



CHECKLIST

for

DEVELOPING

a

LANGUAGE ASSISTANCE

PLAN

INTRODUCTION

This checklist was developed for the purpose of assisting recipients of U.S. Department of Housing and Urban Development (HUD) funding in ensuring that Limited English Proficient (LEP) persons receive meaningful access to programs and services. It provides basic information on how to develop a Language Assistance Plan. The Checklist is not a substitute for HUD's Final Guidance on LEP or for good customer service practices. You will want to create a climate of respect for all applicants and clients, including those that have limited English proficiency. Language barriers can result in confusion, frustration and even hostility. The appropriate and timely use of interpreters and translation can reduce tension, address client needs, and help you fulfill your mission.

Recipients of HUD funding must:

- 1) prepare a written **Four-Part Language Needs Self-Assessment**;
- 2) develop a written **Language Assistance Plan**; and,
- 3) implement and monitor progress against the LAP and assess its effectiveness.

BACKGROUND

Pursuant to Title VI of the Civil Rights Act of 1964 and an August 11, 2000 Executive Order 13166 (*Improving Access to Services for Persons with Limited English Proficiency*), HCD must provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding funding recipients from “*restrict[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program or from utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program....*”

On January 22, 2007, HUD issued a Notice in the Federal Register presenting *Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*. [see Final HUD Guidance on LEP_2007]

- Read HUD's final guidance on LEP**
- Review the Department of Justice Tips and Tools document, found at http://www.lep.gov/tips_tools_92104.pdf**
- Review LEP information and view webcast on HUD's website at <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm>**

Frequently Asked Questions: <http://www.hud.gov/offices/fheo/promotingfh/lep-faq.cfm>

☑ **HELPFUL DEFINITIONS**

LEP—Limited English Proficiency. LEP persons do not speak English as their primary language and have no ability or are limited in their ability to read, write, speak or understand English. Many LEP persons are in the process of learning English and may read, write, speak, and/or understand some English, but not proficiently. LEP status may be context-specific. An individual may have sufficient language skills to communicate basic information (name, address, etc.) but may not have sufficient skills to communicate detailed information in English.

Language Barrier—Failure to plan for and accommodate LEP may prevent people from learning of housing and other opportunities or applying for and receiving such opportunities. LEP may keep people from learning about environmental or safety problems in the community and the means available for dealing with them. LEP can keep a client or tenant from understanding their rights and responsibilities and may prevent people from reporting housing discrimination which can hinder investigations.

Translation—Written language assistance provided by a translator usually involving the translation of vital documents. Translation can range from the translation of an entire document to the translation of a short description of the document. The HUD LEP Guidance describes “safe harbor” for the translation of documents for LEP persons. (see Safe Harbor)

HUD recommends using this or a similar statement in translated “vital documents” in the language of that document:

This is a translation of a legal document. The _____ provides this translation to you merely as a convenience to assist in your understanding of your rights and obligations. The English version of this document is the official legal controlling document. This translation is not an official document.

Interpretation—Oral language assistance provided by an interpreter either in-person or via a telephone interpretation service. The HUD LEP Guidance provides no “safe harbor” for the provision of interpretation services to LEP persons.

Vital Documents-- Any document that is critical for ensuring meaningful access to the recipients’ major activities and programs by beneficiaries generally and LEP persons specifically. Whether or not a document (or the information it solicits) is “vital” may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. For instance, applications for auxiliary activities, such as certain recreational programs in public housing, would not generally be considered vital. However, if the major purpose for funding the recipient were its recreational program, documents related to those programs would be considered vital. Where appropriate, recipients are encouraged to create a plan for consistently determining over time and across its various activities, what documents are “vital” to the meaningful access of the LEP populations they serve.

Safe Harbor—The “safe harbor” concept only applies to the translation of documents. If a recipient provides written translations when certain thresholds (below) are exceeded, this action will be considered strong evidence of compliance by HUD. Failure to provide translations does not mean there is a non-compliance. For instance, oral interpretation might be an acceptable way of providing access when the translation of documents becomes so burdensome as to defeat the legitimate objectives of a program. Other considerations are the importance of the service, benefit or activity, the nature of the information sought, and whether the proportion of the LEP persons served calls for written translations.

In many cases, use of the “safe harbor” would mean the provision of written language services when marketing to the eligible LEP population within the market area (see Service Area). However, when the actual population served (e.g., occupants of, or applicants to, the housing project) is used to determine the need for written translation services, written translations may not be necessary.

