

DEPARTMENT of COMMERCE

LEP PLAN

for

FEDERALLY CONDUCTED PROGRAMS AND ACTIVITIES

To Improve Access to Services For Persons with Limited English Proficiency

I. INTRODUCTION

This Plan is developed by Department of Commerce (DOC) operating units to ensure that the programs and activities they normally provide in English are accessible to limited English proficient (LEP) persons and, thus, do not discriminate on the basis of national origin. Operating units are taking reasonable steps to ensure meaningful access to their programs and activities by LEP persons. DOC operating units have examined their policies and practices to determine whether they adversely affect LEP persons. This Plan reflects an assessment of DOC's programs and activities to address LEP needs.

II. BACKGROUND

English is the predominant language of the United States. The United States is also, however, home to millions of national origin minority individuals who are "limited English proficient." Many people who are eligible for federal services cannot effectively use those services because they are not proficient in English. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (EO) was signed on August 11, 2000, to recognize that language barriers were preventing the Federal Government from effectively serving a large number of people in this country who were eligible to participate in these programs. (Attachment A).

The Department of Justice (DOJ) issued a general guidance document (LEP Guidance), which sets forth the four factors that federal agencies must consider to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. Operating units are directed to apply these factors in assessing the accessibility of all federally conducted programs and activities to LEP persons.

III. LEGAL AUTHORITY

A. EXECUTIVE ORDER 13166 IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

The purpose of this EO is to eliminate, to the maximum extent possible, limited English proficiency as an artificial barrier to the full and meaningful participation by beneficiaries in federally assisted and federally conducted programs and activities. The EO requires federal agencies to create and begin to implement a plan to ensure access to its federally conducted programs and activities by eligible LEP persons. Each federal agency must examine the services they provide, identify any need for services, and develop a plan to provide those services so LEP persons can have meaningful access to them. The EO also requires that agencies that provide federal financial assistance (federally assisted programs), such as the DOC, must draft LEP guidance for recipients of such assistance.

B. DEPARTMENT OF JUSTICE GUIDANCE

In a July 21, 2000 memorandum from the Acting Assistant Attorney General, Civil Rights Division, agencies were advised to develop and implement a plan for their own programs so that the Federal Government follows the same standards with respect to language assistance that it requires of its recipients. Those standards were issued by DOJ as a Policy Guidance Document, "Enforcement of Title VI of the Civil Rights Act of 1964 - National Origin Discrimination Against Persons With Limited English Proficiency," 65 FR 50123, August 16, 2000 (Attachment B). Further, DOJ guidance analyzed a significant body of federal case law that should be used to guide agencies in adopting these standards. Although the cases affirm the obligation of recipients of federal financial assistance to ensure that LEP persons can meaningfully access federally assisted programs, their findings speak to the disparate treatment of LEP individuals when they are denied meaningful access to federal programs and services. DOC acknowledges their relevancy to agencies in ensuring that LEP persons can meaningfully access federally conducted programs and activities.

IV. DOC OBLIGATION TO TAKE REASONABLE STEPS TO PROVIDE LEP INDIVIDUALS WITH MEANINGFUL ACCESS

The DOC mission is to promote job creation, economic growth, sustainable development and improved living standards for all Americans by working in partnership with business, universities, communities and workers to: (1) build for the future and promote U.S. competitiveness in the global marketplace by strengthening and safeguarding the nation's economic infrastructure; (2) keep America competitive with cutting-edge science and technology and an unrivaled information base; and (3) provide effective management and stewardship of the nation's resources and assets to ensure sustainable economic opportunities. In fulfilling this mission, DOC works with many different clients, including manufacturers, service companies, science/R&D firms, industry/trade/professional associations, universities, economists,

government agencies, and individuals who are interested in obtaining information and assistance in either starting a minority-owned business, or in starting or expanding an export business. For the most part, current participation of LEP persons in Commerce's programs and activities is minimal, with the exception of the Bureau of the Census, the Minority Business Development Agency, and the National Weather Services.

