Limited English Proficiency Implementation Strategy for Federally Assisted Programs

March 2017
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I. Purpose

This Limited English Proficiency (LEP) document was created to provide guidance to recipients of assistance from the U.S. Department of Agriculture’s (USDA) Food Safety and Inspection Service (FSIS) on how they are to develop and implement LEP plans. The guidance will ensure that those recipients perform in a manner that is "at least equal to" the manner in which FSIS performs when interacting with Limited English Proficient (LEP) persons. This document should be used as a guide to develop LEP plans that will ensure equal and meaningful access to services for persons with limited English proficiency. LEP persons are defined as individuals who do not speak English as their primary language, and who have a limited ability to read, write, speak, or understand English.

Recipients of FSIS’ Federal assistance should utilize this guide among others, to develop, maintain and implement individual LEP plans which will enable effective communication with LEP customers. This guide does not create new obligations for recipients; rather, it assists in meeting already existing obligations. Recipients of FSIS’ Federal assistance should review this guide to ensure that their plans are in compliance with the information provided herein. If existing LEP plans are not compliant, this guide should be used to become fully compliant.

The FSIS should maintain a copy of all Recipients’ current LEP plans. FSIS requires Recipients to review and reissue their LEP plans on an annual basis. Upon issuance, a copy of the updated and/or reissued plan should be forwarded to the Civil Rights Staff (CRS) at: AskCRD@fsis.usda.gov. Once received, CRS will review and determine whether the plan is in compliance with this guide.

This guide, as well as the LEP plans that will be developed by recipients, is subject to changes as necessary. To ensure full implementation of each recipient’s LEP plan, a timeline for actions to be completed is included in Appendix #1.

II. Scope

This LEP implementation strategy applies to all programs and activities receiving federal financial assistance from FSIS. Establishments that produce meat or poultry products have the option to apply for Federal or State inspection. States operate under a cooperative agreement with FSIS. States’ programs must enforce requirements "at least equal to" those imposed under the Federal Meat and Poultry Products Inspection Acts and the Humane Methods of Slaughter Act. However, product produced under State Inspection is limited to intrastate commerce, unless a state opts into an additional cooperative program, the Cooperative Interstate Shipment (CIS) Program.

The CIS program promotes the expansion of business opportunities for State-inspected meat and poultry establishments. Under CIS, State-inspected plants can operate and ship product in interstate commerce just as federally-inspected establishments can. Under this program, State inspection personnel perform inspection in an identical manner to Federal inspectors, enforce identical standards, conduct identical lab sampling, and use identical testing methodologies.
They also receive the same training from FSIS trainers. Without CIS, a State-inspected plant is limited to sales within its own borders even if an adjoining state is just across the highway or river.

The CIS program is limited to plants in three States: Ohio, Indiana, and Wisconsin. Twenty-seven States have Cooperative Agreements: Alabama, Arizona, Delaware, Georgia, Iowa, Illinois, Indiana, Kansas, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming (Appendix #3).

As a result of these Cooperative Agreements, the States identified above have an obligation to ensure that LEP services are provided to customers (beneficiaries) whose first language is not English. Those services need to be “at least equal to” the services that FSIS provides to its LEP customers.

III. Legal Authority

Title VI of the Civil Rights Act of 1964, Section 601; 42 U.S.C. 2000d et seq.; and its implementing regulations provide that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity that receives Federal financial assistance. The Supreme Court, in Lau v. Nichols, 414 U.S. 563 (1974), interpreted Title VI regulations promulgated by the former Department of Health, Education, and Welfare to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination.

Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency to examine the services it provides and to develop and implement a system by which LEP persons can meaningfully access those services. The Executive Order further states that recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. Federal agencies were instructed to publish guidance for their respective recipients in order to assist them with their obligations to LEP persons under Title VI. The Executive Order recommended uniform guidance to recipients on the preparation of a plan to improve access to its federally assisted programs and activities by eligible LEP persons. Each plan must be consistent with the standards set forth in the Department of Justice’s (DOJ) Policy Guidance Document entitled, “Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons” (“DOJ LEP Guidance”), reprinted at 67 FR 41455 (June 18, 2002). The DOJ LEP Guidance was drafted and organized to function as a model for similar guidance by other Federal agencies. In accordance with DOJ LEP Guidance, USDA issued LEP Guidance for Assisted programs on November 28, 2014 (Appendix #2).
IV. Policy

FSIS is the public health agency in USDA responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged. The Agency is committed to ensuring that entities that receive financial assistance from FSIS provide meaningful access to their programs and services to persons who, as a result of national origin, are limited in English proficiency. It is FSIS’s policy to ensure that no person is subjected to prohibited discrimination by programs receiving financial assistance from FSIS based on national origin. The Agency’s LEP policy for its federally-assisted programs will be issued in fiscal year 2017. Among other things, the policy will underscore the Agency Head’s commitment to ensuring that meaningful access to federally-assisted programs, services, and activities is provided to individuals whose first language is not English.

V. Definitions

Agency – A major program organizational unit of the Department with delegated authorities to deliver programs, activities, benefits, and services.