SAFE HARBOR

Size of language group	Recommended provision of written language assistance
1,000 or more in the eligible population in the market area or among current beneficiaries.	Translated vital documents.
More than 5% of the eligible population or beneficiaries <i>and</i> more than 50 in number.	Translated vital documents.
More than 5% of the eligible population or beneficiaries <i>and</i> 50 or less in number.	Translated written notice of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries <i>and</i> less than 1,000 in number.	No written translation is required.

Service Area—Sometimes used interchangeably with *eligible service area, geographic area, market area or target audience* in the HUD LEP guidance. The “safe harbor” evaluation will differ depending on the population the recipient is considering. When conducting outreach to the eligible population in the market area, the number and percentage of the eligible LEP population in that market area should be evaluated. When working with a recipient’s own program beneficiaries (e.g., residents of a specific housing development or applicants to the housing development), the number and percentage of LEP persons living in the housing and on the waiting list should be evaluated.



FOUR-PART LANGUAGE NEEDS SELF ASSESSMENT

HUD’s guidance suggests that recipients of federal assistance prepare a four-part language needs self assessment for considering the following information:

- THE NUMBER OR PROPORTION OF LEP PERSONS SERVED OR ENCOUNTERED IN THE ELIGIBLE SERVICE AREA
- THE FREQUENCY WITH WHICH LEP INDIVIDUALS COME IN CONTACT WITH THE PROGRAM
- THE NATURE AND IMPORTANCE OF THE PROGRAM, ACTIVITY, OR SERVICE PROVIDED BY THE PROGRAM
- THE RESOURCES AVAILABLE TO YOUR AGENCY

THE NUMBER OR PROPORTION OF LEP PERSONS SERVED OR ENCOUNTERED IN THE ELIGIBLE SERVICE AREA

- Determine the HUD-funded programs operated by your agency and the service area of each**

HUD-FUNDED PROGRAMS	SERVICE AREA

- Determine the number or proportion of LEP persons served in the service area for each HUD-funded program (This could be a specific population, neighborhood, census block group(s), census tract, city, county, metropolitan statistical area, region, or other geographical area)**

- Review Census information for each service area:**

- go to the U.S. Census at www.census.gov; in the left-hand column go to **American Fact Finder**, then go to **Decennial Census**; then go to **get data**; then go to **Census 2000 Summary File 3 (SF3)**; select **Detailed Tables**; set your geographies (*your service area(s)—or as close as you can come to it*) and **add** it (or them); hit **Next**; select **Table P19 Language Spoken at Home by Ability to**

Speak English for the Population 5 years and Over and **add** it to the table selections, and; finally, hit “**Show Result**”.

Information on language ability and age is available down to the *block group* level. The information is in Excel format, so you can copy it into a spreadsheet. For an example of how you can use this information to develop comparative information, see the **Recap of Languages Spoken in Boise**.

- If you have a statewide program, there is helpful census information at: <http://www.census.gov/population/www/cen2000/phc-t37.html>; go to Table 14a and 14b for **Ability to Speak English by Language Spoken at Home for Five years and over and for 18 years and over**, respectively.
- Note that there are four categories of English proficiency (very well, well, not well and not at all). You are concerned with those persons that speak English “**not well**” or “**not at all**”
- See Special Tabulation 194: **ID Counties_Language spoken at home for those over 18 that do not speak English VERY WELL** (*note the age and the language proficiency level*)
- See Special Tabulation 224: **Language Spoken at Home for Counties and Tracts in Idaho** (*note that this does not necessarily mean these persons are LEP—however, it is an indicator*)
- If your service area is in Boise, Ada County or the Boise MSA, see **Recap of Languages spoken in Boise**

☐ Check this information against the “safe harbor” thresholds

- How old is the Census information you are considering?
- Has there been significant population or demographic changes in your service area(s) since the Census was conducted?
- Would this affect the conclusions of your assessment?
- Remember: the “safe harbor” threshold is to be judged against the *eligible* population.

☐ Identify and include language minority populations that are eligible for program services or activities, but may be underserved because of existing language barriers with the program or activity.

- Should you modify your Affirmative Marketing Plan to include them?

