
- Individuals not eligible for priority of service and who have been placed on a *waiting list* for a qualified job-training course cannot be guaranteed a spot in that training class and can have their ranking on the *waiting list* lowered if an individual who is eligible for priority of service is subsequently placed as a priority status on the waiting list.

2. Low-Income Status

It is important to remember the priority customer order when utilizing ARRA WIA Adult funds. The first population to receive training services (and therefore placed at the top of the waiting list) are public assistance and low-income veterans, followed by public assistance and low-income non-veterans, followed by veterans (or eligible spouses of veterans) who are not low-income or receiving public assistance.

3. Military Income

In the event training funds available to customers are under a statutory requirement to serve low-income individuals first (such as ARRA WIA Adult funds), it is important to note that many types of income related to military service are exempt when determining if a covered person meets “low-income” eligibility standards or targeting policies. Refer to Attachment A of the Veterans’ Program Letter No. 07-09 for complete details.

4. VA Funded Training

Section 134(d)(4)(B) of WIA, as well as WIA regulations at 20 CFR 663.310 refer to the requirement to coordinate WIA funding training with “other grant assistance”, such as Pell grants. Based on WIA law and regulation, it may be interpreted that any VA funded training entitlement (i.e., GI Bill) must be exhausted before the veteran or spouse can be enrolled in WIA funded training. It is now defined clearly in Attachment A of the Veterans’ Program Letter No. 07-09, that veterans and spouses are not required to coordinate their entitlement to education and training benefits with any concurrent eligibility that they may have for WIA funding training. Similarly, WIA program operators may not require veterans or spouses to exhaust their entitlement to VA funded training benefits prior to allowing them to enroll in WIA funded training. NYS DOL interprets this guidance to include the NYS Veterans Tuition Award.

NOTE: WIA program operators are required to confirm if a customer is receiving additional sources of funding for tuition/training. All combined sources of tuition/training benefits available to a customer must not exceed the total cost of the tuition/training.

IV. Action

All One-Stop Centers will need to have clear strategies for providing veterans and eligible spouses of veterans with the highest quality of service at every phase of services offered. NYSDOL encourages you to review the official Final Rule governing priority of service regulation at:

<http://edocket.access.gpo.gov/2008/pdf/E8-30166.pdf>

Priority of service as mandated in federal regulation will be implemented at the state and local level in various stages. The Final Rule clearly indicates that USDOL will provide extensive guidance and technical assistance on implementing priority of service.

The following outline highlights New York's current priority of service implementation strategy for its One-Stop system:

A. Required Action

1. Signage distributed to all One-Stop Centers must be placed prominently at or near the entrance as this may encourage customers to register first so that a veteran's status is determined and documented as soon as possible. The placement of additional signage is required; however, the location of this signage is at the discretion of the One-Stop Center. It is strongly advised that signage be placed in strategic locations and high traffic areas throughout the center, such as resource rooms and common waiting areas.
2. All local workforce areas will need to ensure that their web-sites include language advising of veterans' priority of service policy. Language alerting users to veterans' priority of service will also need to be included in any self-registration process.
3. All local workforce investment areas must revise their contract template, RFP and sub-agreement language to include the priority of service provision.
4. Veteran customers should be encouraged to self-identify as early in the intake/registration process as possible and **all** One-Stop staff need to provide priority of service to veterans. DVOP Specialists and LVER staff members focus on providing services to the targeted populations as identified in the JVSG State Plan for Federal Fiscal Years 2010-2014. Functional alignment and customer flow processes must support priority of service while recognizing the specialized roles and responsibilities of DVOP Specialists and LVER staff members.

V. Inquiries

USDOL has prepared a Question and Answer Reference Sheet (Attachment D) to provide clarity on the many topics associated with Priority of Service. Please direct any additional questions to Patrick Pascarella at Patrick.Pascarella@labor.state.ny.us.