American English – A set of dialect/language used primarily in the United States.

Bilingual – The knowledge and ability to understand, speak, read, and write fluently in two languages easily.

Certified Interpreter – An individual who has taken and passed an examination administered by a knowledgeable authority in the language(s) that they interpret.

Discrimination – The unfavorable treatment or consideration of, or making a distinction in favor of or against, a person based on the group, class, or category to which that person belongs rather than on individual merit.

Federally Assisted Program – All programs and operations of entities that receive assistance from the Federal government.

Interpretation – Listening to communication in one language and orally converting it to another language while retaining the same meaning.

Language Access – Efforts to make programs and services accessible to individual who are not proficient in English.

Language Assistance Services – Interpretation or translation services that assist LEP persons in understanding or communicating in another language.

Limited English Proficiency Person – An individual who does not speak English as his or her primary language and has a limited ability to reason in, speak, write or understand English.

Translation – The process of transferring ideas expressed in writing from one language to another.

Translator – A person who converts language into an alternative form of communication so it is understandable to persons who communicate differently.

Vital Document – Paper or electronic written material that contains information that is critical for accessing a program or activity, or is required by law, such as consent forms, applications, and notices of rights.
VI. Four Factor Analysis

In order to ensure that LEP customers are provided adequate services, each State should conduct a four factor analysis. The four factor analysis is the first step in providing meaningful access to federally funded programs for LEP persons. The four factor analysis addresses the following:

1. The number or proportion of LEP persons eligible to be serviced or likely to be encountered by the State;
2. The frequency with which LEP persons using a particular language come in contact with the State;
3. The nature and importance of the State’s program or activity provided to the individual’s life; and
4. The resources available to the State and costs associated with providing LEP services.

Factor 1: Determine the number or proportion of LEP persons eligible to be served or likely to be encountered by the program.

To determine the number or proportion of LEP persons encountered during program delivery, at a minimum, each State should:

A. Document interactions with LEP persons to determine the breadth and scope of language services that are needed. Appendix #4 may be utilized for documenting interactions with LEP persons.

B. Gather, review, and identify data regarding the languages primarily spoken in geographic areas within the State. This information can be obtained from the U.S. Census Bureau (www.census.gov), local government and school systems, and community organizations.

C. Identify any concentrations of LEP persons within the State. At a minimum, the State should identify the top three languages that are spoken or encountered.

D. Analyze the data gathered from A, B, and C above to determine specific LEP services to be provided.

Factor 2: The frequency with which LEP persons come in contact with the programs, activities, and services.

To determine the frequency with which LEP persons come in contact with programs, services, and activities, at a minimum, each State should:

A. Review the programs, activities, and services that are provided by the State and determine the frequency with which those programs, activities, and services are provided.
B. Survey employees to determine interactions with LEP individuals. Appendix #5 may be utilized for this purpose.

C. Consult directly with LEP persons to determine the various program, services, and activities that they frequently utilize.

Factor 3: *The nature and importance of the program, activity, or service.*

To determine the nature and importance of the programs, activities, or services provided to LEP persons, at a minimum, each State should:

A. Identify and determine the potential impact that inability to access FSIS services, programs, or activities may have on the LEP person.

   For example: Foodborne illnesses are preventable public health challenges that cause an estimated 48 million illnesses and 3,000 deaths each year in the United States. They are illnesses that come from eating contaminated food. The onset of symptoms may occur within minutes to weeks, and foodborne illness often presents itself as flu-like symptoms, as the ill person may experience symptoms such as nausea, vomiting, diarrhea, or fever. Because the symptoms are often flu-like, many people may not recognize that the illness is caused by harmful bacteria or other pathogens in food. If LEP persons do not have access to information related to the proper handling of food in their language, it could result in foodborne illnesses.

B. Identify all documents that are deemed vital in order to communicate information to LEP customers. The State should consider its LEP plan one of its vital documents that should be translated in the top three languages that it identifies.

Factor 4: *Determine the resources available to LEP Persons and costs to the State.*

To determine the resources available to LEP persons and the costs associated with those resources, at a minimum, each State should:

A. Explore the most cost-effective means of delivering competent and accurate language services, including determining the costs associated with translating documents, contracting for interpreters, and other language assistance methods as needed. In addition to using employees who are certified in specific languages and are able to provide assistance to customers who speak those languages, recipients should also explore resources provided by State government.

B. Determine if any additional services are needed to provide meaningful access.
VII. Implementation

See Appendix #1 for the complete implementation plan.

VIII. Services to LEP Persons

The following are services each State, at a minimum, is obligated to provide to LEP persons:

Oral language assistance/Interpretation – At the point of first contact with a customer, the State should determine whether the person has limited English proficiency. Once the determination is made that the customer requires language assistance, the State should be prepared to provide those services. Each State is to be able to provide oral language assistance, including interpretation assistance by certified interpreters or qualified employees. The State is responsible for and may use various methods for assessing the competency of bilingual staff. Options include: using local colleges or universities that can perform certified assessments; using a certified private contractor to administer an assessment of bilingual skills; or using existing staff that are certified.