The fundamental premise of the EO is that the Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. Unlike many federal agencies that provide services and benefits such as immigration benefits, food stamps, educational programs, medicaid, housing, job training, emergency services, and public legal assistance, Commerce does not provide services and benefits of the entitlement or general public service type. DOC does, however, provide services to the public in the form of information and assistance on business-related matters, as well as information pertaining to the forecasting of storm warnings, hurricanes, tornadoes, and other weather-related events.

In view of the premises of the EO, Commerce's services are the provision of business-related information and the forecasting of weather-related events. DOC's obligation to make accessible to LEP persons information on weather-related events is obvious. While it is true that, in most instances, one must be proficient in English to be in business in this country, this is not universally the case. Although the participation of LEP individuals in DOC programs has to date been negligible, we recognize that such persons might inquire about Commerce programs, if they had access to DOC program information through language services.

The following depict examples of reasons a LEP individual might be interested in accessing DOC business-related information:

A LEP person is interested in finding out how he/she can start a minority-owned business in the United States (U.S.). Although he/she knows the Minority Business Development Agency (MBDA) oversees this matter, the information is inaccessible to the person because MBDA does not have a language accessible telephone line.

A Vietnamese LEP person is interested in exploring starting an export business of products to his/her native country. He/she has heard about the USA Trade Center and the 1-800-USA-TRADE telephone line. He/she dials the number, only to discover that the office does not have an employee conversant in Vietnamese, and the telephone system is not equipped with interpreter services.

A LEP person is interested in starting a direct marketing home-based business. He/she has identified a listing of products that he/she is interested in selling but wants to research their viability for making a profit. He/she needs statistical data distributed by the Foreign Trade Division of the Bureau of the Census (CENSUS), but has no way to register his/her interest in obtaining the information.

In keeping with the spirit and intent of the EO, i.e., to improve access to services and information for persons with LEP, DOC acknowledges its obligation to take reasonable steps to make sure LEP persons can access DOC for business information, if they choose.

V. PLAN REQUIREMENTS

A. WHAT IS COVERED

DOJ advises that the definition of federally conducted program or activity should be the same as the definition used under the regulations for application of Section 504 of the Rehabilitation Act of 1973 to federally conducted programs (28 C.F.R. Pt. 39). That definition states: A federally conducted program or activity is, in simple terms, anything a federal agency does. DOJ further advises that, aside from employment, there are two categories of federally conducted programs or activities covered by the regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the Department for program beneficiaries and participants. Activities in the first part include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the Department's facilities (cafeteria, library). Activities in the second category include programs that provide federal services or benefits (immigration activities, health clinics, schools, etc.) .

The DOJ LEP Guidance directs that each federal agency plan to improve access to its federally conducted programs and activities by eligible LEP persons must be consistent with the standards set forth in the Guidance. DOJ requires agencies to take reasonable steps to provide meaningful access for LEP persons to its federally conducted programs and activities. The standards provide four factors to be considered in determining reasonable steps : (1) number or proportion of LEP individuals; (2) frequency of contact with the program; (3) nature and importance of the program, for example, whether denial or delay of access may have life or death implications; and (4) resources available.

B. ASSESSMENT OF NEED

Commerce bureaus assessed their programs and activities to determine: (1) the number or proportion of LEP individuals participating in the respective programs and activities; (2) the frequency of contact with the program; and (3) the nature and importance of the program. Bureaus completed a survey which asked the following questions:

Does your Bureau/Office have program activities involving general public contact? If YES, please address the following assessment.

I. Communication with the Public: *Please describe each type and answer the second and third columns appropriately.*

(Second Column)

Will persons likely to participate in this activity be able to do so if they are Limited English Proficient? *Please indicate accordingly and explain.*

YES _____ **NO** _____

(Third Column)

If the answer is NO, what corrective active actions do you plan to implement to improve access?

II. Programs that provide Federal services or benefits: *Please describe each type and answer the second and third columns appropriately.*

(Second Column)

Will persons likely to participate in this activity be able to do so if they are Limited English Proficient? *Please indicate accordingly and explain.*

YES _____ **NO** _____

(Third Column)

If the answer is NO, what corrective active actions do you plan to implement to improve access?

