

LIMITED ENGLISH PROFICIENCY OUTLINE (Updated August 2013)

I. WHO ARE LEP PERSONS?

A. A limited English proficient (“LEP”) person is anyone:

1. who does not speak English as his/her primary language and who has a limited ability to read, write, speak, or understand English;¹ or
2. who speaks English “less than very well.”²

II. LIST OF LEGAL AUTHORITY REQUIRING LANGUAGE ACCESS

A. Statutes

1. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*
2. Violence Against Women Reauthorization Act of 2013 (VAWA 2013), Pub. Law 113-4, 127 Stat. 54 (2013), § 601 (to be codified at 42 U.S.C. § 14043e-11(d)) (housing protections).
3. Fair Housing Act, 42 U.S.C. § 3604, *et seq.*

B. *Lau v. Nichols*, 414 U.S. 563 (1974).

C. Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” 65 F.R. 50121 (Aug. 16, 2000).

D. Administrative Guidance

1. **HUD Final LEP Guidance:** U.S. Dep’t of Housing and Urban Dev., “Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,” 72 F.R. 2732 (Jan. 22, 2007).
2. **USDA (Rural Development) Proposed Final Guidance:** U.S. Dep’t of Agriculture, “Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency.” 77 F.R. 13980 (Mar. 8, 2012).

¹ U.S. Dep’t of Housing and Urban Dev., “Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” 72 F.R. 2732 (Jan. 22, 2007).

² Language proficiency category used in the U.S. Census and American Community Survey

III. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AND LANGUAGE ACCESS

- A. Prohibits discrimination on the basis of **national origin**
 - 1. Must provide equal services in scope and quality as those provided in English
 - 2. Cannot require a LEP person to provide her own interpreter
 - 3. State and local “English-only” laws do not excuse federally assisted programs from LEP compliance.
- B. Covers all entities receiving “federal financial assistance”
 - 1. Examples of programs receiving federal financial assistance **include**
 - a. Federal agencies, such as HUD and USDA
 - b. Public housing authorities and project-based Section 8 owners
 - c. Recipients of CDBG, HOME, and HOPWA funds
 - d. USDA/Rural Development programs
 - e. HUD programs listed at: U.S. Dep’t of Housing and Urban Dev., “List of Federally Assisted Programs,” 69 F.R. 68700 (Nov. 24, 2004).
 - 2. Entities **not covered** under Title VI
 - a. Private housing, including landlords who accept tenant-based Section 8 Housing Choice Vouchers (except if other covered federal funds are received)
 - 3. Programs **likely not covered** under Title VI
 - a. Low Income Housing Tax Credit (LIHTC) program
 - a. Exception: LIHTC properties that received American Reinvestment and Recovery Act (ARRA) of 2009 funds
 - 4. Entities that receive ***any*** “federal financial assistance” are subject to LEP administrative guidance.
 - a. Housing providers that receive some funding covered by Title VI as well as additional funding not covered by the statute would still have LEP obligations under Title VI.

IV. *LAU V. NICHOLS*, 414 U.S. 563 (1974)

- A. In this decision, the U.S. Supreme Court ruled that a school district's failure to provide English language instruction denied meaningful opportunity to participate in a public educational program. This failure to provide language access constituted a violation of the Title VI prohibition against **national origin discrimination**.
- B. This case established the link between language discrimination and national origin discrimination under Title VI.
 - a. In 2012, a district court reaffirmed the link between national origin discrimination and language discrimination (*United States v. Maricopa County*, 915 F. Supp. 2d 1073, 1079-81 (D. Ariz. 2012)).