☐ Summarize your conclusions about what this information is telling you

☑ THE FREQUENCY WITH WHICH LEP INDIVIDUALS COME IN CONTACT WITH THE PROGRAM

- ☐ Conduct a survey of your staff to determine the number or proportion of LEP persons encountered for each program [see Limited English Proficiency (LEP) Survey]**
 - Do any of these encounters involve interpretation by children or other family members?
 - Issues of competency, confidentiality, and conflict of interest in the use of family members (*especially children*), friends, or other informal interpreters often make their use inappropriate.
- ☐ Count the current LEP beneficiaries in each program and their primary language**
- ☐ If you use telephonic language assistance or other translation or interpretation vendors, review their billings or your own records about the languages needed, the nature of the transactions, and the duration of each transaction**
 - If you do not currently record this information, you should start
 - Some vendors will include a breakdown of this information in their billings
- ☐ Check to see if any of the “safe harbor” thresholds are exceeded or if the number of encounters comes close to these thresholds for your program’s beneficiaries**
- ☐ Check LEP data from the school district**
- ☐ Check LEP data from other community organizations like your own or that serve LEP persons**
- ☐ Check LEP data from state and local governments (i.e highway districts, other?)**
- ☐ Consider whether appropriate outreach to LEP persons in your service or market area could increase the frequency of contact with LEP language groups.**

- Would this change your Affirmative Marketing Plan?
- Would this change your conclusions?

□ Summarize your conclusions about what this information is telling you.

- The more frequent the contact with a particular language, the more likely enhanced language services in that language are needed.
- Less frequent contact with different language groups may suggest different and less intensive language assistance services.

☑ THE NATURE AND IMPORTANCE OF THE PROGRAM, ACTIVITY, OR SERVICE PROVIDED BY THE PROGRAM

□ Describe the nature and importance of the program.

- A program, activity or service that provides food, shelter, or housing may satisfy human needs at a level exceeding those addressed in a recreational program. The obligations to communicate rights to a person who is being evicted differ, for example, from those to provide recreational programming.
- Determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual.
- Decisions to make a specific activity compulsory in order to participate in the program, such as filling out particular forms, participating in administrative hearings, or other activities, can serve as strong evidence of the program's importance.

□ Identify the “vital documents” used in your program

Examples:

- Notices advising persons of the availability of free language assistance
- Outreach and marketing materials
- Applications, consent forms, and complaint forms
- Letters with important information regarding participation in a program or activity
- Notices pertaining to reduction, denial, or termination of services or benefits and of the right to appeal such actions
- Notices that require a response
- Information on the right to file complaints and the complaint process
- Information on the provision of services to the disabled

State a conclusion about the nature and importance of the program.

- The more important the information, service, or program, or the greater the possible consequences of the contact to the LEP persons, the more likely the need for language services. Determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the LEP individual. Decisions to make a specific activity compulsory in order to participate in the program, such as filling out particular forms, participating in administrative hearings, or other activities, can serve as strong evidence of the program's importance.

RESOURCES AVAILABLE TO YOUR AGENCY

- Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets.
- Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well substantiated and documented before using this factor as a reason to limit language assistance.

COMMENTS

There is no “black box” formula for sorting through this information and having it resolve into an easy answer for you. In some cases the Census information will be the key to actions you should be taking in your Language Assistance Plan. In other cases, the encounters with LEP persons may dictate certain actions that are more dependent on your actual client population. Generally, it takes a synthesis of all of the information to arrive at meaningful conclusions.

For instance, the Census information may be telling you that there is a significant Spanish-speaking LEP population in your service area, but you do not see that in your beneficiaries. You may have discovered that you need to improve marketing to this population as it is under-represented in your client group. That could mean targeting this population by appropriately placing program information in Spanish. Assuming that this would attract more Spanish speakers, you may need to modify your Language Assistance Plan and perhaps the number and kinds of documents you translate.

Another consideration is the difference between who you may be marketing to and who you may be serving. For instance, if you're running a children's activity center, you'd probably (but not always) be marketing to parents over 18 years old. The client group, however, may be kids in the 5 to 17 year age range. The language abilities of the two groups may be significantly different AND it could affect how you address the language needs of each group in the Language Assistance Plan.



CREATE A LANGUAGE ASSISTANCE PLAN

Once the four-factor self assessment is completed and a determination of appropriate language assistance services has been made, a written Language Assistance Plan (LAP) must be developed to address the LEP population in the service area(s). The LAP will consist of these sections:

- IDENTIFYING LEP INDIVIDUALS WHO NEED LANGUAGE ASSISTANCE
- LANGUAGE ASSISTANCE MEASURES
- TRAINING STAFF
- PROVIDING NOTICE TO LEP PERSONS
- MONITORING AND UPDATING THE LAP