C. ASSESSMENT FINDINGS

Bureaus reported current participation of LEP individuals to be minimal to negligible in their federally conducted programs and activities. Their responses to the first two factors, i.e., (1) number or proportion of LEP individuals in the eligible service population, and (2) frequency of contact with the program, are both negligible. Given the low number and instances, it is difficult to accurately assess the nature and importance of the program for persons with LEP and to determine what resources are necessary. This notwithstanding, the above survey questions identified language assistance activities the Department provided on those occasions when the need surfaced. The following is an overview of specific DOC activities to address LEP issues. The analyses of Commerce federally conducted programs and activities to accommodate LEP individuals fell into four categories: (1) electronic media, (2) written materials, (3) oral language interpretation, and (4) on-going LEP needs analyses.

SPECIFIC LEP ACTIVITIES

1. Electronic Media

DOC has launched a Department-wide Spanish language web site. The web site is designed to inform the Hispanic community of changes in the economy, upcoming trade development missions, high tech issues, and trade opportunities. The web site also allows users to access information about minority development, export assistance, grant opportunities, contracting, and career opportunities. Spanish was selected as the language of focus because the Hispanic community has become the largest ethnic minority in the United States. The Federal Government considers Hispanic an ethnicity, not a race. Therefore, people of Hispanic ethnicity can be of any race. According to the Bureau of the Census, the Latino population grew to 37 million in July 2001. (www.commerce.gov/index_spanish.htm).

Several Spanish-language presentations on the Census 2000, including slides and presentation text, were available for downloading from the Census Bureau web site. Census 2000 logos, taglines, and a glossary of terms in multiple languages were posted on the Internet for partner organizations to use. Printed Language Assistance Guides in

more than 40 languages were made available on the Internet. And, all Census 2000 data, available for states, are also available for Puerto Rico, in Spanish, from the Census Bureau's online database -- the American Factfinder. Reports dealing with the Hispanic population, Hispanic-owned businesses, and the foreign-born population are routinely issued in both English and Spanish. Recent reports include: *Viniendo de las Américas: Un perfil de la población nascida en el extranjero desde América Latina*; *Negocios de propiedad hispana:1997*; and *La población hispana*.

The Census Bureau produces *Al Día*, a daily 60-second feature in Spanish based on timely subjects that combine people, places, dates and events with census data. This program is designed to illustrate interesting facts about this country and the Hispanic community using census data to show the diversity of the American experience. *Al Día* consists of translations of features taken from the English language service, *Profile America*, as well as other themes of interest surrounding the Hispanic culture. Radio stations may download these from www.census.gov/pubinfo/www/radio/adindex.html for broadcast or request a CD that is issued each month.

The International Trade Administration's (ITA) Commercial Service's Buy-USA Web Site, maintained by its office in Miami, provides information on export promotion services in Spanish, English, and Portuguese (www.buyusa.com/cgi-bin/db2www/index.d2w/input).

Upon the availability of funds, the Minority Business Development Agency's (MBDA) Internet Portal will provide on-line business development services and referrals to eligible African Americans, Spanish-speaking Americans, Asian-Pacific Americans, Native Americans, Puerto Ricans, Asian Indians, Inuit or Alaskan Natives, and Hasidic Jewish businesspersons. MBDA will look into translation options to expand its home page to provide, in Spanish, Yiddish, Navajo, Vietnamese, Korean, and the most commonly spoken Chinese dialects, instructions on further information concerning access to services.

The National Institute of Standards and Technology's (NIST) on-line product catalogs for Standard Reference Materials and Standard Reference Data have links for Spanish-speaking customers. They are "NIST Calibration Services Spanish Customers" (www.ts.nist.gov/calibrations/Policies/spanish.htm), and "NIST Standard Reference Data - Database Price List in Spanish" (www.nist.gov/srd/dblist_Spanish_v.htm).

A Spanish-language biography of the NIST Director is available on the NIST web site at www.nist.gov/director/bios/bement_bio_spanish.htm.