An individual’s primary language can be determined by utilizing the following:

- FSIS’ Language Identification poster found at: https://www.fsis.usda.gov/wps/wcm/connect/a36049c2-85b4-4da7-a35a-ca1d14150a1a/ISpeakCards-USDA-17x11.pdf?MOD=AJPERES.


- Verification of foreign language proficiency by a certified interpreter (in-person, telephonically, or through video interpretation services) provided by the State.

Written Translations – Consistent with the four factors, each State should translate all documents deemed vital in the identified languages. Translation services for vital documents should be procured through certified translators who translate the identified languages. Translation software may be used in some instances, but should not be the sole resource available for translating written information. Vital information should be translated by a certified translator. FSIS’s vital documents have been translated into Spanish, Mandarin, Vietnamese, and Arabic. The FSIS vital documents that have been translated are maintained on the FSIS website and are available to the States for use as appropriate.

If LEP services are offered by the State and refused, the State should ensure that the State employee completes Appendix #6, and should file it with the State’s records.
IX. Communication Plan

Each State should develop a communication plan as part of its LEP plan or as a separate document. The communication plan should outline specifically, how the State intends to inform its customers of the availability of LEP services. The communication plan should include language that informs the customer that LEP services are provided by the State free of charge. Informing customers about the availability of LEP services can be accomplished through several methods. They include:

- Posting the availability of LEP services on the State’s website;
- Disseminating information about the availability of LEP services in State correspondence that is provided to customers and through outreach with community organizations and other groups;
- Displaying LEP identification posters in State offices; and
- Including State language assistance cards with State application packages.

To ensure compliance with LEP obligations, the Agency will conduct the following periodic monitoring and evaluation of each State:

1. On an annual basis (by November 1st), each State will be required to complete a self-assessment (FSIS Form 1520-1) to report LEP program efforts and provide supporting documentation.

2. On a rotational basis, the Agency will conduct nine comprehensive compliance reviews to include a review of the State’s LEP plans.

Subsequent to #1 and #2 above, recommendations will be provided to the State regarding correcting any noted deficiencies within its LEP program.

X. LEP Training for State Employees

Each State should ensure that all State employees who encounter or may encounter LEP persons receive LEP training. The State may choose to develop its own LEP training or utilize the following LEP training that was developed by FSIS:

https://www.youtube.com/watch?v=YVm220yw9I&feature=youtu.be

XI. LEP Resources

The following are LEP resources the State may utilize to assist with the development of its LEP plan.

1. www.lep.gov
4. Local universities and community colleges
Questions regarding this guide should be directed to FSIS’ Civil Rights Staff at 1-800-269-6912 or (301) 504-7755; via email at: AskCRD@fsis.usda.gov; via fax at: (301) 504-2141; or in writing at: USDA, FSIS, Civil Rights Staff, 5601 Sunnyside Avenue, Building 1, Room 2260, Mailstop 5261, Beltsville, Maryland 20705.

Angela E. Kelly
Director, Civil Rights Staff

Alfred V. Almanza
Administrator

3/28/17

3/23/17
### Appendix #1

<table>
<thead>
<tr>
<th>RESPONSIBLE PERSON/STAFF</th>
<th>ACTION TO BE TAKEN</th>
<th>TIMELINE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Agency - Food Safety and Inspection Service</strong></td>
<td>1. Develop and provide LEP training.</td>
<td>March 1, 2017</td>
</tr>
<tr>
<td></td>
<td>2. Monitor the implementation of the State LEP plan.</td>
<td>Annual basis; as needed</td>
</tr>
<tr>
<td><strong>State</strong></td>
<td>1. Ensure employees who interact with LEP individuals receive LEP training.</td>
<td>On-going</td>
</tr>
<tr>
<td></td>
<td>2. Review and reissue LEP plan. (Appendix #7)</td>
<td>September 29, 2017</td>
</tr>
<tr>
<td></td>
<td>3. Gather data for languages spoken in geographic areas being serviced. (Example: Appendix #5) Review and analyze any new data gathered to determine what new LEP services are needed.</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>4. Identify any new vital documents to be translated.</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>5. Secure and maintain contractor for translation and interpretation services.</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>6. Ensure that there is adequate funding, and that other resources are available to provide effective and efficient LEP services.</td>
<td>Ongoing</td>
</tr>
<tr>
<td></td>
<td>7. Notify beneficiaries of LEP services.</td>
<td>August 31, 2017</td>
</tr>
<tr>
<td></td>
<td>8. Track LEP interactions. (Appendix #4)</td>
<td>On-going</td>
</tr>
<tr>
<td></td>
<td>9. Report LEP interactions to the Agency’s Civil Rights Staff.</td>
<td>Annual basis</td>
</tr>
</tbody>
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Appendix #2

Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are key to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

7 CFR Part 15

[OES-2014--0002]

RIN 0511-A770

Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency

AGENCY: Office of the Assistant Secretary for Civil Rights, USDA.

ACTION: Significant final guidance.

