

Language Assistance Self-Assessment and Planning Tool for Recipients of Federal Financial Assistance

This two-part document is intended to assist organizations that receive Federal financial assistance in their strategic planning efforts to ensure that program goals and objectives address meaningful access for all of the people they serve or encounter, including those who are limited-English proficient. First, this tool will assist recipients in assessing their current other-than-English language services capabilities and planning for the provision of language assistance to Limited English proficient (LEP) individuals they serve or encounter. As recipients may be developing performance measures to assist them in evaluating the effectiveness of their program and program delivery, by using this tool, they will be able to assess that effectiveness relative to individuals who are LEP.

The planning and self-assessment questions in Part A of this document are guided by the requirements of Title VI of the Civil Rights Act of 1964, as amended, and Title VI regulations, as set forth in guidance memoranda from the U.S. Department of Justice (DOJ), Civil Rights Division. (See, e.g., 65 FR 50123 (August 16, 2000), and 67 FR 41466 (June 18, 2002), also available at <http://www.lep.gov> . Part B is intended as a follow-up to Part A, and provides a framework for the development of a Language Assistance Plan (LAP) also in light of general Title VI requirements. ¹

INTRODUCTION

Executive Order 13166

Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," ² was created to "... improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)..." President Bush affirmed his commitment to Executive Order 13166 through a memorandum issued on October 25, 2001, by Assistant Attorney General for Civil Rights, Ralph F. Boyd, Jr. Federal agencies were directed to provide guidance and technical assistance to recipients of Federal funds as to how they can provide meaningful access to limited English proficient users of Federal programs. In addition, Federal agencies were told to look at how they served people who were limited in their English proficiency and to see what measures they could take in their direct contacts with LEP individuals that would increase meaningful access. In addition, a Federal Interagency Workgroup on Limited English Proficiency (Workgroup) was formed to coordinate guidance and

¹ Non-Federal Government materials and references cited herein are provided for illustrative purposes only and are not specifically endorsed or approved by the Federal Government. Permission to reprint this public domain publication is not necessary. However, if the materials are reprinted, please cite the source and retain the credits to the original author.

² 65 Fed. Reg. 50121 (August 16, 2000), signed by President William Clinton on August 11, 2000.

technical assistance effort throughout the Federal Government in support of EO 13166. One of the Workgroup's first accomplishments was the creation of a Federal web site (<http://www.lep.gov>). The site is a work in progress and is designed to be a one-stop referral shop for recipients, Federal agencies and communities in the quest for LEP information and technical assistance. It is through the coordinated efforts of the Workgroup that this planning and self-assessment tool has been created.

Title VI

The basis for EO 13166 is Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, (hereinafter Title VI), which provides that no person shall "on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." Section 602 authorizes and directs federal agencies that are empowered to extend federal financial assistance to any program or activity "to effectuate the provisions of [section 601] * * * by issuing rules, regulations, or orders of general applicability." 42 U.S.C. 2000d-1.

The Supreme Court, in Lau v. Nichols, 414 U.S. 563 (1974), affirmed then Department of Health, Education, and Welfare (HEW) policy (in line with HEW's Title VI regulation which is similar to that of DOJ, 45 CFR 80.3(b)(2)), stating that a recipient's failure to ensure meaningful opportunity to national origin minority, limited-English proficient persons to participate in the Federally funded program violates Title VI and Title VI regulations. In the Lau case, a San Francisco school district that had a significant number of non-English speaking students of Chinese origin was required to take reasonable affirmative steps to provide them with a meaningful opportunity to participate in the federally funded education program. The requirement to provide meaningful access under Title VI applies beyond the education context to include all of the programs and activities of all recipients of federal financial assistance.

PART A: SELF-ASSESSMENT

The questions in this part are intended for use by Federal recipients in conducting a self-assessment of their progress in providing language assistance to LEP persons. The questionnaire is divided into four sections and is designed to assist in a balanced assessment of the following four factors: (1) Demography - The number or proportion of LEP persons eligible to be served or likely to be encountered; (2) Frequency of Contact - the frequency with which LEP individuals come in contact with the program and/or activities; (3) Importance - the nature and importance of the program, activity, or service to people's lives; and (4) Resources - the resources available and costs.