V. EXECUTIVE ORDER 13166, “IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY”

- A. Reaffirms the relationship between national origin and limited English proficiency
- B. Orders federal agencies and federally assisted programs to create plans to ensure language access
- C. Directs agencies and programs to work with LEP persons and their representatives when creating language access plans

VI. ADMINISTRATIVE GUIDANCE

A. HUD Final LEP Guidance

- 1. Recipients of federal funds must:
 - a. conduct a four-factor analysis;
 - b. develop a Language Assistance Plan (LAP); and
 - c. provide appropriate language assistance.
- 2. Four-factor analysis in determining LEP needs
 - a. Number of LEP persons from a particular language group eligible to be served or encountered
 - i. Examples of types of data:
 - 1. U.S. Census data (available online at [American FactFinder](#));
 - 2. data from school systems;
 - 3. community organizations; and
 - 4. state and local governments
 - b. Frequency of contact with LEP persons
 - c. Importance and nature of the program, activity, or service to LEP individuals
 - d. Resources available, including costs of providing LEP services
- 3. Written translation
 - a. Safe harbor provision for written translation only
 - i. Must provide translation of vital documents for language groups making up more than 5 percent of the population
 - 1. Doing so is viewed as “strong evidence of compliance”
 - ii. If the language group that meets the 5 percent threshold constitutes fewer than 50 people, then must provide translated written notice indicating that free oral interpretation of the written documents is available
 - b. Must translate vital documents
 - i. Vital documents are documents that “those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries”; additionally, the LEP Guidance states that whether a

document 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.”

ii. The Office of Public and Indian Housing has identified the following non-exhaustive list of “vital” documents:

1. the tenancy addendum for the Section 8 voucher program,
2. Housing Assistance Payment contract,
3. Request for Tenancy Approval,
4. Authorization for Release of Information,
5. Family Self Sufficiency (FSS) Escrow Account worksheet,
6. Voucher Program, Statement of Homeownership Obligations,
7. FSS contract of participation and the document entitled “A Good Place to Live,” and
8. HUD has already [translated](#) the “How Your Rent is Determined” fact sheet into Spanish, Chinese, Korean, and Vietnamese.

iii. The HUD LEP Guidance identified other documents that may be “vital”:

1. Consent/complaint forms
2. Notices of eviction
3. Notices advising LEP persons of free language assistance
4. Intake forms
5. Hearing notices
6. Written notices of rights, denial, or a decrease in services or benefits
7. Leases/tenant rules
8. Applications to receive benefits/services or to participate in a program
9. Notices of public hearings, particularly those meeting Community Planning and Development’s citizen participation requirements

4. Oral Interpretation

- a. Can use bilingual staff
- b. Strongly discourage use of friends and family (conflict of interest, problems with candidness, etc.)
- c. Cannot use minor child as interpreter

5. Developing a Language Assistance Plan

- a. Identifying LEP persons who need language assistance and the specific language assistance that is needed;
- b. Identifying the points and types of contact the agency and staff may have with LEP persons;

- c. Identifying ways in which language assistance will be provided;
 - d. Conducting effective outreach to the LEP community;
 - e. Training staff;
 - f. Determining which documents and informational materials are vital;
 - g. Translating informational materials in identified language(s) that detail services and activities provided to beneficiaries (e.g., model leases, tenants' rights and responsibilities brochures, fair housing materials, first-time homebuyer guide);
 - h. Providing appropriately translated notices to LEP persons (e.g., eviction notices, security information, emergency plans);
 - i. Providing interpreters for large, medium, small, and one-on-one meetings;
 - j. Developing community resources, partnerships, and other relationships to help with the provision of language services; and
 - k. Making provisions for monitoring and updating the LAP, including seeking input from beneficiaries and the community on how it is working and on what other actions should be taken.
6. Examples of services/practices that assist LEP persons:
- a. Oral interpretation services;
 - b. Bilingual staff;
 - c. Telephone service lines interpreter;
 - d. Written translation services;
 - e. Notices to staff and recipients of the availability of LEP services;
 - f. Referrals to community liaisons proficient in the language of LEP persons; and
 - g. Language identification cards invite LEP persons to identify their own language needs.
- B. RD Proposed Final Guidance
- 1. The RD LEP Guidance largely mirrors the HUD LEP Guidance.
 - 2. Directs funding recipients to conduct the four-factor analysis, develop an LEP plan, translate vital documents, and provide oral interpretation and written translations