VI. References

1. Jobs for Veterans Act, Public Law 107-288 (Nov. 7, 2002).
2. 38 United States Code, Chapter 42, Section 4211 and Section 4215.
3. USDOL/ETA Training and Employment Guidance Letter (TEGL) No. 5-03, “Implementing the Veterans’ Priority Provisions of the ‘Jobs for Veterans Act’ (Public Law 107-288).”
4. Veterans’ Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461), Section 605 (Dec. 22, 2006).
5. Federal Register Part VIII, Department of Labor, Veterans’ Employment and Training Service, 20 CFR Part 1010, Priority of Service for Covered Persons, Final Rule, RIN 1293-AA15, (Dec. 19, 2008).
6. USDOL/ETA TEGL No. 14-08, “Guidance for Implementation of the Workforce Investment Act and Wagner-Peyser Act Funding in the American Recovery and Reinvestment Act of 2009 and State Planning Requirements for Program Year 2009.”
7. Veterans’ Program Letter No. 07-09, “Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in Whole or in Part by the U.S. Department of Labor.”
8. USDOL/ETA TEGL No. 10-09, “Implementing Priority of Service for Veterans and Eligible Spouses in all Qualified Job Training Programs Funded in Whole or in Part by the U.S. Department of Labor.”

Attachments

Attachment A – Veterans’ Priority of Service Definitions

Attachment B – Covered Person Determination Worksheets

Attachment C – Veterans’ Priority of Service Qualified Programs

Attachment D – Frequently Asked Questions & Answers Regarding Priority of Service

VETERANS' PRIORITY OF SERVICE DEFINITIONS

(Resource Document to Provide Guidance to Front-Line and Impacted Staff)

An individual who self-identifies as a “veteran” or “spouse of a veteran” may qualify for One-Stop Priority of Service based on the following definitions. Please familiarize yourself with the stated definitions as indicated below.

1. **PRIORITY OF SERVICE:** Priority of service means (with respect to any qualified job training program) that a covered person shall be given priority over a non-covered person for the receipt of employment, training, and placement services provided under that program. Priority in the context of providing priority of service to veterans and other covered persons means the right to take precedence over non-covered persons in obtaining services. Taking precedence may mean; (1) the covered person receives access to the service or resource earlier in time than the non-covered person, or (2) if the service or resource is limited, the covered person receives access to the service or resource instead of or before the non-covered person.
2. **COVERED PERSON:** As defined in the Final Rule, a covered person means a veteran or eligible spouse of a veteran.
3. **VETERAN:** A veteran for purposes of priority of service is defined as “a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.” Active service includes full-time duty in the National Guard or a Reserve component, other than full-time duty for training purposes.
4. **ELIGIBLE VETERAN:** The statutory reporting requirements for Wagner-Peyser and Veteran Grants require application of a more narrowly defined definition of eligible veteran. Under Title 38, United States Code Section 4211, the term “eligible veteran” means a person who:
 - a) Served on active duty for a period of more than 180 days and was discharged or released therefrom with other than a dishonorable discharge; OR
 - b) Was discharged or released from active duty because of a service-connected disability; OR
 - c) As a member of a reserve component under an order to active duty, served on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge.

5. ELIGIBLE SPOUSE: An individual may identify as a spouse of a veteran and qualify for priority of service. The term “eligible spouse” means:

- a) The spouse of any person who died of a service-connected disability; OR
- b) The spouse of any member of the Armed Forces serving on active duty who, at the time of application for the priority, is listed in one or more of the following categories and has been so listed for a total of more than 90 days:
 - Missing in action; OR
 - Captured in line of duty by a hostile force; OR
 - Forcibly detained or interned in line of duty by a foreign government or power.
- c) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability; OR
- d) The spouse of a veteran who died while a disability so evaluated was in existence.

6. QUALIFIED JOB TRAINING PROGRAM: Priority of service applies to any program or service for workforce preparation, development, or delivery that is directly funded, in whole or in part, by the USDOL (see Attachment C). The USDOL does not have the authority to impose priority of service on programs funded by non-USDOL sources. However, NYSDOL encourages all partners of One-Stop Centers to focus on providing services to veterans as a standard operating procedure within their respective service delivery strategies.

NOTE:

It is very important that the distinction between the definition of “veteran” and the definition of “eligible veteran” is understood and applied correctly. USDOL is bound by law to use the “Final Rule” definition as it was the intent of Congress that priority of service be made available to a broad category of former service members. However, the definition of veteran to be applied for the purposes of the priority does not alter the statutory reporting requirements for Wagner-Peyser and Veteran Grants, which require application of the more narrowly defined definition of eligible veteran. In other words, a veterans’ priority is not intended to displace the core mission of any particular program.

COVERED PERSON DETERMINATION WORKSHEETS

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The worksheets provided on the following pages are offered as a desk aid which may also be used to document a customer's status as a "covered person." It is a simple 2-page form. It includes a space to record the customer's name and participant identification number. The central feature of the worksheet is a logical rubric that allows each customer to be properly classified as a "Covered Person" or not.