Section I: Demography

The determination to provide language assistance services should include an assessment of the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population. The greater the number or proportion of LEP persons served or encountered, the more likely language services are needed.

According to the 2000 Census, Profile of Selected Social Characteristics, Supplementary Survey Summary (Table QT-02), English is the only language spoken at home by an estimated 82.4 percent (209,860,377) of the population 5 years of age and over (254,746,174). The remaining 17.6 percent (44,885,797) speak a language other than English. Of those U.S. residents 5 years of age and older who speak languages other than English at home, the same Census 2000 Survey estimates that 43.4 percent (19,492,832) speak English "less than very well." For these people-- approximately 7.7 percent of the total population of persons five years of age or older-- language can be a barrier to obtaining meaningful access to programs and activities conducted or services or information provided by recipients of Federal financial assistance.

There are a variety of sources for demographic information. As noted immediately above, the Bureau of Census is one potential source. Detailed information about the racial and ethnic populations you serve or might serve, including languages, can also be inferred from Department of Education data. You can link directly to the Bureau of the Census, Department of Education, and other demographic data on <http://www.lep.gov> by selecting the Demographics button.

The following questions are aimed at identifying whom it is you serve. Please note that the term "serve" is used to include not only those who are often considered direct beneficiaries of government programs and activities, but also those individuals with whom law enforcement or other enforcement entities may have encounters, as well as those individuals who are or should be subject to public information missions of recipients. Recipients should also consider LEP parents or guardians when their English proficient or LEP minor children and dependents encounter their programs, activities, or services:

Has your organization developed a demographic profile of the population served or likely to be served by your Federally funded programs and activities? YES NO

By primary language spoken? YES NO

If so, list the language groups and the languages spoken.

If not, you can begin your efforts by going to <http://www.lep.gov>.

In addition to the Census and the Department of Education, you can help identify language needs by calling on community-based organizations in your service area.

Is your institution working with any community-based organization(s) that is (are) familiar with the language needs of individuals participating in any of your programs and activities, or to whom you provide services or encounter?

YES NO

If so, describe.

Once your organization has identified general demographic data, which will give you a good overview, you are in a better position to move to the individual level for those people you serve.

Section II: Frequency of Contact

The following questions are designed to help recipients assess the frequency with which LEP individuals are contacted or encountered and the respective language groups. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed. It is also advisable to consider the frequency of different types of language contacts. For example, frequent contacts with Spanish-speaking people who are LEP may require certain assistance in Spanish. Less frequent contact with different language groups may suggest a different and less intensified solution. If a LEP person accesses a program or service on a daily basis, a recipient has greater duties than if the same person's frequency of contact with a recipient's program or activity is unpredictable or infrequent. Notwithstanding, recipients should consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

Does your organization have a process for surveying, collecting and/or recording primary language data for individuals that participate in your programs and activities?

YES NO

If so, describe the categories used in the collection of data, where the data resides, and who can access the data.

Section III: Importance

Once you have assessed what languages to consider with regard to access, both through an analysis of the demography and frequency of contact, you can then look at the nature and importance of your programs, activities, or services.

As a rule of thumb, the more important the activity, information, service, or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. You should then determine whether denial or delay of access to services or information could have serious implications for the LEP individual.

Do you conduct compulsory activities? YES NO
(For example, do you require applications, consent, interviews, or other activities prior to participation in any of your programs and/or activities, in order to obtain some benefit, service, or information, or in order to participate in a higher level program?) Do you conduct involuntary programs or activities (like custodial interrogations, hearings, trials, evictions, etc.) or provide compulsory education or other mandatory programs or activities? If so, what are they?