SUMMARY: The U.S. Department of Agriculture (USDA) is publishing the final guidance on the Title VI prohibition against national origin discrimination as it affects limited English proficient persons. Consistent with Title VI of the Civil Rights Act of 1964, as amended, Title VI regulations, and Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency (LEP)," the guidance clarifies the obligations of entities that receive Federal financial assistance from USDA. The guidance does not create new obligations, but, rather, provides guidance for USDA recipients in meeting their existing obligations to provide meaningful access for LEP persons.

DATES: This final guidance is effective November 28, 2014.

FOR FURTHER INFORMATION CONTACT: For further information contact Anna G. Stromen, Chief, Policy Division, Telephone (202) 203-5933; Fax (202) 690-2345.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d-2000d-8 and the USDA implementing regulations at 7 CFR part 15, subpart A, "Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture Effectuation of Title VI of the Civil Rights Act of 1964," provide that no person shall be discriminated against on the basis of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity of an applicant or recipient receiving Federal financial assistance from the Department of Agriculture or any Agency thereof. The purpose of this guidance is to clarify the responsibilities of recipients and subrecipients (recipients) who receive financial assistance from USDA and to assist them in fulfilling their responsibilities to LEP persons under Title VI of the Civil Rights Act of 1964, as amended, and the implementing regulations. This guidance does not impose any new requirements, but reiterates longstanding Title VI and regulatory principles and clarifies USDA's position that, in order to avoid discrimination against LEP persons on the ground of national origin, recipients must take reasonable steps to ensure that LEP persons receive the language assistance necessary to afford them meaningful access to USDA programs and activities, free of charge.

On March 14, 2002, the Office of Management and Budget (OMB) issued a Report to Congress entitled, "Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency." Among other things, the Report recommended the adoption of uniform guidelines across all Federal agencies, with flexibility to permit tailoring to each agency's specific recipients. Consistent with this OMB recommendation, the Department of Justice (DOJ) published LEP Guidance for DOJ recipients, consistent with this directive, USDA has developed this final guidance, which is designed to reflect the application of the DOJ Guidance standards to the programs and activities of USDA recipients.

This guidance sets out the policies, procedures, and steps that USDA recipients may take to ensure that LEP persons have meaningful access to Federally assisted programs and activities and provides examples of policies and practices that USDA may find violative of Title VI and Title VI regulations. It also sets out the general parameters for recipients in providing translations of written materials, provides examples that illustrate the importance of such translations, and describes the flexibility that recipients have in meeting this obligation. For recipients who desire greater specificity regarding the translation of materials to LEP persons, the guidance contains population thresholds. Use of these population thresholds is not mandatory. The guidance explicitly states that the failure to meet these population thresholds will not result in a finding of noncompliance, but that USDA will review a number of other factors in determining compliance. The guidance also describes some of the methods recipients may use to meet their obligation to provide, under certain circumstances, competent oral and written materials, including glossaries and sign interpreters, to LEP persons. It has been determined that this guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act.

Comments on Proposed Guidance

On March 8, 2012, USDA published a proposed final Guidance in the Federal Register which resulted in 18 public interest groups/firms responding with over 160 comments and recommendations. The comments and/or the recommendations are addressed as follows:

1. Recipient LEP Plan

We received five comments recommending that the Guidance should require recipients to develop an LEP plan. USDA is cognizant of the value of written LEP plans in documenting a recipient's compliance with its obligation to ensure meaningful access by LEP persons, and in providing a framework for the provision of reasonable and necessary language assistance to LEP persons. USDA is also aware of the related training, operational, and planning benefits most recipients would derive from the generation and maintenance of an updated written language assistance plan for use by its employees. In the large majority of cases, the benefits flowing from a written language assistance plan have caused or will likely cause recipients to develop, with
varying degrees of detail, such written plans. Even small recipients with limited contact with LEP persons would likely benefit from having a plan in place to assure that, when the need arises, staff have a written plan to turn to even if it addresses only how to access a telephone or community-based interpretation service when determining what language services to provide and how to provide them.

However, the fact that the vast majority of USDA’s recipients already have or will likely develop a written LEP plan to reap its many benefits does not necessarily mean that every recipient, however small its staff, limited its resources, or focused its services, will realize the same benefits and thus must follow an identical path. Without clear evidence suggesting that the absence of written plans for every recipient is impeding accomplishment of the goal of meaningful access, USDA elects at this juncture to strongly recommend but not require written language assistance plans. USDA stresses in this regard that neither the absence of a requirement of written LEP plans in all cases nor the election by an individual recipient against drafting a plan obviates the underlying obligation on the part of each recipient to provide, to the extent with Title VI, the Title VI regulations, and this Guidance, reasonable, timely, and appropriate language assistance to the LEP populations each serves.

One commentator recommended that the Guidance should require community involvement in developing the recipients’ written LEP plans. The Guidance currently contains language to encourage recipients to involve the community in developing their written LEP plans. No additional language is being added to address this recommendation.

2. USDA LEP Plan for Conducted Programs

We received 10 comments recommending that USDA develop its own LEP Plan for Federally conducted programs to ensure that it is accessible in USDA operations. USDA issued its Departmental Regulation 4330–005, Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by U.S. Department of Agriculture effective June 4, 2013. This Departmental Regulation functions as USDA’s LEP Plan and is publicly available at http://www.ocio.usda.gov/document/departmental-regulation-4330-005.