After the worksheet has been completed, it should be signed by a qualified staff professional of the One-Stop Center. If the customer is later determined to be in need of Intensive or Training Services, the worksheet may be used as documentation to verify his/her standing as a Jobs For Veterans Priority Customer.

Remember – the eligibility criteria defining a veteran are more restrictive for those customers being served by Disabled Veteran Outreach Program (DVOP) Specialists and Local Veterans Employment Representatives (LVER). If a customer is to receive priority of service supported by Jobs for Veterans State Grant (JVSG) funds, the more narrowly defined eligibility criteria must be utilized. A quick verification checklist can be found on Page 2 of the worksheet.

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JOBS FOR VETERANS
DETERMINATION WORKSHEET (Page 1)
“COVERED PERSON”

Customer Name _____

Participant ID Number _____

QUESTION #1: ARE YOU A VETERAN? YES NO

If “Yes”....

Did you serve in the active military, naval, or air service?

 YES NO

Were you discharged or released under conditions other than dishonorable?

 YES NO

If the customer can answer “YES” to both of these questions, then s/he qualifies as a “covered person” under USDOL Veterans’ Priority of Service federal regulations.

QUESTION #2: ARE YOU MARRIED TO A VETERAN? YES NO

If “Yes”....

Does your spouse have a total disability resulting from a service-connected disability?

 YES NO

Is your spouse listed as forcibly detained or interned by a foreign government or power, missing in action, or captured in the line of duty, and has been so listed for a total of more than 90 days?

 YES NO

If the customer can answer “YES” to either of these questions, then s/he qualifies as a “covered person” under USDOL Veterans’ Priority of Service federal regulations.

QUESTION #3: ARE YOU THE SURVIVING SPOUSE OF A VETERAN? YES NO

If “Yes”....

Did your spouse die of a service-connected disability?

 YES NO

Did your spouse die while a total disability resulting from a service-connected disability was in existence?

 YES NO

If the customer can answer “YES” to either of these questions, then s/he qualifies as a “covered person” under USDOL Veterans’ Priority of Service federal regulations.

DETERMINATION: Based on the information provided to me by the customer, I have determined that this individual:

IS IS NOTa “Covered Person” under USDOL Veterans’ Priority of Service federal regulations.

Workforce Professional

Date

**JOBS FOR VETERANS
DETERMINATION WORKSHEET (Page 2)
“ELIGIBLE VETERAN”**

IF AN INDIVIDUAL QUALIFIES AS A COVERED PERSON, COMPLETE THIS PAGE

Customer Name _____ Participant ID Number _____

FOR A COVERED PERSON WHO IS A VETERAN:	
<p>If “Yes”....</p> <p>Did you serve on active duty for a period of <u>more than 180 days</u> and was discharged or released under conditions other than dishonorable?</p> <p>Were you discharged or released from active duty because of a service-connected disability?</p> <p>As a member of a reserve component under an order to active duty, did you serve on active duty during a period of war or in a campaign or expedition for which a campaign badge is authorized and was discharged or released from such duty with other than a dishonorable discharge?</p>	<p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p> <p><input type="checkbox"/> YES <input type="checkbox"/> NO</p>
<p>If the customer can answer “YES” to <u>any one of these three</u> questions, then s/he qualifies as an “eligible veteran” and is allowed to obtain services by any staff member including DVOP and LVER staff members who are funded through the Jobs for Veterans State Grant (JVSG).</p>	

NOTE:

A DVOP/LVER FUNDED STAFF MEMBER **CANNOT** PROVIDE PRIORITY OF SERVICE TO ANY COVERED VETERAN WHO DOES NOT QUALIFY UNDER THE ABOVE CRITERIA.

A DVOP/LVER FUNDED STAFF MEMBER **CAN** PROVIDE PRIORITY OF SERVICE TO ANY SPOUSE OF A VETERAN WHEN THAT SPOUSE IS CONSIDERED A “COVERED PERSON”.

VETERANS' PRIORITY OF SERVICE QUALIFIED PROGRAMS

(Resource Document to Provide Guidance to Front-Line and Impacted Staff)

Priority of service applies to USDOL-funded workforce preparation programs. Most of these programs have only general program eligibility requirements and do not target specific participant groups (universal targeting programs). However, USDOL also administers programs that have existing statutory targeting provisions (discretionary and statutory targeting) that must be taken into account when applying veterans' priority. Refer to local office policy for complete eligibility requirements.

