



## **DWD Issuance 09-2008 Attachment 1: Veterans Priority of Service Plan**

**Effective Date:** January 19, 2008

### **Priority of Service defined**

Priority of Service is defined as: the right of eligible covered persons to take precedence over eligible non-covered persons in obtaining DOL-funded services. This means:

- The covered person receives access to the service or resource earlier in time than the non-covered person; or
- 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.

It is important to understand that Priority of Service does not change the intended function of a program or service. Covered persons must meet all statutory eligibility and program requirements for participation in order to receive priority for a program or service.

### **Terminology**

- *Covered person* – The regulations adopt and apply this statutory term, which includes *eligible spouses*, as defined by the statute, and *veteran*, as defined by the regulations.
- *Veteran* – The regulations specify that the definition for *veteran* specified at 38 U.S.C. 101(2) apply across all qualified job-training programs for the purpose of priority of service. That definition includes two key criteria:
  - Service in the active military, naval, or air service; and,
  - Discharge under conditions other than dishonorable.
- The definition of *veteran* specified by the regulations for priority of service is functionally equivalent to the definition enacted by the Workforce Investment Act (WIA) and codified at 29 U.S.C. 2801(49)(A).

### **Identifying and Informing Covered Persons**

The regulations require all recipients of funds for qualified job training programs to identify at the *point of entry* those covered persons who physically access service delivery points or who access virtual service delivery programs or Web sites in order to provide covered persons with timely and useful information on priority of Service at the point of entry. That information includes:

The regulations require all recipients to implement policies to ensure that covered persons are aware of:

1. Their entitlement to priority of service;

2. The full array of programs and services available to them; and,
3. Any applicable eligibility requirements for those programs and/or services. Only statutory requirements are applicable.

## **Eligibility**

Veterans' Priority of Service applies to both veterans and certain eligible spouses. To qualify as a veteran an individual must have served in "active military, naval or air service and been released with other than a "dishonorable" discharge.

Active duty for training, and inactive duty for training relevant to National Guard and Reserve members does not fit the definition of veteran. Full-time National Guard and Reserve duty, other than full-time duty for training purposes, qualifies as active duty. For DOL programs other than the LVER/DVOP programs, there is no length of service requirement for qualification as a veteran.

Eligibility for LVER/DVOP programs services require 181 days or more on active duty for other than training purposes to qualify for services; or that the individual was released because of a service connected injury or was called up under Title 10 authority.

A spouse may qualify as a covered person if they are the spouse of:

1. Any veteran who died of a service connected disability;
2. 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:
  - (i) Missing in action;
  - (ii) Captured in line of duty by a hostile force; or
  - (iii) Forcibly detained or interned in line of duty by a foreign government or power;
3. Any veteran who has a total disability resulting from a service connected disability, as evaluated by the Department of Veterans Affairs;
4. Any veteran who died while a disability, as indicated in paragraph (3) of this section, was in existence.

The definition of a qualified spouse is identical to the definition utilized for the LVER/DVOP and such individuals are eligible for services from the LVER/DVOP.

## **Implementing Priority of Service**

- The regulations provide that priority of service means the right of eligible covered persons to take precedence over eligible non-covered persons in obtaining services. They further specify that taking precedence may mean:
  - The covered person receives access to the service or resource earlier in time than the non-covered person; or

- 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.
- The regulations specify how priority of service is to be applied across three different types of qualified job training programs:
  - Universal access programs that do not target specific groups;
  - Discretionary targeting programs that focus on certain groups but are not mandated to serve target group members before other eligible individuals; and,
  - Statutory targeting programs that are mandated by federal law to provide priority or preference to certain groups.

## Application

The regulations specify how priority of service is to be applied across three different types of qualified job training programs:

1. *Universal access programs* that do not target specific groups include such programs as WIA Adult State Formula Funded Grants and Wagner-Peyser State Formula Funded Grants. These programs are required to provide priority of service to covered persons.
2. Discretionary targeting examples include National Emergency Grants, Prisoner Reentry Grants, High Growth and Community Job Training Grants, Office of Disability Employment Program Grants, and Women’s Bureau Grants. Priority of service is applied by:
  - a. Covered persons receive the highest priority, then
  - b. Non-covered persons within the discretionary targeted group, then
  - c. Non-covered persons outside of the discretionary targeting

When the program has discretionary target groups, priority is applied before the discretionary factor is applied.