VII. FAIR HOUSING ACT (FHA)

- A. The FHA prohibits discrimination on the basis of national origin in the sale, rental, or financing (and associated terms, conditions, and privileges) of dwellings. 42 U.S.C. § 3604.
- B. However, the courts have not uniformly accepted a link between national origin discrimination and language discrimination under the FHA.
- C. The FHA has a broader scope than Title VI because it applies to private dwellings, not just federally-funded housing.
 - 1. Applies to almost all housing, with few, narrow exceptions

VIII. ENFORCEMENT

A. *Alexander v. Sandoval* , 532 U.S. 275 (2001)

1. No private right of action under disparate impact cases brought under Title VI
2. Can *still sue under discriminatory intent theory* under Title VI
3. Some have suggested that this decision threw into question the relationship between national origin discrimination and language access, *however*:
 - a. DOJ wrote a 2001 memo affirming federal agencies' language access obligations under E.O. 13166 and Title VI post-*Sandoval*. See Ralph F. Boyd, Jr., Assistant Attorney General, Civil Rights Division, DOJ, Memorandum Re: "Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency)" (Oct. 26, 2001), available at: <http://www.justice.gov/crt/about/cor/lep/Oct26memorandum.pdf>
 - b. Federal agencies have continued to construe language access as a form of national origin discrimination (e.g., HUD Final LEP Guidance, 2007); and
 - c. Recently, one federal district court including language reaffirming the link between national origin discrimination and language discrimination (*United States v. Maricopa County*, 915 F. Supp. 2d 1073, 1079-81 (D. Ariz. 2012)).

B. Advocates can still file an administrative complaint with HUD.

1. Title VI can still be enforced by HUD for acts of language discrimination.
2. Additionally, advocates can allege national origin discrimination under the Fair Housing Act (FHA) in a HUD complaint.
 - a. Example: Virginia Realty of Tidewater Conciliation Agreement available at: <http://portal.hud.gov/hudportal/documents/huddoc?id=OPADOC.PDF> (HUD filed and settled a complaint alleging national origin discrimination under the FHA when private landlord had a written policy prohibiting LEP persons from renting.)

IX. ADDITIONAL RESOURCES

A. Federal Government LEP Materials

1. <http://www.lep.gov> (federal government clearinghouse for LEP information)
2. <http://www.lep.gov/selfassesstool.htm> (a self-assessment tool for federal grantees to use in preparing LEP implementation plans)
3. <http://www.lep.gov/ISpeakCards2004.pdf> ("I Speak" card that allows organizations that serve LEP clients identify the specific language spoken by an LEP person)

B. LEP Statistics

1. <http://www.census.gov/population/www/cen2000/briefs/phc-t37/index.html>

(selected Census data regarding English proficiency)

2. <http://www.migrationinformation.org/Feature/display.cfm?ID=960> (page includes link to Excel spreadsheet with LEP data at the county level for all 50 states and D.C.)

C. HUD LEP Resources

1. <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm> (HUD LEP webpage that includes important information such as centrally translated documents)
2. http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q10 (HUD FAQ section that discusses the agency's Final LEP Guidance issued in 2007 and includes topics such as: vital documents, language access plans, and what the Guidance requires of recipients of federal funds)

FOR MORE INFORMATION

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Questions and Answers from February 28, 2007.
Limited English Proficiency Meeting

PART I. General Questions:

Question: What is the definition of the eligible service area?

Answer: Depending on the HUD and local program, the "eligible service area" could be the Metropolitan Statistical Area (MSA), the "local market area," the recipient's jurisdiction, the local neighborhood or a number of other localities with defined boundaries (e.g., highways, lakes, etc.). It is the area from which the program would expect to draw its applicants and beneficiaries. In a multifamily housing program, it would be the market area approved by HUD for the Affirmative Fair Housing Marketing Plan; for a Public Housing Agency (PHA), it would be the geographic area approved by HUD as the recipients' jurisdiction; for a Community Development Block Grant Program (CDBG), it would be the Entitlement Jurisdiction (EJ). For subrecipients in these programs, it would depend on their contract with the recipient organization.

Question: Is there a deadline to develop an LEP plan?