The programs in which veterans receive priority of service include:

1. **Wagner-Peyser Funded Programs** – All employers seeking workers and all individuals legally authorized to work in the United States and seeking work for any reason (regardless of whether they are currently employed) are eligible for services. Veterans receive priority, with disabled veterans given preference over other veterans.
2. **Trade Adjustment Assistance (TAA) & Alternative Trade Adjustment Assistance (ATAA)** – Veterans receive priority of service if eligibility requirements are met relating to the workers' layoff or work reduction.
3. **National Emergency Grants** – Veterans receive priority of service for funds received under the National Emergency Grant program.
4. **Workforce Investment Act of 1998** – This act sets overall WIA policy goals, yet provides considerable discretion to Boards for implementation of WIA services. WIA requires that Boards document the eligibility of adult, dislocated worker, and youth participants served with WIA funds in their local workforce investment areas. Veterans receive priority of service depending on the specific eligibility requirements established at the local level.
5. **Senior Community Service Employment Program (SCSEP)** – This is a community service and work based training program for older workers. Program participants must be at least 55 and have a family income of no more than 25% over the Federal poverty level. Enrollment priority is given to persons over age 60, veterans, and qualified spouses of veterans. Preference is given to minority, limited English-speaking, Indian-eligible individuals. Preference is also given to eligible individuals who have the greatest economic need.
6. **Indian and Native American Programs (INAP)** – This program provides quality employment and training services to Native American communities. Veterans receive priority of service if they are Native American.
7. **Migrant and Seasonal Farmworkers** – This program serves the American farmworker population. The National Farmworker Jobs Program is a nationally directed program of job training and employment assistance for migrant and seasonal farmworkers. Veterans receive priority of service if they qualify as a migrant or seasonal farmworker.

8. **Workforce Innovation in Regional Economic Development (WIRED)** – WIRED goes beyond traditional strategies for worker preparation by bringing together state, local, and federal entities; academic institutions (including K-12, community colleges and universities); investment groups, foundations; and business and industry to address the challenges associated with building a globally competitive and prepared workforce. Training and employment assistance provided by WIRED funds qualify for veterans' priority of service.
9. **Community-Based Job Training Grants** – The purpose of this competitive grant program is to build the capacity of community colleges to train workers in the skills required to succeed in high growth, high demand industries. Training provided under these grants is subject to veterans' priority of service.
10. **H-1B Technical Skill Training Grants** – These funds support skill training programs for unemployed and employed workers with the longer term goal of raising the skill levels of domestic workers so that they can fill high skill jobs which are presently being filled by temporary workers being admitted to the United States under the provisions of H-1B. Training provided under these grants is subject to veterans' priority of service.
11. **ETA's Electronic Workforce Tools, such as CareerOneStop** – The CareerOneStop Website (www.careeronestop.org) is an integrated suite of national Websites that help businesses, job seekers, students, and workforce professionals find employment and career resources. Electronic usage is not subject to veterans' priority of service; however, services/programs requested via electronic usage may qualify for priority of service.
12. **Prisoner Re-Entry Initiative** – This initiative is designed to strengthen urban communities through an employment-centered program that incorporates mentoring, job training, and other comprehensive transitional services. This program seeks to reduce recidivism by helping former inmates find work when they return to their communities. Veterans receive priority of service if they qualify as a former inmate.
13. **Miscellaneous** – Projects authorized under WIA (Section 117), including grants to smaller or grassroots entities such as faith-based and community organizations, and Offender grants under the Youth Offender Initiative and the Serious and Violent Offender Reentry Initiative. Check local policy regarding applicability and eligibility with regards to veterans' priority of service.

Frequently Asked Questions and Answers Regarding Priority of Service

For ease of tracking and reference, the questions and answers have been numbered sequentially and arranged according to the following broad categories:

- Definitions
- Point of Entry
- Technical Assistance and Guidance
- Monitoring
- Promising Practices
- Applicability to Existing Priorities
- Data Collection and Reporting
- Miscellaneous

Definitions

Q1. For determining eligibility for priority of service, why does the Labor Department (USDOL) require covered program operators to use a relatively broad definition of “veteran” rather than the more narrow definition that has been in use for many years by State Agencies that administer the Jobs for Veterans State Grants and Wagner-Peyser State Grants?