3. Updating Automated Online Services

We received seven comments recommending the expansion of online language assistance services. Some of the commenters specifically identified programs providing essential services like food and shelter to consumers, and cited the Social Security Web site as an example. In response to this comment, USDA has added a new subparagraph under Section VI in the Guidance that recommends USDA recipients who provide online communications and services to customers include in their LEP plans their strategies for addressing language access needs. (See Section VI, No. 5 Ensuring Online Automation Services).

4. Expansion of Language Beyond Spanish

We received 10 comments recommending that recipients translate outreach material in non-English languages in addition to Spanish. We agree that recipients must take into account the language or languages of their LEP customers within their programs and specific locations. Part V (B) of the Guidance indicates that considering the four-factor analysis can be helpful for determining whether to provide language services, including translating vital written materials into additional languages. Moreover, the Safe Harbor Provision in Part V (B) also supports translation into non-Spanish languages when the “LEP language group constitutes 5 percent or 1,500, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered.”

Nevertheless, we have added additional recommendations that recipients post notices/links regarding the availability of language assistance services in all commonly encountered languages for their programs and/or areas. (See Section VI, Elements of Effective Plan on Language Assistance for LEP Persons, No. 4, Notice to LEP Persons).

5. “Reasonable” Steps

We received six comments stating that the Guidance standard that requires recipients to take “reasonable” steps in providing LEP persons with a meaningful opportunity to participate in Federally funded educational programs is vague. Rather than have recipients consider how to apply this standard, commentators recommended that the standard should clarify that if an individual is LEP, interpretation should always be deemed reasonable.

The Guidance provides criteria for recipients to consider when deciding to provide language assistance services to LEP individuals. Specifically, the Guidance provides specific steps that recipients may take to ensure that LEP persons have meaningful access by utilizing a balancing test as a starting point. (See Section IV, “How Does a Recipient Determine the Extent of Its Obligation to Provide LEP Services?”) The Guidance further defines the balancing test as an individualized assessment that balances the following factors:

a. The number or proportion of LEP persons who are served or likely to be encountered within the area served by the recipient;

b. The frequency with which LEP persons come in contact with the program or activity;

c. The nature and importance of the program, activity, or service to people’s lives; and

d. The resources available to the recipient and costs.

The Guidance states that the four-factor analysis is a “starting point” to help a recipient determine whether the recipient is “required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.”

Given the flexibility of this standard and its context-specific nature, it is inherently flexible to adjust for the various programs, activities, and services.

Consequently, we recognize that there are some instances when interpretation constitute reasonable steps but we also acknowledge that different scenarios may yield different results, based on the four-factor test.

6. Interpreter and Translation Services

We received five comments on the use of interpreter and translation services. Specifically, the comments received indicated that the language in the Guidance should be changed or strengthened to clearly state that USDA-funded recipients must use qualified interpreters and provide free interpreter services to all LEP persons. The commentators also noted that vital documents must also be translated by qualified translators. We believe that the Guidance addresses the issue of qualifications adequately under “Competence of Interpreters (See Section A “Oral Language Services”)” and that the language is not needed nor added. However, to guarantee that recipients ensure the competency of the language service provider, Office of the Assistant Secretary for Civil Rights (OASCR) shall recommend that all recipients include their strategy for utilizing competent and impartial interpreters and translators in the LEP plans.
Two commenters focused on the use of children as interpreters. Both
commenters indicated that the use of children should not be allowed. The
Guidance, in accordance with DOJ requirements, cautions that “in many
circumstances, especially children, are not competent
to provide quality and accurate interpretation. The
language may not
be used under the most exigent circumstances and only as a last-resort alternative.
To provide further clarity on this issue, we have modified the
Guidance’s language to note that reliance on children is discouraged
unless it is an emergency—translation that is not reasonably foreseeable. (See
Section V “Selecting Language Assistance Services, Subsection, Use of
Family Members, Friends or Others as Interpreters.”)

7. Considering Low Literacy
We received six comments recommending that written
communication by the U.S. Department of Agriculture (USDA) to
inform the public of new programs or changes be communicated
in another language (especially English) to which individuals with
limited reading ability can understand written material.

8. Using Other Regulations To Set
Minimum Thresholds for Translations and
Interpretations
We received nine comments recommending that the Department
consider using regulations or sub-regulatory guidance to set specific
minimum thresholds for translation and interpretation in particular
programs such as the Supplemental Nutrition Assistance Program; the Special
Supplemental Nutrition Program for Women, Infants, and Children; and the
Child Nutrition Program. No changes were made since the Guidance offers a
fact-based, multi-factor assessment to determine the extent of a recipient’s
obligation to provide LEP services. Moreover, with regard to the
Guidance’s language in regards to informing LEP persons about the availability of language assistance services (See Section VI, part 4
“Providing Notice to LEP Persons”),. Therefore, no change was made.