Answer: There is no requirement to develop an LEP Plan or Language Assistance Plan (LAP). Therefore, there is no official deadline for developing one. However, the guidance became effective on March 5, 2007. Whether a HUD federally-assisted recipient has an LAP or not, they are responsible for serving LEP persons in accordance with Title VI of the Civil Rights Act of 1964. A HUD review of a recipient will look at the *totality* of its program to date; whether the recipient has taken "reasonable steps" in providing equal access to persons who are LEP, and whether they have conducted a four-factor analysis to determine need.

Question: Are housing providers allowed to ask individuals or families if they are LEP?

Answer: Housing providers may ask individuals or families whether they are LEP so long as the questions are ***asked consistently of everyone***. HUD strongly encourages recipients to allow individuals or families identify themselves as LEP.

Question: Which lease is executed; the English or translated lease?

Answer: The English lease is the "official" lease. Whether or not a translated lease is signed (for instance, as evidence that it was provided to the tenant), it should be clearly noted, "This lease is for information purposes only. The English lease is operative."

Question: What documentation is required to demonstrate undue administrative or financial burden in regard to translations?

Answer: Some documentation that may demonstrate undue administrative or financial burden may include:

- Four Factor Analysis;
- LAP;
- Comparison of the estimated cost of providing written translations to persons who are LEP with your organization's operating budget for outreach;
- Efforts in collaboration with local housing providers in providing language services; and
- Organization's annual budget along with income and expense plans.

Question: What is the consideration for those states or localities that require all documents to be provided in an alternative language if one document is provided in an alternative language? Will there be any consideration due to undue financial burden?

Answer: Under normal circumstances, Federal statute and regulations would trump the state or local statutes and requirements. Therefore, HUD will have to evaluate these kinds of statutes and requirements on a case by case basis to determine whether there are any conflicts.

Question: Are private landlords required to follow the LEP guidelines?

Answer: Landlords who *only* participate in the Housing Choice Voucher (HCV) program are not subject to Title VI. Therefore, the LEP obligations would not apply to them. However, if landlords who participate in the HCV program also receive other HUD financial assistance (e.g. HOME funds), they would be subject to Title VI and it would be advisable for them to follow HUD's LEP guidance.

The LEP guidance would also apply to public housing agencies or other administrators of HCVs are subject to Title VI, as are housing providers who participate in the Project-Based Section 8 program.

PART II. Questions for the Office of Fair Housing and Equal Opportunity:

Question: Can a person file a housing discrimination complaint based on national origin because the landlord did not translate notices sent to all tenants in their native language(s)?

Answer: There is nothing to stop anyone from filing a housing discrimination complaint. If such a complaint were investigated, any decision would be based on the recipient's total program. Factors that would be considered in the investigation include whether the four-factor analysis was conducted, what the results of that analysis were, whether the safe harbor for translations was met for the specific language of concern, whether the notice is vital to the tenant's interests, and what other interpretations and translations the recipient is providing.

Question: Do FHAP agencies have the responsibility to serve as interpreters or to translate documents into the native language of the complainant filing a complaint with their agency?

Answer: FHAP Agencies are HUD recipients. They are subject to the requirements of Title VI, including LEP requirements.

Question: Will HUD provide translated compliance agreements when a complaint has been made based on failure of a recipient to provide translation and/or interpretation?

Answer: HUD will not be providing translations of voluntary compliance agreements (VCA) because the VCA is the legal document between HUD and the recipient. However, a summary of the VCA may be provided by the recipient in the affected languages.

PART III. Questions for the Office of Community Planning and Development:

Question: What are the requirements for subrecipients of CDBG and HOME funds? As a participating jurisdiction, must we require our sub-recipients to have an LEP Plan?

Answer: CDBG and State fund recipients are obligated under 24 CFR 91.105 (a) (2)(ii), and 24 CFR 91.115 (b)(3)(iii) to provide language services for the citizen participation process. The regulations provide that for CDBG recipients, "...[a] jurisdiction also is expected to take whatever actions are appropriate to encourage the participation of all its citizens, including minorities and non-English speaking persons, as well as persons with disabilities." For State recipients, "the citizen participation plan must identify how the needs of non-English speaking residents will be met in the case of a public hearing where a significant number of non-English speaking residents can be reasonably expected to participate."