In addition to the above, do you conduct programs or activities that have serious consequences, either positive or negative, for a person who participates? (including, but not limited to, for example: health, safety, economic, environmental, educational, law enforcement, housing, food, shelter, protection, rehabilitation, discipline, transportation, etc.). What are they? YES NO

Have you determined the impact on actual and potential beneficiaries of delays in the provision of services or participation in your programs and/or activities (economic, educational, health, safety, housing, ability to assert rights, transportation costs, etc.)? If so, what are they? YES NO

Section IV: Resources

Once you have reviewed your demographics, frequency of contact, and importance of your programs, activities, or services, a good self-assessment will identify the resources (dollars and personnel) available to ensure the provision of language assistance to LEP persons participating in your programs and/or activities. The level of resources and the costs may have an impact on the nature of the language assistance provided. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with large budgets. In addition, **reasonable costs** may become **unreasonable** where the costs substantially exceed the benefits.

Reduction of costs for language services can be accomplished by such options as the use of technology (such as sharing through the internet, telephonic language lines, etc.); the sharing of language assistance materials and services among and between recipients, advocacy groups, and Federal grant agencies; and reasonable business practices. You should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns.

Have you identified the resources needed to provide meaningful access for LEP persons? YES NO

Are those resources currently in place? YES NO

Is there a staff member in your organization assigned to coordinate language access activities?

YES NO

If so, please identify by name or title, etc.

Have you identified the points of contact where a LEP person interacts with your organization?

YES NO

If so, please describe.

Given the identified points of contact, is language assistance available at those points?

YES NO

If so, please describe.

By language spoken, how many employees in your organization fluently speak a language other than English?

What percent of the total employees in your organization are bilingual and able to competently assist LEP persons in the LEP person's language?

Do you utilize employees in your organization as interpreters? (Interpreting

YES NO

is a different skill than being bilingual and able to communicate monolingually in more than one language. Interpretation requires particular skills. For more information, see www.lep.gov.)

Employees within our organization provide interpreter services (circle one):

some of the time.

most of the time.

always.

never.

What are the most common uses by your organization of other than employee (outside sources) language interpreter services?

What outside sources for interpreter services do you use?

_____ Contract interpreters

_____ Telephone services

_____ Community-based organizations

_____ Language banks

_____ Other (please specify)

For what languages other than English are outside sources of language interpreters most commonly used?

If so, how?

Although you should not plan to rely on an LEP person's friends, family members, or other informal interpreters to provide meaningful access, are there times when you appropriately allow use of such informal interpreters? (See DOJ LEP Guidance from June 18, 2002, <http://www.lep.gov>)

YES NO

If so, under what circumstances?

Are minors used as interpreters?

YES NO

If so, under what circumstances and how are issues such as competency, appropriateness, confidentiality, and voluntariness assessed? (See information on use of friends and family members, including minors, in the June 18, 2002 DOJ LEP guidance at www.lep.gov).

If additional resources are needed to ensure meaningful access, have you identified the cost of those resources?

YES NO

Are there any limitations in resources (dollars and personnel) that could impact the provision of language assistance services?

YES NO

If so, have you explored all options available to you in order to ensure the provision of language assistance services?

YES NO

For example, if there is a significant LEP population in a single language, you may wish to look at the option of hiring staff who are bilingual, bi-cultural, and knowledgeable in the particular area which you are serving, *i.e.*, healthcare, education, science, etc. If there is a very small language population, you would not necessarily need to hire staff to meet that need; instead, you may wish to contract for that assistance. (See <http://www.lep.gov> for more specific help.)

PART B: DEVELOPING A LANGUAGE ASSISTANCE PLAN

This section is intended to provide a general overview for the development of a Language Assistance Plan (LAP) for LEP beneficiaries or potential beneficiaries. Each Federal recipient may choose to develop an LAP differently. Regardless of the format selected, careful consideration should be given to

whether the LAP is sufficiently detailed to address the answers to the questions set forth in Part A, Self-Assessment.

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the identified needs of the LEP populations they serve. Recipients have considerable flexibility in developing this plan. The development and maintenance of a periodically-updated written LAP for use by recipient employees serving the public will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Moreover, such written plans would likely provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. These benefits should lead most recipients to document in a written LEP plan their language assistance services, and how staff and LEP persons can access those services. Despite these benefits, certain recipients, such as recipients serving very few LEP persons and recipients with very limited resources, may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. Accordingly, in the event that a recipient elects not to develop a written plan, it should consider alternative ways to articulate in some other reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, religious organizations, community groups, and groups working with new immigrants can be very helpful in providing important input into this planning process from the beginning.