2. *Written Materials*

Census plans to continue the extensive translation of written material to assist LEP individuals in completing the Decennial Questionnaires. Questionnaire Assistance Centers (QAC) will continue to be established to assist local residents, including those needing assistance because of language barriers, in completing their Census questionnaires. The Census Bureau furnished each QAC with Language Assistance Guides in more than 40 languages to help respondents complete their official Census 2000 questionnaire. A Census 2000 Language Identification Flashcard was also available for QAC staff and respondents to identify which language was spoken in the respondent household.

All households receiving an advance letter notifying them that they would soon be receiving the actual Census forms will continue to be offered the opportunity to request a questionnaire in Spanish, Tagalog, Vietnamese, Korean, Japanese, or Chinese. The Census English mailout/mailback short and long questionnaire were translated and printed in these six languages and will be available upon request to any stateside respondent receiving an advance letter.

Census will continue to issue *Be Counted* Questionnaires, which provide a means for people to be included in a Decennial Census who may not receive a census questionnaire or believe they would not be otherwise included (the homeless, etc.). The *Be Counted* Questionnaires are printed in Spanish, Tagalog, Vietnamese, Korean, Japanese, and Chinese. The *Be Counted* forms will be distributed at *Be Counted* sites and centers throughout the country. There were about 29,000 of these sites/centers located in easily accessible areas of communities that were historically undercounted during Census 2000.

Through a memorandum of understanding, the Census Information Centers (CICs) expanded their partnerships with communities and organizations from 5 minority organizations to 57 national, regional, and local non-profit organizations to increase access to Census Bureau data, including a full array of data products along with training and technical support. In return, the Centers serve as repositories of Census data and reports. The CICs use Census data in areas such as program planning, advocacy, needs assessment, service-area-definition, public policy developments, new business development and racial/ethnic research. The CICs have made and will continue to make Census information and data available in the languages of the communities they serve.

The Census Bureau's State Data Center (SDC) program has, since 1978, provided an effective vehicle for the dissemination of information about Census Bureau programs and products to state and local governments. The Business and Industry Data Center component was added in 1988 to address the data needs of local business communities. Approximately 1,800 independent organizations throughout the United States, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands

comprise the SDC network. These organizations include state agencies, universities, regional planning and government agencies, and trade associations. They provide local access and technical assistance to varied audiences, including LEP persons, on Census Bureau data for planning and decision-making by local governments and businesses.

Throughout the decade, the Census Bureau conducts many monthly, quarterly or annual surveys to measure demographic and economic conditions. Many of the questionnaires, explanatory letters and other materials are available in Spanish. These include the Current Population Survey, the Survey of Income and Program Participation, the American Community Survey, the National Health Interview Survey, the National Crime Victimization Survey, the Consumer Expenditure Survey, and the American Housing Survey.

In preparation for the 2010 Decennial Census, the Census Bureau is currently conducting research and program planning which is intended to provide respondents with both assistance and alternative strategies (bilingual language questionnaire, the Internet, and data collection using the telephone) for the completion of Census 2010 questionnaires received at home. Census is also working to develop in-language data collection tools for census enumerators to assist respondents who are either unable or unwilling initially to complete their questionnaire at home. Census 2010 forms will be prepared in a broad variety of diverse languages for use by respondents incorporating Census Bureau Best Practices for translation and testing to guarantee understandable wording and definitions.

MBDA has arranged for contract translation services for press releases intended to have a broad appeal for the Hispanic and/or Spanish-speaking community.

NIST issues approximately 30 English-language news releases each year, plus monthly and bimonthly newsletters. A Spanish version of a release describing Y2K help for Spanish-speaking small businesses was issued in 1999. NIST plans to increase efforts to promote NIST news to Spanish and other non-English media outlets, which could help increase awareness and understanding of NIST programs and activities among LEP groups.

Receptionists stationed in the lobbies greet walk-in visitors to both NIST sites. Although very few walk-in visitors are LEP persons, NIST plans to post basic information at both sites in the languages most frequently encountered.

NIST's Manufacturing Extension Partnership (MEP) is a network of over 400 not-for-profit centers nationwide which provides small and medium-sized manufacturers with the technical and business assistance they need to succeed. The national MEP program

currently has a version of the Lean 101 Principles of Lean Manufacturing training in Spanish. Many other products are in production in Spanish and should be released early

2003. These products included Set Up Reduction, Cellular Manufacturing, 5S Systems, Pull Systems, and Total Productive Maintenance.