The obligations ensuring equal access to services by non-English speaking residents are transferred to CDBG and State subrecipients.

Developing an LAP is one of the steps that recipients and subrecipients could take to demonstrate that they have taken "reasonable steps" to provide language services to persons who are LEP. Therefore, HUD highly encourages you and your subrecipients to have a written LAP.

Question: Is an owner of a project with HOME and/or CDBG funds required to do the analysis to determine how many LEP individuals are in its jurisdiction, or should that come from the funding city or county? For example, there are likely to be many owners within a particular city, and it does not seem cost effective for each to do a separate population analysis.

Answer: Many states and local jurisdictions receive funding from other Federal agencies. HUD recipients should work collaboratively with state and local governments to determine whether there are LEP persons to be served. If there are, this information should be part of your jurisdiction's "Citizen Participation Plan." 24 CFR 91.115(b)(3)(iii) requires recipients to "...identify how the needs of non-English speaking residents will be met in case of a public hearing..." The recipients could provide this data to their subrecipients to use in administering their own programs.

Question: We have non-profit organizations that we fund with both CDBG and HOME dollars to do capital construction and rehabilitation. What are the limitations to these nonprofits in the population groups they serve – especially when it comes to serving undocumented residents?

Answer: If an applicant or beneficiary is determined to meet the regulatory program requirements, the recipient or subrecipient is not responsible for any further review.

PART IV. Questions for the Office of Multifamily Housing

Question: If a private developer has multiple projects and only one project receives HUD funds, will the guidelines apply to those projects that do not receive HUD funds?

Answer: The answers to all questions of this type are the same. If a project is subject to Title VI of the Civil Rights Act of 1964, which applies to recipients of federal funding, it is subject to LEP. If it is not subject to Title VI, it is not subject to LEP. Title VI is applicable to programs with HUD funding. Multifamily Housing Projects that receive absolutely no benefit from federal funding would not be subject to Title VI, including LEP. Adequate separation of funds for the HUD-assisted project is already required.

Question: For properties that operate at a break-even status, how will funds be obtained to pay for the cost of interpreters? Unfortunately rent increases are not possible at many properties due to Rent Comparability Study (RCS) limitations.

Answer: The starting point for any recipient is to conduct an individualized self-assessment that balances the following four factors: (1) the number or proportion of LEP persons served or encountered in the eligible service area; (2) the frequency with which LEP persons come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program; and (4) the resources available to the grantee/recipient and costs. Recipients should keep in mind that available financial resources are one of the factors that they will analyze in determining their LEP obligations. It is possible that based on this four-factor assessment, *the recipients may not need to provide written translation of documents.*

Question: During a mass re-certification, is it the intent of the LEP regulation to provide interpreters for up to two hours per tenant, especially when there are three or more languages spoken? Due to privacy issues, it is not feasible to have translations with a group take place for certification of income and assets. Will the 120-day time period for re-certifications be extended to accommodate this additional requirement?

Answer: First, let's clarify that there is no LEP **regulation**; there is HUD **guidance**. The owner/agent's own four-factor analysis and LAP would determine the answer to this question. For example, it may be feasible to have one public meeting for each LEP language in the project to explain the re-certification process. The recipient could then work with each tenant for a much shorter period of time.

Question: Will contract administrators such as local finance agencies be responsible for translating their documents that they identify as vital documents?

Answer: The criteria are the same for all agencies. If the agency is a recipient or subrecipient of federal funds, it is subject to Title VI and is advised to follow the LEP guidance. Whether or not it is advisable for them to translate specific documents depends on the four-factor analysis, whether they have met the safe harbor, and whether they have outside resources with which they can share translations.

Question: Is the Guide now available in Spanish (which includes the standard income/family verification forms)?

Answer: HUD assumes that you are referring to the Multifamily Occupancy Guidebook. HUD has no plan to translate this Guidebook into Spanish because the guidance is used by recipients, not by the beneficiaries. In the future, HUD may consider translating the income/verification forms, over time, into other languages.

