



U. S. Department of Justice

Civil Rights Division

Assistant Attorney General

Washington, D.C. 20035

DEC 12 2005

MEMORANDUM

TO: CIVIL RIGHTS DIRECTORS AND COUNSEL

FROM: Wan J. Kim *WJK*
Assistant Attorney General

SUBJECT: Nondiscrimination on the Basis of Race, Color,
or National Origin: Hurricane-Related Issues

I am writing to ask for your assistance in responding to the urgent needs of limited English proficient (LEP) and other vulnerable communities affected by hurricanes Katrina and Rita. These communities are protected by Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in programs receiving federal financial assistance.

As you may know, on October 5, 2005, the Coordination and Review Section (COR) hosted a Title VI/LEP coordination meeting of several key agencies involved in the hurricane relief and recovery effort. COR called the meeting as a result of reports it received regarding language, national origin, and race-related issues in the delivery of services to hurricane victims, and in response to suggestions made during a September 22 meeting of the Federal Interagency Working Group on LEP's Federally Conducted Committee. Thanks to the participants' overwhelming interest and commitment to assisting in civil rights-related aspects of hurricane relief and recovery, the October 5th meeting yielded a wealth of ideas and action items that I am pleased to share with you.

First, it is recommended that all federal agencies review their web-sites, especially the hurricane relief portions, to ensure that important information relating to agency and recipient civil rights obligations, assistance options, and resources for those experiencing difficulty in accessing services, is provided in multiple languages. To assist you in this process, COR has worked with the Department of Homeland

Security and other agencies to conduct an assessment of census data, Department of Labor special tabulations data, Social Security Administration records, and Department of Education data. This assessment indicated that the languages most frequently implicated in the hurricane-affected areas include Spanish, Vietnamese, French, Korean, Chinese, Laotian, and Arabic. Several other languages were identified, but with less frequency; COR would be happy to provide this additional information upon request.

Second, I encourage each agency to consider civil rights issues in the dissemination of local rebuilding, recovery, and planning grants. Agencies should continue to utilize general civil rights-related grants language where appropriate. In addition, I am enclosing two attachments: the first provides examples of grants language relevant to LEP issues used by the Department's Office of Justice Programs and the Department of Housing and Urban Development; the second is a letter that was sent from the Department's Asset Forfeiture and Money Laundering Section to state and local law enforcement agencies. In order to expedite assistance to the Gulf Coast region, some federal agencies and recipients have broadly waived requirements that are normally tied to contracts and/or to the receipt of federal funds. I would caution, however, that where appropriate it should be clarified that statutory and regulatory civil rights obligations nevertheless continue to apply and cannot be waived.

Finally, I urge each agency to consider civil rights issues in all aspects of its hurricane response, both in the short term and the long term. There are many steps agencies can take to ensure that race, color, and national origin, including LEP status, do not impede access to information, shelters, and other evacuation and relief services. For example, hurricane task forces currently forming at various agencies can incorporate the full range of civil rights concerns into their agendas. Other proactive steps include:

- Conducting outreach to community and faith-based organizations serving minority populations for purposes of advising them about available assistance and including them in disaster preparedness, recovery, and reconstruction planning.
- Ensuring that agencies have in place language services so that LEP persons are able to communicate their needs, apply for assistance, and receive important information about the process.

- Reminding agency components, recipients, and community organizations of the eligibility standards for obtaining benefits, so that eligible individuals can access aid without difficulty.
- Providing technical assistance to the many recipients engaged in re-examining evacuation and disaster preparedness plans to ensure that plans address the specific needs of minority populations, particularly those that are isolated due to LEP, immigration, or income status.

I would also like to take this opportunity to remind you that the Department (through COR) serves as a clearinghouse for Title VI and LEP complaints. If agencies receive hurricane-related complaints with unclear jurisdiction, they should contact COR at (202) 307-2222 for assistance in determining the appropriate agency for referral.

Thank you for your continued support in protecting the civil rights of the Gulf Coast hurricane victims. I look forward to our continued joint efforts in this important initiative.

ATTACHMENT 1

Examples of grant language on limited English proficiency (LEP):

(1) The Department of Justice's Office of Justice Programs (OJP) includes limited English proficiency language in a competitive grant announcement. That language is reproduced in pertinent part below:

Limited English Proficiency

Recipients of OJP financial assistance are required to comply with several federal civil rights laws, including Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act), as amended. These laws prohibit discrimination on the basis of race, color, religion, national origin, and sex in the delivery of services. National origin discrimination includes discrimination on the basis of limited English proficiency (LEP).

To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Grantees are encouraged to consider the need for language services for LEP persons served or encountered both in developing their proposals and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. The U.S. Department of Justice has issued guidance for grantees to assist them in complying with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov, by contacting OJP's Office for Civil Rights at 202-307-0690, or by writing to the following address:

Office for Civil Rights Office of Justice Programs
U.S. Department of Justice
810 7th Street NW.,
Eighth Floor Washington, DC 20531

(2) The Department of Housing and Urban Development's grant language on limited English proficiency can be found at page 13579 of the following link:
www.hud.gov/library/bookshelf18/supernofa/nofa05/gensec.pdf. That language is reproduced in pertinent part below:

Executive Order 13166 seeks to improve access to federally

assisted services, programs, and benefits for individuals with limited English proficiency. Applicants obtaining an award from HUD must seek to provide access to program benefits and information to LEP individuals through translation and interpretive services in accordance with LEP guidance published on December 19, 2003 (68 FR 70968). For assistance and information regarding your LEP obligation, go to <http://www.lep.gov>.

ATTACHMENT 2



U.S. Department of Justice


Criminal Division

Washington, D.C. 20530

SEP 13 2005

MEMORANDUM

TO: State and Local Law Enforcement Agencies

FROM: Nancy L. Rider, Deputy Chief
Asset Forfeiture and Money Laundering Section 

SUBJECT: Use of Shared Funds to Pay for Language Assistance Services

The Asset Forfeiture and Money Laundering Section received a request from the Civil Rights Division's Coordination and Review Section to provide guidance on the use of equitably shared funds to pay for language assistance services. This memorandum serves as a guide to using shared funds to improve access to law enforcement services for persons with Limited English Proficiency (LEP).

It is permissible to use equitably shared funds to pay for language assistance services. In connection with their law enforcement activities and operations, recipient agencies are encouraged to consider the need for language services for persons with LEP and may use shared funds to provide such services. Examples of permissible uses include the costs of language training for law enforcement personnel and 911 operators, contracting for interpretation services, and printing law enforcement documents in languages other than English.

We appreciate the fine work state and local law enforcement agencies provide and hope that the funds the Department has shared with your agencies will serve to further those efforts. If you have any questions, please contact Junior Financial Analyst Lisa Trueblood at (202) 616-0702.