9. Require Data Collection
We received 10 comments from various groups supporting the
need for data collection, as well as the need to track and monitor receipt of translation requests. The commenters specifically recommended that recipients be
required to collect language preference data on their LEP beneficiaries and report this data to USDA on at least an annual basis.

10. “Summarization” as Appropriate
Mode of interpretation
We received one comment on the use of “summarization” as an appropriate
mode of interpretation. The commenter expressed concern for the competence
of interpreters and their ability to summarize when performing
interpretations. The commenter indicated that interpreters should
refrain from summarizing because it
allowed for the interpreter to decide or evaluate on what is and what is not
relevant. After careful consideration of the comment received, no change will
be made. However, we recognize that summarization may not always be the
ideal mode of interpretation when complete and accurate renditions of the
communication are necessary. In keeping with the DOJ, LEP, Guidance, we
place summarization within the context of assessing the competency of an
interpreter. We believe that this language appears to contradict the
definition of LEP in Section III, which states

11. Definition of LEP
We received three comments recommending that we provide a clearer
definition of LEP to the Guidance because the language contained in the
"Background" section of the Guidance states, "If these people have a limited ability to read, write, or understand English, they are limited English proficient or LEP." We do note that this language appears to contradict the
definition of LEP in Section III, which states

12. Require Meaningful Notice of Rights to
Language Services
We received three comments recommending that USDA and sub-agencies strengthen the Guidance’s language in regards to informing LEP persons of their right to language services. Commenters recommended that using multilingual telephone voice mail prompts or menus would be the easiest way of informing LEP persons of their right to language services. The Guidance addresses this issue by recommending telephone voice mail menus, among other approaches, when providing notice to LEP persons about the availability of language assistance services (See Section VI, part 4
"Providing Notice to LEP Persons"). Therefore, no change was made.
13. Include Existing LEP Regulations in Legal Authority

We received one comment recommending that the Guidance include existing regulations that establish mandatory legal requirements.

In response to this comment, no change was made as the Guidance includes reference to existing regulations. USDA makes its programs and subprograms aware of their obligations and requirements to comply with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, Title VI regulations, and program-specific regulations as noted in the Guidance in the Background on page 5 and in the Legal Authority on pages 11-15.

14. Require Adequate Signs Regarding Critical LEP Services

We received one comment, which notes that the language in the guidance is inconsistent regarding posting notices in places that LEP individuals commonly encounter. According to the commenter, the current language should be made consistent with 7 CFR 272.6(f) and 7 CFR 272.4(b), which require adequate signs in the offices with respect to information critical to LEP services.

No change was made to the Guidance in response to this comment. Both 7 CFR 272.6(f) and 7 CFR 272.4(b) regulations refer to requirements set forth for participating agencies in the Food and Nutrition Service Agency's programs, such as the Supplemental Nutrition Assistance Program (SNAP). Specifically, 7 CFR 272.6, paragraph (f) "Public Notification" requires State agencies to ensure that all offices involved in administering the SNAP program must publicly display the nondiscrimination poster. 7 CFR 272.4, paragraph (b) "Bilingual Requirements" requires State agencies to provide bilingual program information, certification materials, and staff or interpreters to households that speak the same non-English language and that do not have an adult fluent in English as a second language. Both of these issues are adequately addressed in the Guidance. The Guidance specifically recommends that recipients (which, in this case, would be State agencies) ensure that adequate signage is posted in the offices and all information for the public be translated. The Guidance further defines the importance of these issues as stated in the following language contained in Section VI, Elements of an Effective Language Assistance Plan for LEP Persons:

**Providing Notice to LEP Persons**

Once a recipient has decided, based on the four factors that it will provide language services, it is important to let LEP persons know that these services are available and that they are free of charge. Recipients should provide this notice in a language that LEP persons will understand. Examples of notification that recipients should consider include posting signs in intake areas and other entry points and noting the availability of language assistance services on recipient Web sites. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact (including Web sites) so that LEP persons can learn how to access these language services. This is particularly true in areas with high volumes of LEP persons seeking access to important programs, activities, services, or benefits provided by USDA recipients. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered and should explain how to get the language help.¹

15. Outreach to LEP Persons

We received two comments recommending that in addition to developing procedures to serve LEP individuals, it is equally important that LEP community members be made aware of the policies that are in place to serve LEP populations through radio programs, ethnic media, and other news outlets.

USDA agrees with the importance of finding effective methods of disseminating this information and we believe this has been adequately addressed in the Guidance. The Guidance notes that an effective language access plan includes information about notifying LEP individuals about the availability of language assistance services. This can include "providing notices on non-English language radio and television stations about the available language assistance services and how to get them." (See Section VI, Part 4.) Therefore, no change was made to the Guidance. USDA agencies are encouraged to work with recipients to ensure that this issue is addressed in recipient LEP plans.

¹The Social Security Administration has made such signs available at http://www.ssa.gov/multilingual/englist.htm. These signs could, for example, be modified for recipient use.