Question: Please specify all vital documents that must be translated for annual certifications.

Answer: Thus far, the Office of Multifamily Housing Programs has identified its four model leases as vital documents: Model Lease for Subsidized programs (Family Model Lease); Model Lease for Section 202/8 or Section 202 PACS; Model Lease for Section 202 PRACS; Model Lease for Section 811 PRACS.

Question: Does HUD plan to incorporate its LEP guidance into the next revision of HUD Handbook 4350.3, Rev. 1 and other occupancy handbooks and guidebooks?

Answer: Reference to LEP will be made in the forthcoming Change 3 of the Handbook. Additional guidance will be provided in future Handbook changes as we learn what issues need further explanation.

Question: Does HUD plan to translate the HUD 9887 and HUD 9887a?

Answer: These have not been determined to be “vital documents” and so there are no plans to translate these forms at this time.

PART V. Questions for the Office of Public and Indian Housing

Question: Is the Federal Privacy Act Notice and Authorization of Release of Information (HUD 9886) already translated and made available by HUD?

Answer: This form has been translated and will be made available shortly. ¹

¹ Call PIH to learn when it will be available.

VACAVILLE HOUSING AUTHORITY'S LANGUAGE ASSESSMENT FOUR – FACTOR ANALYSIS

In order to determine the estimated needs of Limited English Proficient (LEP) persons in the jurisdiction of the Vacaville Housing Authority (VHA), the VHA conducted the following analysis:

Factor 1 – Number or proportion of LEP persons served or encountered in the eligible service area

The VHA obtained information from the U.S. Census Bureau's American Factfinder website as recommended by HUD in order to gather data about the jurisdiction's overall population, as well as the population of LEP persons within the jurisdiction and the primary languages spoken. This data indicated the following:

Total population 5 years and over	76,380
Total LEP population 5 years and over	4,672
Spanish speaking LEP population 5 years and over	3,118
Asian and Pacific Islander language speaking LEP population 5 years and over	964
Other Indo-European language speaking LEP population 5 years and over	518
Other language speaking LEP population 5 years and over	72

The above data demonstrates that more than two-thirds of the jurisdiction's LEP population is Spanish speaking and that no other language meets the 5% or 1,000 person threshold for requiring written translation of vital documents. While the Asian and Pacific Islander language speaking LEP population is close to the threshold, the above numbers represent persons 5 years of age and older, and the VHA is confident that the actual number of potential clients is significantly lower due to the fact that children would not be seeking VHA services.

The VHA also completed in an informal, in-office survey to determine how many LEP persons visited or called the office, and what was their primary language, over a one-month period. This informal survey revealed that while there was a significant number of Spanish-speaking LEP persons contacting the VHA, there were no LEP persons who spoke languages other than Spanish.

In addition, the VHA is part of the City of Vacaville's Department of Housing and Redevelopment, which has conducted two Customer Service surveys in the last six years. The

surveys were available in the main lobby of the VHA's office for anyone to complete. The VHA did not receive any comments indicating a lack of LEP assistance. In addition, the VHA has never received any complaints regarding lack of availability of LEP assistance.

Factor 2 – Frequency of contact with the program

Through past experience, the VHA determined that on average, there are 2-3 Spanish speaking LEP persons contacting the VHA on a daily basis for information or assistance. Because of this, the VHA is committed to maintaining bilingual staff serving in both reception and case management. The VHA also has bilingual management staff in order to resolve higher lever concerns of Spanish speaking LEP persons.

Contacts with LEP persons who speak other languages are infrequent.

Factor 3 – Importance of service, information, program or activity

The services provided by the VHA are important as they relate to a client's need for, or continued provision of, affordable housing.

Factor 4 – Costs versus resources and benefits

Because the VHA has Spanish speaking staff, it is cost effective for the VHA to provide Spanish language translation of all vital documents and many others that while not vital, may be beneficial to a client.

The VHA will utilize any documents provided by HUD in languages other than English.

The VHA will seek to retain the services of a professional interpretation service to provide oral interpretation in languages other than Spanish as needed.