NIST plans to translate its general information flyer into Spanish. The Malcolm Baldrige National Quality Award Questionnaire, *Are We Making Progress?* designed to help senior leaders assess how their organization is performing and focus improvement and communication efforts on areas needing the most attention is now available in a Spanish version *Estamos Progresando?* This was publicized in an issue of NIST Update.

The National Oceanic and Atmospheric Administration (NOAA), through its National Weather Service (NWS), plans to improve its communication with the public in providing weather, water, climate and All-Hazard information to the American people. The demographics of certain high-risk communities indicate that not all people are able to access weather, water, climate and hazardous weather information due to language barriers. NWS plans to produce NOAA Weather Radio and Spanish Language Service brochures in Spanish.

The National Telecommunications and Information Administration (NTIA).
Communication with the Public: Telephone contacts, electronic mail contacts, Freedom of Information Act requests, public conferences and meetings, NTIA public home page. Each of the types of public contacts are routine communications between the agency's personnel and the general public in the conduct of the agency's mission to develop public policy with respect to domestic and international telecommunications and information issues. While NTIA has no records indicating that persons with limited English proficiency have been unable to participate in the agency's activities, it is likely that their ability to do so would be limited.

Technology Opportunities Program: As part of its compliance with Executive Order 13166, NTIA has improved its policies with respect to ensuring that Technology Opportunities Program (TOP) applicants consider and address linguistic barriers in their applications. This year's draft Notice contains text to alert applicants that their projects will be rated, in part, based on the "the degree to which the project addresses barriers which limit a community's or a group's access to digital network technologies." The provision ensures that reviewers will consider a broad range of individuals' barriers to access, including limited English proficiency. In the section "Other Requirements" of this year's draft Notice, NTIA has developed a provision indicating that all TOP grantees must comply with the Department's requirements regarding EO 13166. NTIA has continued to cooperate with the Department's Grants Office regarding compliance with Executive Order 13166.

3. *Oral Language Interpretation*

The Census Bureau contacts businesses and conducts a census of economic activities

every five years. Spanish language telephone assistance is available from 8:00 a.m. to 8:00 p.m. EST. In addition, radio public service announcements are available in English

and in Spanish: Hector Barreto, Administrator of the U.S. Small Business Administration; George Herrera, President and CEO of the U.S. Hispanic Chamber of Commerce; and Rosario Marin, Treasurer of the United States.

The Census Bureau produces *Al Día*, a daily 60-second feature in Spanish based on timely subjects that combine people, places, dates and events with census data. This program is designed to illustrate interesting facts about this country and the Hispanic community using census data to show the diversity of the American experience. *Al Día* consists of translations of features taken from the English language service, *Profile America*, as well as other themes of interest surrounding Hispanic culture.

Census will explore for use during future surveys available telephone interpreting services and the existence and availability of emerging interactive voice recognition (IVR) in multiple languages, including the capability of the IVR to identify and function with non-dominant or less-frequently spoken languages.

The ITA trade experts staffing the Trade Information Center (TIC) collectively have a proficiency in a number of foreign languages. Callers with limited English proficiency (generally Spanish-speaking) who call the TIC directly are referred to the appropriate specialist for their language in the TIC. Similarly, ITA normally refers callers with limited English proficiency to its individual country or industry desks to the TIC for assistance. When a particular language is not represented in the TIC, the TIC maintains a list of people elsewhere in ITA with the required language skills and attempts to place the caller in contact with the appropriate person.

ITA utilizes a Commercial Service database which creates an employee profile section that lists the languages spoken by Commercial Service employees. The domestic network of U.S. Export Assistance Centers uses this information when LEP clients seek export assistance service. Contact information will be given to LEP clients so that they can make arrangements for translation. In addition, Spanish-speaking personnel are stationed at Export Assistance Centers in California, Texas, and Florida.

ITA's Global Diversity Initiative will offer its Market Entry Program, a training program designated to improve the export readiness of minority-owned companies, in both Spanish and Korean, beginning in California.