A1. The USDOL is bound by the Jobs for Veterans Act (JVA) to use the definition of a “covered person” set forth in 38 U.S.C. 4215(a)(1)(A), and review of the legislative history indicated that Congress intended that a broad definition of veteran be applied with regard to priority of service in programs subject to the JVA. The pre-existing statutory definition of a “veteran” that most closely conforms to the implied definition in the JVA is the definition that appears in Section 101 (2) of Title 38, U.S. Code, and that essentially is what the Final Rule sets forth.

Q2. To be considered an “eligible veteran”, must an individual have served overseas or in a combat zone?

A2. No, the statute does not limit eligibility on the basis of where a person served on active duty.

Q3. Must an individual have an “honorable” discharge in order to be considered an “eligible veteran”?

A3. No. Only a discharge clearly categorized as “dishonorable” would bar a veteran from eligibility for this benefit.

Q4. Why not develop a uniform definition of “veteran” for all USDOL-funded employment and training programs?

A4. The authorizing legislation for each program, as amended by subsequent statutes, limits the Department’s authority to establish a uniform definition of “veteran”. The Jobs for Veterans Act does not authorize the Department to establish a uniform definition of “veteran” for all programs.

Q5. Are there any time limits pertaining to re-marriage following the death of a veteran that affect the eligibility of a widow(er) to be considered a “covered person”?

A5. The priority of service statute does not include a disqualification clause pertaining to remarriage by a widow or widower.

Q6. Among those eligible spouses whose eligibility is derived from a deceased veteran (widows or widowers), why do the Federal Regulations limit eligibility for priority of service to the two specific types of “eligible spouses” identified?

A6. The Jobs for Veterans Act is explicit in citing the category of widows/widowers who are considered to be “eligible spouses”; they are persons who were spouses of veterans who succumbed due to a service-

connected disability or who succumbed while a total service-connected disability (meaning 100% disabled as rated by the Department of Veterans Affairs) was in existence, whether or not that disability was the cause of death.

Q7. Some Federal employment and training programs typically operative in One Stop centers, e.g., the Jobs for Veterans State Grants and Wagner-Peyser funded programs, require that priority for veterans be delivered on a tiered basis, that is, service-connected disabled veterans rated 30% or more receive the highest priority, then other service-connected disabled veterans, and so on. Are the other USDOL-funded employment and training programs supposed to make such distinctions in their implementation of the priority of service requirements?

A7. No, the statute does not require, nor does the Department expect, recipients to make such distinctions within the universe of veterans and eligible spouses for priority of service.

Point of Entry

Q8. How will veterans and eligible spouses be identified in a self-registration system?

A8. Entities that provide services funded by USDOL programs covered by these regulations are required to have user-friendly processes by which individuals at the point of entry to the service system can identify themselves as veterans and eligible spouses eligible for priority of service. The USDOL will not prescribe how that is to be done. However, program operators are reminded that self-registration systems are not to require veterans to produce documents (e.g., a DD-214 Discharge Form) to verify their status at this stage, unless the point of entry is also the point at which program eligibility determination and registration or enrollment take place.

Technical Assistance and Guidance

Q9. Will the Veterans' Employment and Training Service (VETS) and the Employment and Training Administration (ETA) issue joint policy and/or implementation guidance on behalf of USDOL?

A9. The Federal Regulations at 20 CFR Part 1010 that became effective on January 19, 2009, articulate a considerable body of USDOL policy guidance. The USDOL VETS and ETA agencies have established a formal inter-agency workgroup to develop and issue implementation guidance and technical assistance regarding priority of service requirements and concepts.

Monitoring

Q10. Do recipients have administrative responsibilities related to the delivery of priority of service to veterans and eligible spouses in addition to requirements to promulgate policies and plans applicable to program operations at their own service delivery points and those of sub-recipients of USDOL funds?

A10. Yes, recipients of USDOL funds are required to implement effective internal controls to ensure that priority of service policies and procedures are carried out at all program service delivery points.

Q11. How will the "joint monitoring" by the USDOL VETS and ETA agencies required by the regulations be coordinated and implemented?

A11. Joint monitoring by the VETS and ETA has already begun, with VETS staff being added to the teams carrying out the ETA-administered review and approval processes of State Plans for the coming year's WIA and Wagner-Peyser programs. The two agencies also are currently in discussions regarding the development of appropriate monitoring policies and procedures consistent with §1010.240. When established, these will be communicated to the ETA and VETS staff as well as to USDOL-funded program operators.

Promising Practices

Q12. Will USDOL provide examples of effective implementation of priority of service for veterans and eligible spouses at the program/local levels?