VACAVILLE HOUSING AUTHORITY'S LANGUAGE ASSISTANCE PLAN

I. Introduction

The Vacaville Housing Authority (VHA) is committed to providing equal opportunity housing in a non-discriminatory manner, and in complying fully with all Federal, State and local nondiscrimination laws and with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment. This includes complying with Title VI of the Civil Rights Act of 1964 to ensure meaningful access to programs and activities by Limited English Proficient (LEP) persons.

The purpose of this Language Assistance Plan (LAP) is to identify how the VHA will ensure its methods of administration will not have the effect of subjecting LEP persons to discrimination because of their national origin, and to ensure LEP persons have full access to VHA programs and services.

II. Who is LEP?

For purposes of this LAP, anyone whose primary language is not English, and has a limited ability to read, write, speak or understand English may be LEP.

The VHA will not identify anyone as LEP; the beneficiaries of the services and activities must identify themselves as LEP (Federal Register Vol. 72, No. 13, January 22, 2007).

III. Identification of Language Needs Within the Jurisdiction

It was determined through review of the U.S. Census Bureau's American Fact Finder for the city of Vacaville, as recommended by the U. S. Department of Housing and Urban Development (HUD), that Spanish was the only language to meet the 4 factor analysis criteria (1 – Number or proportion of LEP persons served or encountered in the eligible service area; 2 – Frequency of contact with the program; 3 – Importance of service, information, program or activity; 4 – Costs versus resource and benefits) requiring translation of vital documents. This was supported by the volume of encounters with LEP persons where virtually all were Spanish speaking. According to Fact Finder, there are 3,118 Spanish-speaking persons over the age of five years in Vacaville who speak English less than very well. Guidance provided by HUD states that written translations of vital documents should be provided for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be effected or encountered. The VHA has determined that because there are more than 1,000 Spanish-speakers in Vacaville who speak English less than very well, the VHA will translate vital documents into Spanish.

The next largest LEP population were persons who speak Asian and Pacific Islander languages and identified themselves as speaking English "less than very well". This is a population of 964, which is 1% of the Vacaville population of 76,380 of people over the age of five years, and less than 1,000 people. In addition, this number is a combination of many different languages, which signifies that

when each individual language is separated from this group, the percentage of LEP persons in this language group is even less than 1%. The VHA also took into consideration that while there are 964 LEP persons in this population, not all of them will seek assistance from VHA programs and services as some of them are children and others will not need the type of services provided by the VHA. The VHA has determined that because there are less than 1% or 1,000 people in any of the Asian or Pacific Islander languages, it will not translate vital documents into these languages. However, the VHA will provide oral interpretation as needed to LEP persons requesting such services.

Other language groups in Vacaville had few LEP persons and therefore did not meet the threshold to require written translation of vital documents into those languages. The VHA will provide oral interpretation as needed to LEP persons requesting such services.

IV. Written Translation

As stated above in Section III, the VHA has determined that because there are more than 1,000 Spanish-speakers in Vacaville who speak English less than very well, the VHA will translate vital documents into Spanish. As of the date of the creation of this LAP, Spanish is the only language into which vital documents will be translated. This is subject to change upon review of the LAP as discussed below.

A. *Vital Documents*

HUD has defined "vital documents" to be those documents that are critical for ensuring meaningful access, or awareness of rights or services, by beneficiaries or potential beneficiaries generally and LEP persons specifically. In general, the VHA will attempt to translate all letters sent to program applicants and participants to Spanish. However, the following is a list of documents the VHA has determined to be vital and has committed to translating into or providing HUD-approved versions in Spanish:

Already Translated or Have Translations Provided by HUD

- Housing Choice Voucher, including Family Obligations
- Letter of Informal Hearing
- Informal Hearing Procedures
- Informal Hearing Results
- Instructions on Moving After Receiving/Giving Notice to Move
- Notification of Pro-ration of Assistance Based on Non-Eligible Household Members
- Repayment Agreement
- Denial of Unit
- Notification of Social Security Number Discrepancy
- Proposal of Termination of Program Participation
- Letter Confirming Voluntary Termination
- Brochure Explaining Rights Under the Americans with Disabilities Act
- Brochure Explaining Family Self-Sufficiency Program
- Brochure Explaining Housing Choice Voucher Home Ownership Program

Family Obligations Checklist
Authorization to Release Information with Privacy Act Statement
Brochure Regarding Housing Discrimination
Family Self-Sufficiency Contract
Request for Tenancy Approval

To Be Translated

Brochure Explaining Wait List

V. Oral Interpretation

The VHA will make every effort to provide oral interpretation for all its clients who have identified themselves as LEP and request services.