3. *Statutory targeting programs* that are mandated by federal law to provide priority or preference to certain groups: Such programs include Senior Community Service Employment Program, WIA Dislocated Worker Formula Funded Grants, WIA Youth Formula Funded Grants, National Farm worker Job Training Grants (NFJP), Indian and Native American Program Grants and Job Corps. Under these programs, priority goes first to:
  - a. Covered persons who meet program’s mandatory priorities, then
  - b. Non-covered persons who meet program’s mandatory priorities, and finally
  - c. Covered persons outside the program’s mandatory priorities

For those programs that have income guidelines, it is important to remember that regulations at 20 CFR 667.255 states that, “any amounts received as military pay or allowances by any person who served on active duty, and certain other specified benefits must be disregarded. This applies when determining if a person is a ‘low-income individual’ for eligibility purposes.”

Under the regulation, we have the responsibility to ensure that DWD, contractors and any sub-contractors implement priority of service. This means that funding recipients must include

priority of service and its associated data collection and reporting requirements in all requests, awards, sub-grants, sub-contracts, or MOU's.

### **Responsibilities of States and Localities**

States must develop policies for the delivery of priority of service by the State Workforce Agencies, Local WIBs, and One-Stop Career Centers for all qualified job-training programs delivered through the State's workforce system. State policies must require Local Workforce Investment Boards to develop and include in their strategic local plan, policies for service delivery by local One-Stop Career Centers and for service delivery by local workforce preparation and training providers.

Local WIBs must implement policies to ensure that covered persons are aware of:

- Their entitlement to priority of service;
- The full array of programs and services available to them; and,
- Any applicable eligibility requirements for those programs and/or services.

Priorities of service requirements apply to all DOL employment and training service delivery programs. Data collection and reporting is required for those programs serving 1000 or more covered persons per year over the three most recent years. Those programs are identified as Wagner-Peyser, WIA Adult, WIA Dislocated Worker, Trade Act, WIA National Emergency Grant, and Senior Community Service Employment Programs.

### **State and Local Plans:**

All recipients of DOL funding are required to ensure that priority of service is applied by all sub-recipients. All program activities, including those obtained through requests for proposals, solicitations for grant awards, sub-grants, contracts, sub-contracts, and (where feasible) memoranda of understanding or other service provision agreements, issued or executed by qualified job training program operators, must be administered in compliance with priority of service.

At the State level, we are required to address priority of service in our strategic plan for the State's workforce investment system. Specifically, we must develop policies for the delivery of priority of service by the State Workforce Agency or Agencies, Local Workforce Investment Boards, and One-Stop Career Centers for all qualified job-training programs delivered through our workforce system.

Our policy or policies must require Local Workforce Investment Boards to develop and include in their strategic local plan, policies implementing priority of service for the local One-Stop Career Centers and for service delivery by local workforce preparation and training providers. These policies must establish processes to ensure that covered persons are identified at the point of entry so that covered persons are able to take full advantage of priority of service. The processes must ensure that covered persons are aware of:

- (1) Their entitlement to priority of service;
- (2) The full array of employment, training, and placement services available under priority of service; and
- (3) Any applicable eligibility requirements for those programs and/or services.

**Proof of Status:** Generally, we cannot require proof of eligibility for priority of service at the point of entry. Response to comments indicate it is the Department's intent that individuals identified as covered persons will not be required to verify their status as veterans or eligible persons at the point of entry unless they immediately undergo eligibility determination and formal enrollment in a program. The requirement to identify covered persons at the point of entry does not imply that verification of covered person status is required at that point. Even in those instances in which eligibility determination and enrollment take place at the point of entry, the Department believes that 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.

DOL will provide a list of documents (apart from the DD-214) that can be used for proof of eligibility.

#### **Monitoring Compliance with Priority of Service**

- DOL will monitor recipients of funds for qualified job training programs to ensure that covered persons are made aware of and provided priority of service.
- The Veterans' Employment and Training Service (VETS) and the DOL agency responsible for administering the program will perform monitoring jointly.
- If monitoring identifies non-compliance with priority of service, the results of the monitoring: 1) will be handled in accord with each program's compliance review procedures; and, 2) may lead to imposition of a corrective action plan.

#### **Data Collection and Reporting on Priority of Service**

- The regulations refer to covered persons at the point of entry as *covered entrants*.
- Those qualified job-training programs that have served an average of 1,000 or more covered persons per year over the three most recent years of operation are required to collect and report data on covered entrants.
- Six programs currently meet the size threshold for reporting on covered entrants: 1) WIA Adult; 2) WIA Dislocated Worker; 3) National Emergency Grants; 4) Wagner-Peyser State Grants; 5) Trade Adjustment Assistance (TAA); and, 6) Senior Community Service Employment Program.
- The Information Collection Request (ICR) accompanying the regulations provides that those programs that meet the size threshold will be required to: a) implement reporting on covered entrants; and, b) apply the new definitions for veterans and eligible spouses in their existing reporting on covered participants.
- The ICR further provides that programs below the size threshold will be required to apply the new definitions for veterans and eligible spouses in their existing reporting on covered participants.