MBDA's communication with the public relates primarily to telephone requests for referrals to programs that provide business development services to eligible minority business persons: African Americans, Spanish-speaking Americans, Asian-Pacific Americans, Native Americans, Puerto Ricans, Asian Indians, Inuit or Alaskan Natives, and Hasidic Jews. The MBDA programs serving these communities are the Minority Business Development Centers, Native American Business Development Centers, and the Minority Business Opportunity Committee Program. MBDA strives to recruit bi-lingual

employees who manage and operate its programs. MBDA will look into strategies to offer telephone access to these programs for eligible LEP persons requiring services in Spanish, Yiddish, Navajo, Vietnamese, Korean, and the most commonly spoken Chinese dialects, based upon the availability of funds.

In FY 2002, NIST's Public Inquiries Office handled approximately 10,000 general and technical inquiries by phone, e-mail, fax, and postal mail. Most calls from LEP individuals would be processed through this office. Staff estimate that approximately two calls per month are placed by LEP individuals. Calls and inquiries from LEP individuals are handled on a case-by-case basis. If the language needed can be determined, efforts are made to contact a NIST employee fluent in that language. The NIST Office of International and Academic Affairs (OIAA) and Office of Information Services (NIST Research Library) have provided assistance in the past. OIAA has handled requests from LEP individuals speaking Spanish, French, Italian, Japanese, and the most commonly spoken Chinese dialects. OIAA coordinates the guest researcher program at NIST and can ask for guest researcher assistance in translating calls. NIST hosts more than 350 guest researchers from over 70 different countries. Reference librarians in the NIST Research Library are fluent in several languages and are accustomed to dealing with foreign visitors.

NIST has a general information video, *NIST in 5 Minutes and 41 Seconds*, which provides information on NIST programs. A Spanish-language version is available. A Spanish version of the NIST centennial video will be available soon, and NIST plans to translate future general interest videos into Spanish.

NIST organizes and leads approximately 50 tours per year for VIPs, peer professionals, and students. NIST occasionally hosts groups of LEP individuals (for example, a group of Hispanic students). Efforts are made to have bilingual speakers able to speak their language and answer specific questions.

NOAA's NWS plans to add a Console Replacement System with concatenated voice capability for the automated Spanish trailer broadcast of critical products, instead of synthesized voice.

4. *On-going LEP Needs Analyses*

This plan has been prepared through updated re-examination by bureaus of their program accessibility to persons with LEP. In addition to general periodic reassessments by each bureau, the following bureaus highlighted targeted areas to be evaluated for further compliance with the EO.

Throughout the decade, Census will continue its examination, analysis, and field-testing of potential fulfillment alternatives including the following: (1) the technical feasibility and logistics associated with providing multiple language Census response options via the Internet; (2) an analysis of how other public and private sector firms satisfy requests for written information (fulfillment) and how these firms capture and

process respondent data in languages other than English; and (3) the optimal way to provide official paper questionnaires in multiple languages to respondents in a timely manner including the feasibility of providing on demand digital printing language questionnaires through Telephone Questionnaire Assistance (TQA) Centers, a 1-800 number, and Census Bureau Regional or District Office.

As indicated earlier, NOAA's NWS recognizes the need to improve its communication with the public in providing weather, water, climate and All-Hazard information to the American people. NWS plans to take the following corrective steps: (1) identify and compile a database of areas at risk due to inadequate NOAA Weather Radio coverage; (2) assess needs for feasibility of adding multi-lingual NWS and other dissemination support across the country; (3) assess the effectiveness of Spanish Language Service at select sites; and (4) assess the Haitian LEP population in the Southeastern U.S. to determine the need to include French Creole as a language for announcing weather conditions.

Each of the types of NTIA public contacts, i.e., telephone contacts, electronic mail contacts, Freedom of Information Act requests, public conferences and meetings, and the NTIA public home page, are routine communications between the agency's personnel and the general public in the conduct of the agency's mission to develop public policy with respect to domestic and international telecommunications and information issues. While NTIA has no records indicating that persons with limited English proficiency have been unable to participate in the agency's activities, it is likely that their ability to do so would be limited. NTIA will cooperate in any inter-bureau plan to increase LEP accessibility.