16. Conduct Roundtable and Follow-up

We received one comment recommending follow-up roundtable discussions to solicit further recommendations. USDA acknowledges the importance of gathering feedback and following up on recommendations gathered from roundtable discussions. However, no further roundtable discussions are warranted in advance of issuing this final Guidance. Instead, OASCR will encourage USDA agencies to conduct roundtable discussions with the community as a strategy to inform LEP individuals of the resources available to them, as a means to determine the most critical outreach material to translate, as well as a mechanism to obtain feedback on an LEP plan from the community. This is in keeping with our Guidance’s emphasis on relying on community-based organizations to provide important feedback to ensure LEP individuals have meaningful access.

17. Appoint a Language Access Coordinator

We received one comment recommending that each recipient appoint a person to handle LEP issues as they arise, review the LEP plan annually, work toward more effective implementation of the policy, organize necessary trainings, etc. We believe that an LEP Coordinator would be useful for recipients in ensuring that all aspects of the LEP Guidance are being carried out. However, the appointment of this position is based on the funding and hiring responsibilities of the recipients and not USDA. USDA is committed to ensuring that all aspects of the Guidance are carried out effectively and efficiently, and will, therefore, recommend to recipients the usefulness of designating a Language Access Coordinator; but we do not have the authority to require that they designate one. Therefore, no change was made. Nonetheless, the importance of designating a Language Access Coordinator cannot be emphasized enough, and such an appointment will greatly increase the likelihood of effective implementation and maintenance of a language access plan.

18. Broader Monitoring and Enforcement Activities

We received three comments asking that USDA broaden its monitoring and enforcement activities to ensure that funding recipients meet their Title VI language access obligations. We agree that USDA should closely monitor the performance of recipients if funds and, where appropriate, take enforcement
action against those entities that fail to meet their language assistance obligations. This obligation is addressed in the LEP Guidance under Section VII, which states that "the requirement to provide meaningful access will be enforced and implemented by USDA through its regulations at 7 CFR." In addition, USDA will monitor the effectiveness of recipients' LEP programs through its compliance reviews. Therefore, no change was made.

Background
Most people living in the United States read, write, and understand English. There are many people, however, for whom English is not their primary language. For instance, based on the 2000 Census, over 26 million individuals speak Spanish, over 10 million speak "Indo-European languages," and almost 7 million speak an Asian or Pacific Island language at home. If these people have a limited ability to read, write, speak, or understand English, they are limited English proficient, or "LEP." According to the 2000 Census data, 28.3 percent of all Spanish speakers, 28.2 percent of all Russian speakers, 28.2 percent of all Chinese speakers, and 32.4 percent of all Vietnamese speakers reported that they spoke English "not well" or "not at all" in response to the 2000 Census.

Language for LEP persons can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by Federally funded programs and activities. The Federal Government funds an array of services that are available to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equal opportunity and commitment to promoting programs and activities designed to help people learn English. Recipients should not overlook the long-term positive impacts of incorporating or offering English as a Second Language (ESL) programs in parallel with language assistance services. ESL courses can serve as an important adjunct to a proper LEP plan. The fact that ESL classes are made available, however, does not abrogate the statutory and regulatory requirements to provide meaningful access for those who are not yet English proficient.

Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access to important government services. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from Federally assisted programs and activities may violate the prohibitions under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, and the USDA Title VI regulations against national origin discrimination, 7 CFR part 15. The purpose of this policy guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. This policy guidance clarifies existing legal requirements by providing a description of the factors recipients should consider in fulfilling their responsibilities to LEP persons. These are the same criteria USDA has been using and will continue to use in evaluating whether recipients are in compliance with Title VI and Title VI regulation, USDA plan.

Under Executive Order 13166, DOJ is responsible for providing LEP guidance to all Federal agencies and for ensuring consistency among the agency-specific guidance documents issued by Federal agencies. Consistency among the agency-specific guidance documents issued by Federal agencies is particularly important. Inconsistency or a lack of guidance could confuse recipients of Federal funds and needlessly increase costs without rendering the meaningful access to LEP persons that this Guidance is designed to address. As with most government initiatives, this requires balancing several principles. While this Guidance discusses the balance in some detail, it is important to note the basic principles behind that balance. First, we wish to ensure that Federally assisted programs aimed at the American public do not leave some individuals behind because of the individuals face challenges communicating in English. This is of particular importance because, in many cases, LEP persons form a substantial portion of those encountered in Federally assisted programs. Second, we must continue to provide the constructive methods to reduce the costs of LEP requirements on small businesses and to avoid Federal financial assistance.

There are many productive steps the Federal Government, either collectively or as individual agencies, can take to help recipients reduce the costs of language services without sacrificing meaningful access for LEP persons. Without these steps, certain small potential recipients may well choose not to participate in Federally assisted programs, threatening the critical functions that the programs strive to provide. In short, USDA wants to continue to provide assistance and guidance in its important area. In addition, USDA plans to work with potential and actual recipients, other Federal agencies, and LEP persons to identify and understand these issues, examples of best practices, and cost-saving approaches.

