

Synopsis of DOT Guidance to Recipients on Special Language Service to Limited English Proficient (LEP) Beneficiaries¹

The U.S. Department of Transportation published policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons. This guidance is effective immediately. Comments must be submitted on or before March 23, 2001. DOT will review all comments and will determine what modifications to the policy guidance, if any, are necessary.

Limited-English-proficient persons are individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the transportation provider or other DOT recipient.

Meaningful Access

Recipients must take reasonable steps to ensure "meaningful access to DOT recipients' programs and activities. The key to providing meaningful access to LEP persons is to ensure that recipients and LEP beneficiaries can communicate effectively and act appropriately based on that communication.

Recipient are required to take reasonable steps to eliminate barriers to meaningful communication with LEP individuals and to provide necessary services equivalent to those provided to people who are fully English proficient. What "reasonable steps" should be taken will depend upon the following factors:

- Number and proportion of LEP persons potentially served by the recipient's program or activities, and the variety of languages spoken in the recipient's service area. The steps that are reasonable for a recipient whose program or activities affects one LEP person per year will be different for a recipient who affects many LEP persons on a regular basis. DOT encourages recipients whose program or activities affect very few LEP persons on an infrequent basis to consider reasonable steps for involvement of LEP persons and to plan for situations in which LEP persons will be affected under the program or activity in question.

- The frequency with which LEP persons are affected by the programs or activities.

¹ This is a synopsis of the guidance that the U.S. Department of Transportation published in the Federal Register on January 22, 2001. This document is a synopsis of most of the items covered in the guidance and is not as complete as the guidance. For a copy of the guidance see http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2001_register&docid=01-1745-filed.pdf.

- The importance of the effect of the recipient's program or activity on LEP persons, bearing in mind that transportation is considered an essential service to participate in modern society.
- The resources available to the recipient, and whether the recipient has budgeted for provision of special language services.²
- The level of services provided to the fully English proficient people.
- Whether LEP persons are being excluded from services or being provided a lower level of services.
- Whether the recipient has adequate justification for restrictions, if any, on special language services or speaking languages other than English.³

Effective Language Assistance Program

DOT has determined that effective language assistance programs usually address each of the elements described below:

- *Needs Assessment.* A recipient should conduct a thorough assessment of language needs of communities affected by the recipient. Specifically, DOT encourages recipients to identify linguistically isolated populations or job sites in which LEP persons represent a significant portion of the workforce.
- *Written Language Assistance Plan.* Such a plan should include policies and procedures for identifying and assessing the language assistance options, periodic training of staff, actual provision of services and monitoring of the program.
 - *Staff Training.* Disseminate the recipient's policy to all employees likely to have contact with LEP persons and periodically train employees.

² The totality of the recipient's circumstances will be considered including the size of the budget of the largest organizational entity that supervises the work of the program, project or activity that directly receives DOT financial assistance. For example, for a unit of the state DOT, the budget of the entire state DOT will be used as a point of reference. Other considerations include the size of the LEP population, the degree to which such populations have been historically excluded from such services, the availability of less costly alternatives, whether the costs can be amortized over time, whether service can be phased in over time, the possibility of alternative sources of funds, and how long the recipient has been on notice that the special language services should be provided.

³ Such justifications would be rare. Safety justifications would generally not be accepted unless accompanied by statistical and/or scientific causality studies and evidence showing a positive correlation between limited English proficiency and crash and death/injury rates at rates substantially higher than would be expected due to chance.

- Special Language Assistance. This should include notification of the availability of services free of charge, posting signs in regularly encountered non-English languages in waiting rooms, reception areas and other initial point of entry, translation of application forms and instructional, informational and other written materials, uniform procedures for telephone communication between staff and LEP persons, notice of availability of free language services in brochures, booklets, outreach and recruitment materials.
- Monitoring. The recipient should regularly monitor current LEP demographics, current communication needs of LEP communities, whether the recipient's plan is adequately supported, analyze complaints or grievances alleging lack of services for LEP persons, knowledge of recipient staff about LEP policies and procedures.

Ways of Providing Language Services

The guidance discusses three methods of providing these services: oral interpretation; written translation; and alternative, non-verbal methods.

Vital documents, those that contain information that is critical for obtaining federal services and or benefits or is required by law, should be translated when a significant number or percentage of population eligible to be served, or likely to be directly affected needs services or information in non-English language to communicate effectively.

DOT recognizes that it would be impossible from a practical and cost-based perspective to translate every piece of outreach material. However, the recipient should continually survey/assess the needs of eligible service populations to determine whether critical outreach materials should be translated.

Application of this Guidance

A recipient should have a grievance or complaint procedure. Also, a recipient should conduct LEP community outreach and education. Transportation plans should identify how the needs of LEP persons will be met where a significant number of such persons can be reasonably expected to need transportation services.

The extent of the service area will in part determine the number or percent of the covered population. This population includes those who may potentially be served by the recipient.

Special language services for first responder, emergency and public safety services should be delivered without noticeable delay.

Signage along highways presents a very difficult LEP topic. At least one state DOT reported that some LEP persons may not have the ability to read variable message signs that alert them to dangerous driving conditions. DOT recommends that recipients explore the possibility of either using pictorial or symbol messages or translating messages into frequently encountered languages on variable message signs that report dangerous driving conditions.

Low literacy, non-literacy, use of non-written languages, blindness and deafness among LEP populations can affect responsibilities of recipients. A non-written language precludes the translation of documents, but does not affect the responsibility of the recipient to communicate the vital information contained in the document or to provide notice of the availability of oral translation according to the size of that language group.

Language issues are sometimes local issues due to matters of usage, dialect, and local preference. Recipients should field test translations with different local language populations to ensure effective communications.

Method to provide special language services that do not segregate should be used whenever possible.

When a LEP individual does not speak a language spoken by a significant number or proportion of the population seeks services or information from a recipient, the recipient should make reasonable efforts to meet the particularized needs of that individual.

A general customer or service survey by a recipient should include participation of people who are LEP.