A. *Bilingual Staff*

The VHA employs bilingual, Spanish-speaking staff in several positions, including program management, to ensure there are sufficient personnel available to assist Spanish-speaking LEP persons when needed. Currently the VHA has four full-time Spanish-speaking staff and two part-time Spanish speaking staff. In addition, as part of the City of Vacaville, the VHA has access to other bilingual City employees, including numerous Spanish-speaking staff, as well as staff who speak German, Hindi, Punjabi, Urdu, Lithuanian, Tagalog, Ilokano and American Sign Language.

VHA staff, as well as other City of Vacaville bilingual employees, must take and pass a competency test in the other language in order to be designated as a bilingual person. This test includes being required to answer questions in the other language as in an interview setting, serve as an interpreter in a role-play scenario, and to translate written documents from English to the foreign language and from the foreign language to English. The current Program Administrator for the VHA has also received training on professional interpretation.

B. *Interpreter Services*

When there is not a VHA/City staff person who speaks the LEP person's primary language, the VHA will seek interpretation through a professional interpreter service.

In the event that the LEP person's primary language is not widely spoken and the VHA is unable to locate a suitable interpreter through a professional interpreter service, the VHA may resort to other methods such as seeking community volunteers. As a last resort in cases where the VHA is unable to find an acceptable interpreter within a time frame to effectively assist the client, the VHA may use an online translation website, such as Babelfish, in order to communicate via an in-office computer.

C. *Informal Interpreters*

The VHA will generally discourage the use of family members or other informal interpreters, but will allow the use of an interpreter of the LEP person's choosing (including family members or a

professional interpreter at the LEP person's own expense) when the LEP person rejects the VHA's free language assistance services. The VHA will document the offer and the LEP person's subsequent rejection.

VI. Outreach

The VHA will conduct outreach in a method that is inclusive of LEP persons identified through its bi-annual analysis. All Public Notices and marketing advertisements, such as notification of the availability of wait list applications, shall be published in Spanish as well as English, and the VHA will publish these in local Spanish media. The VHA may also participate in community-sponsored events, and make presentations through community organizations to target LEP persons and ensure they are aware of the availability of LEP assistance.

For clients, reception service is provide in Spanish, flyers and other communications posted in the lobby are translated into Spanish, and interviews and program briefings are conducted in Spanish. Brochures advertising other available programs within the organization are also available in Spanish.

For clients who are LEP but are not Spanish-speaking, the VHA's Receptionist has a document created by the US Census Bureau translated into 38 different languages to use as a tool to identify the client's primary language. The VHA will also seek translation of a notice announcing the availability of primary language assistance into as many languages as possible to be posted in the lobby. Until this is achieved, the VHA will post the notice in English.

VII. Staff Training

The VHA will provide a copy of this LAP to all existing staff, and will also provide training as to its contents and what is required of them under its policies. This training shall include the types of services available to clients and how to access them. New employees will receive this LAP and the same training as part of their orientation.

VIII. Monitoring and Updating of This LAP

The VHA will review/revise this LAP on an as needed basis, but no less than every two years to ensure the populations of the various language groups within the jurisdiction and their needs are reflected in the provision of primary-language services. At that point the Plan will be reviewed to determine if the existing LEP services are sufficient to meet the needs of LEP clients.

Events that will be considered indicators of the need for a review of the LAP and will also be utilized to identify the need for LEP assistance in other languages include but are not limited to LEP populations within the jurisdiction encountered or affected; frequency of encounters with LEP populations; and continued availability of existing resources and the addition of new resources.