IDENTIFYING LEP INDIVIDUALS WHO NEED LANGUAGE ASSISTANCE

- Use language assistance card or “I speak” cards which invite the LEP person to identify his/her language**
 - Download card at www.usdoj.gov/crt/cor/13166.htm or see **ISpeakCards2004**
 - Also see **OCJS Language Card**
- Use language information in records of past interactions with client. If not available, record this information for future use**
- Post notices in commonly encountered languages notifying LEP persons of language assistance**
 - The Language Line offers a poster meeting these needs
 - “Know Your Rights” pamphlets are available in ten languages at www.lep.gov
- Surveying, collecting and recording primary language needs of participants**

LANGUAGE ASSISTANCE MEASURES

Include:

Types of language services available

- Catalog language abilities of your staff
- Share interpreter lists with other providers
- Maintain a list of interpreter and translators and their contact information
- Commercial interpretation and translation services
- Telephonic language service vendors
- Court interpreter lists
- Other

How staff can obtain these services

- You will likely need to empower your staff to secure these services without undue management involvement, ensuring LEP persons access to language assistance and the program or service you are providing
- Describe how translation and interpretation services are to be obtained

How to respond to LEP callers

How to respond to written communication from LEP persons

How to respond to LEP persons who have in-person contact with your staff

How to ensure competency of interpreters and translation services

- Do not use children to interpret
- Consider using certified translators
- Consider using a second independent translator to check the work of the primary translator
- Consider back-translating where one person translates from English and another translates the document back into English to ensure appropriate meaning is conveyed
- Ensure to the extent possible that the interpreter/translator has a knowledge of the LEP person's dialect, vocabulary, and phraseology

Decide what “vital documents” will be translated into which languages and on what schedule based on the Language Needs Assessment

Inventory language skills among your staff

Using community volunteers

- May be useful for less critical programs or activities; some familiarity with the program is desirable, but they should adhere to their role as interpreter without deviating into a role as a counselor or legal advisor, etc.

Using the clients family or friends as interpreters

- Use of family or friends may be an appropriate option where proper application of the language needs self-assessment lead you to believe that the provision of interpretation services is not necessary
- This is often a convenient and practical method and it may be fine for casual encounters, but it can be problematic when the transaction affects the LEP person's access to services or programs or there is some other serious aspect to the communication (i.e. interpreting "vital documents", etc.)
- In order to ensure that information is accurately communicated, it may be incumbent upon you as the recipient of federal assistance to insist on an interpreter of your choosing

Use of children as interpreters

- This practice is of particular concern and is generally discouraged

Designate a LEP coordinator

Review of the LAP by the organization's director or governing board

TRAINING STAFF

Staff must be trained at least annually on LEP policies and procedures

- New staff or staff whose job descriptions change to add contact with the public must be trained on LEP policies and procedures
- Inform staff of the possible penalties to your organization for failure to address LEP appropriately
- Compile a binder of LEP information for easy access by staff
- Provide field staff with "I Speak" cards and contact information to access a telephonic language assistance vendor or other interpretation source
- Document the dates of the training and those that are trained

PROVIDING NOTICE TO LEP PERSONS

- Post signs in appropriate languages in intake areas and other entry points**
 - Language assistance must be offered at no cost to the LEP person
- Include statements concerning language assistance in marketing materials and messages and on your website**
- Include this message in presentations to agencies that refer applicants to your organization**
- Include a written offer to translate/interpret with “vital documents” in appropriate languages**
 - See Offer to Interpret in 24 Languages
- Provide a telephone voice mail menu in the most common languages encountered**

MONITORING AND UPDATING THE LAP

- Review the LAP on a schedule of your choosing that is appropriate to your needs; specify this in the LAP**

Review the LAP for the following:

- Changes in the LEP population, in the service area, or population affected or encountered**
- Changes in the frequency of encounters with LEP language groups**
- Changes in the nature and importance of activities to LEP persons**
- Changes in resources including new technologies, additional resources, and budget availability**
- Effectiveness of existing languages assistance to LEP persons**
- Staff knowledge of the agency’s Language Assistance Plan and how to implement it**

- Whether identified sources for assistance are still available**
- Changed language abilities available among your staff**
- Need to add ability in additional language a consideration in hiring staff**
- Need to hire an interpreter on staff**
- Need to contract for additional interpreter services**
- Have there been any complaints filed because of language access problems?**
- Revise the LAP, as necessary**

- COST SAVING IDEAS**
 - Train bilingual staff to act as interpreters and translators
 - Share information with other providers
 - Pool resources with other providers
 - Standardize documents with other providers
 - Centralize interpreter and translator services
 - Use qualified community volunteers
 - Ensure competence of interpreters
 - Use certified translators and interpreters
 - Hire bilingual staff
 - Contract for interpreters
 - Use telephone interpreter service vendors
 - Cautiously and appropriately use the client's family members or friends