Good LAP=s should be:

- (1) based on sound planning;
- (2) adequately supported so that implementation has a realistic chance of success; and,
- (3) periodically evaluated and revised, if necessary.

The first topic covered in this part is the establishment of goals in a LAP. The second topic in this part is a brief overview of points that may be considered in developing a comprehensive LAP.

Section I: Goals

The process of developing goals flows from the self-assessment that has been conducted. Goals should reflect your individual circumstances. It is recommended that they be designed based, at least in part, as the result of focused research and benchmarking and on best practices identified by community organizations, other Federal recipients, professional organizations, advocacy groups, and experts in the language assistance field.

The fundamental Title VI requirement is that Federal recipients ensure meaningful access for LEP individuals to the Federal recipient's programs and activities. Therefore, the goals for the provision of language assistance to LEP individuals should relate to a thorough assessment of the target population

1. Identification of LEP Persons

This first step comprises your consideration of the information obtained from the first two self-assessment factors: the number or proportion of LEP individuals eligible to be served or encountered, and the frequency of encounters. This information identifies LEP persons with whom you have contact.

In refining your assessment of your target LEP population, you can use language identification cards (or **AI speak cards**), which invite LEP persons to identify their language needs to your staff. Such cards, for instance, might say **AI speak Spanish** in both Spanish and English, **AI speak Vietnamese** in both English and Vietnamese, etc. You can access examples of such cards, at no cost, on the Internet at <http://www.lep.gov>. In addition, when records are kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition, posting notices in commonly encountered languages notifying LEP persons of language assistance will encourage them to self-identify.

2. Language Assistance Measures

In developing an effective LAP, you should also consider including information about the ways language assistance will be provided. For instance, you may want to include information on:

- \$ Types of language services available
- \$ How staff can obtain those services.
- \$ How to respond to LEP callers.
- \$ How to respond to written communications from LEP persons.
- \$ How to respond to LEP individuals who have in-person contact with your staff.

3. Training Staff

It is essential for the members of your organization to know your organization's obligations to provide meaningful access to information and services for LEP persons. It is, therefore, recommended that your LAP plan include training to ensure that:

- \$ Staff know about LEP policies and procedures.
- \$ Staff having contact with the public (or those in a recipient's custody) are trained to work effectively with in-person and telephone interpreters.

You may want to include this training as part of the orientation for new employees. The more frequent the contact with LEP persons, the greater the need will be for in-depth training. The manner in which the training is provided is within your organization's discretion.

4. Providing Notice to LEP Persons

Once you have decided, based on the four-factor self-assessment in Part A, that provision of language services will be implemented, it is important to let LEP persons know that those services are available and that they are free of charge. You should provide this notice in a language LEP persons will understand. Some ways of accomplishing this objective include:

- \$ Posting signs in intake areas and other entry points.
- \$ Stating in outreach documents (brochures, booklets, outreach and recruitment information) in appropriate languages that language services are available.
- \$ Working with community-based organizations to inform LEP persons of the language assistance available.
- \$ Using a telephone voice mail menu in the most common languages encountered.
- \$ Including notices in local newspapers in languages other than English.
- \$ Providing notices in non-English language radio and television stations about the availability of language assistance services.
- \$ Presentations and/or notices at school and religious organizations.

5. Monitoring and Updating the LAP

You should, where appropriate, have a process for determining, on an ongoing basis, whether new documents, programs, services, and activities need to be made accessible for LEP individuals, and provide notice of any changes in services to the LEP public and to employees. In addition, you should consider whether changes in demographics, types of services, or other needs require annual reevaluation of your LAP.

One good way to evaluate your LAP is to seek feedback from the community, and assess potential LAP modifications based on:

- \$ Current LEP populations in service area or population encountered or affected.
- \$ Frequency of encounters with LEP language groups.
- \$ Nature and importance of activities to LEP persons.
- \$ Availability of resources, including technological advances, additional resources, and the costs imposed.
- \$ Whether existing assistance is meeting the needs of LEP persons.
- \$ Whether staff knows and understands the LAP and how to implement it.
- \$ Whether identified sources for assistance are still available and viable.