A12. The inter-agency workgroup is currently in the process of compiling descriptions of “best” or promising program models and practices, and will begin making them available to interested members of the public through various media.

Q13. Will the USDOL provide examples of state policies and/or procedures that could be used as a starting point for developing state guidance that may not have previously existed?

A13. The inter-agency workgroup is currently in the process of compiling applicable state policies and will disseminate them.

Applicability of Veterans’ Priority of Service to Existing Priorities

Q14. Reportedly, some states and local program operators have interpreted the WIA requirement in Section 134(d)(4)(E) that adults and dislocated workers who are public assistance recipients and other low-income individuals should receive priority for WIA intensive and training services to mean that the priority for veterans and eligible spouses is secondary to that priority. Is that the correct interpretation of the statute?

A14. No, the priority of service requirement for veterans and eligible spouses is not secondary. A veteran or eligible spouse must meet the statutory eligibility requirement(s) applicable to the specific program from which services are sought. So, for those programs that also have statutory priorities or preferences pursuant to a Federal statute or regulation, the program service providers must coordinate providing priority of service to veterans and other eligible persons with the application of those other priorities, as prescribed in paragraphs (b)(2) and (b)(3) of Section 1010.31 of the regulations and as explained in Section X. of VPL 07-09. For the WIA Adult Program, which has statutory targeting of public assistance recipients and other low-income individuals, program operators are to implement priority of service in the following order: (1) program-eligible veterans and eligible spouses who are public assistance recipients or who meet the income requirements for the area would receive the highest priority for the program; (2) program-eligible individuals who are not covered persons who are public assistance recipients or who meet the income requirements for the area would receive the second-highest priority for the program; and (3) veterans and eligible spouses not on public assistance or whose income exceeds the “low income” standards for the area would receive priority over any individuals with comparable eligibility who are not covered persons.

Q15. What if a covered person eligible for priority of service is not interested (or otherwise suited) in participating in any of the training or employability development programs funded by the program operator in a particular area--is that covered person entitled by the “priority of service” statute to be provided a training program customized for him or her?

A15. The question implies that the JVA might confer to veterans and eligible spouses an entitlement similar to the entitlement conferred to service-connected disabled veterans by Chapter 31 of Title 38 of the U.S. Code for vocational rehabilitation program participation. The Department does not believe that the Jobs for Veterans Act provides such a broad entitlement to veterans and eligible spouses in USDOL-funded programs. However, states and local Workforce Investment Boards are not precluded by any rules from extending that degree of priority to any segment of the covered person universe.

Data Collection and Reporting

Q16. What is the status of the Information Collection Request or ICR and associated reporting instructions?

A16. Those programs that served fewer than 1,000 veterans per year at the national level, on average, for the past three years are not required to report on covered entrants but are required by the ICR to adopt the definitions in the regulations for veterans and eligible spouses, when their reporting systems next come due for approval by the Office of Management and Budget (OMB). For five of the six programs that are required by the ICR to report on covered entrants, (WIA Adult, WIA Dislocated Worker, WIA National Emergency Grants, Trade Adjustment Assistance and Wagner-Peyser State Grants), the implementation of data collection and reporting on covered entrants was intended to be concurrent with the implementation

of the proposed Workforce Investment Streamlined Performance Reporting System (WISPR). Since the implementation of WISPR has been postponed, the implementation of the data collection and reporting on covered entrants also has been delayed. ETA and VETS are currently conferring with OMB to identify next steps with regard to the implementation of streamlined reporting in general, and reporting on covered entrants in particular. At this time, reporting on covered entrants has been waived for PY2009 for the five programs identified above. The sixth program required to report on covered entrants, the Senior Community Service Employment Program, is implementing that reporting for PY2009. In the meantime, ETA and VETS may supplement the information that can be collected with currently available systems through other means such as sampling and on-site monitoring to help ensure that veterans and eligible spouses are receiving priority for publicly-funded workforce services.

Miscellaneous

Q17. Can the income of veterans (such as disability pension benefits or lump-sum payments at time of separation for unused leave) be disregarded by WIA grant recipients and sub-recipients during eligibility determinations for the purpose of implementing the American Recovery and Reemployment Act?

A17. Yes. As explained in Section 1.a of Attachment A to VPL 07-09, income earned while on active military duty and/or financial benefits received by veterans and eligible spouses under a variety of authorized programs cannot be included in calculations of income for USDOL-funded programs which have income ceilings as criteria either for program eligibility or targeting.