Exemplary practices and further policies with regard to written LAPs can be found at <http://www.lep.gov>. The following questions are designed to assist in assessing your planning needs.

Does your organization have a written policy on the provision of language interpreter and translator services? YES NO

If so, is a description of this policy made available to the general public? YES NO

If so, how and when is it made available?

In what languages other than English is it made available?

Do you inform your employees of your policies regarding LEP persons? YES NO

If so, how?

How often?

Do you inform your subcontractors of your policies regarding LEP persons? YES NO

If so, how?

How often?

Do you inform your subcontractors of their obligation to provide language assistance to LEP individuals who either participate in their programs and activities and/or to whom services are provided? YES NO

If so, how?

How often?

Do your subcontractors have a written policy on the provision of language interpreter and translator services? YES NO

If so, is it distributed to the general public? YES NO

If so, when and how is it made available?
In what languages other than English is it made available?

Are beneficiaries informed that they will be provided interpreting services at no cost? YES NO

How are they informed and at what points of contact?

Do you ensure that your translators and/or interpreters are qualified to provide interpreting services (which is a different skill than being bilingual) and understand any confidentiality requirements? YES NO

If so, how?

Is ability to speak a language other than English a factor in hiring decisions in your organization? YES NO

If so, how do you identify which languages are needed?

Do you ensure that your bilingual staff are qualified to provide services in another language?

YES NO

If so, how?

List the written materials that you provide to the public.

Do you provide written materials to the public in languages other than English?

YES NO

Is the public notified of the availability of the translated materials?

YES NO

If so, how?

List all written materials provided to the public in languages other than English and the languages for which they are available.

Are there set criteria for deciding:

which materials will be translated?	YES	NO
who will translate the materials?	YES	NO
how you will assess competency to translate?	YES	NO
who will provide a second check on the translation?	YES	NO
into which language(s) the materials will be translated?	YES	NO

Are all translated materials pre-tested before made final? YES NO

If no, which materials are not pre-tested and why?

Section III: LAP Evaluation

The following information is provided to assist you in identifying methods and approaches for evaluating a LAP. You are encouraged to review your LAP annually and to develop approaches for evaluation that are consistent with your respective LAP designs, individual needs and circumstances. The evaluation process allows for quality feedback into your organization. Also, the evaluation process can be used as a sentinel to detect problems before they grow, and to confirm best practices.

Because Federal law does not prescribe a particular program model or evaluation approach, the approach to, and design of, an effective LAP evaluation will vary for each Federal recipient. The questions set forth below are provided as primers for you to use in developing your own approach.

Do you have and use a tool for collecting data on beneficiary satisfaction with interpreter services? YES NO

Have any grievances or complaints been filed because of language access problems? YES NO

If so, with whom?

Do you monitor the system for collecting data on beneficiary satisfaction and/or grievance/complaint filing? YES NO

Are the data used as part of a review by senior management of the effectiveness of your organization's language assistance program implementation? YES NO

Do you regularly update your LAP and assess for modifications Given changing demographics, or changes or additions to your programs? YES NO

Do you obtain feedback from the community? YES NO

Generally, organizations measure "success" in terms of whether a plan, when implemented, leads to the achievement of the particular goals the organization has established. If the organization has established no particular goals, it can still be successful if the results are in concert with the organization's desired outcomes. In this case, the desired outcome is the provision of language assistance, when necessary, in order to ensure that LEP persons are able to participate meaningfully in the Federal recipients' programs and activities.

You should modify your LAP if it proves to be unsuccessful after a legitimate trial. As a practical matter, you may not be able to comply with this Title VI requirement unless you periodically evaluate your LAP.

The Interagency Working Group on LEP welcomes and encourages your comments regarding this tool. Modifications will be made, if appropriate, based on the experiences of recipients and others using this tool. To provide written comments, please write:

The Interagency Working Group on LEP
C/O Coordination and Review Section - NYA
Civil Rights Division
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530