Moreover, USDA intends to explore how language assistance measures, resources, and cost-containment approaches developed with respect to its own Federally funded programs and activities can be effectively shared or otherwise made available to recipients, particularly small businesses, local governments, and small nonprofit organizations. An interagency working group on LEP has developed a Web site, http://www.lep.gov, to assist in disseminating this information to recipients, other Federal agencies, and the communities being served.

Some have interpreted the case of Alexander v. Sandoval, 532 U.S. 275 (2001), as implicitly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to Federally-assisted programs and activities. We do not believe this is an accurate reading of the decision as the Supreme Court, in Sandoval, addressed whether a private right of action existed to enforce an DOJ regulation promulgated pursuant to Title VI, not the validity of those regulations themselves. The
regulation at issue, 28 CFR 42.104(b)(2), prohibited recipients of federal funding from utilizing criteria which had a disparate impact effect. The plaintiffs, who were non-English speakers, challenged a State policy of administering driver's license examinations exclusively in English on the ground that the policy had a discriminatory effect on non-English speakers and, consequently, violated 28 CFR 42.104(b)(2). The Court concluded that the regulation was not enforceable with respect to a particular program, and thus, held that the disparate-impact regulation at issue, promulgated under Title VI, did not give rise to private right of action. 522 U.S. at 293. The Court, however, did not undermine the substance of other regulatory requirements or activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

1. Legal Authority

Section 503 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. Section 2000d, states that no person in the United States shall be subjected to discrimination on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Section 504 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity "to effectuate the provisions of [section 503] by issuing rules, regulations, or orders of general applicability." 42 U.S.C. 2000e3-1.

In addition to Title VI, some USDA recipients must implement a statutory provision of the Food Stamp Act of 1977, 7 U.S.C. 2031 et seq., which requires them to use appropriate bilingual personnel and printed materials in the administration of SNAP, formerly the Food Stamp Program, in areas where a substantial number of potentially eligible households speak a language other than English. The Food Stamp Act also requires recipients to establish procedures governing the operation of SNAP which must serve in each State, including households in areas where a substantial number of potentially eligible households speak a language other than English.

USDA regulations prohibit discrimination in all of its federally assisted and conducted programs. Recipients may not, on the grounds of race, color, or national origin, deny an individual any service, financial aid, or other benefit provided under the program, deny an opportunity to participate in the program through the use of English, or subject or restrict an individual to segregation or separate treatment in any matter related to their receipt of services, financial aid, or other benefit under the program. Please see 7 CFR 15.3(b)(1)-(2) for additional information.

In addition, USDA regulations implementing the Food Stamp Act of 1977 require that the State agency shall provide bilingual program information and certification materials, and staff or interpreters. See 7 CFR 15.3(b)(6)(i)-(ii), for additional information.

In Law v. Nichols, 414 U.S. 563 (1974), the Supreme Court concluded that Title VI and its implementing regulations required a federally funded school district to ensure that LEP students were provided with meaningful access to the district's educational programs. That case involved a group of approximately 1,800 public school students of Chinese origin who did not speak English, and to whom the school system provided the same services—an education solely in English—that it provided to students who spoke English. The Court held that by failing to provide LEP Chinese-speaking students meaningful access to educational programs, the school's practices violated Title VI's prohibition against national origin discrimination.

On August 11, 2010, Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," was issued; 55 FR 50121 (August 16, 2000). Under that Order, every Federal agency that provides financial assistance to non-Federal entities must publish guidance on how their recipients can provide meaningful access to LEP persons and thus comply with Title VI regulations forbidding funding recipients from "restricting[ing] an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program, or from "utilizing[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin." On that same day, DOJ issued a general guidance document addressed to "Executive Agency Civil Rights Officers" setting forth general principles for agencies to apply in developing guidance documents for their recipients pursuant to the Executive Order, "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency" 55 FR 50123 (August 16, 2000). (DOJ LEP Guidance).

Subsequently, Federal agencies raised questions regarding the requirements of the Executive Order, especially in light of the Supreme Court's decision in Alexander v. Sandoval, 535 U.S. 275 (2002). On October 26, 2001, Ralph P. Boyd, Jr., Assistant Attorney General for the Civil Rights Division issued a memorandum for "Heads of Departments and Agencies, General Counsels and Civil Rights Directors." This memorandum clarified and reaffirmed the DOJ LEP Guidance in light of Sandoval. The Assistant Attorney General stated that because Sandoval did not invalidate any Title VI regulations that prescribes conduct that has a disparate impact on covered groups—the types of regulations that form the legal basis for the part of Executive Order 13166 that applies to federally assisted programs and activities—the Executive Order remains in force.

This guidance clarifies the responsibilities of recipients and will assist them in fulfilling their responsibilities to LEP persons under Title VI of the Civil Rights Act of 1964, as amended, and Title VI regulations. It is consistent with Executive Order 13166, and DOJ LEP guidance. To avoid discrimination against LEP persons on the ground of national origin, USDA recipients should take reasonable steps to ensure that such persons receive the language assistance necessary to afford them access to recipient programs or activities, free of charge.

* The memorandum noted that some commentators have interpreted Sandoval as implicitly striking down disparate impact regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and activities. See, e.g., Sandoval, 535 U.S. at 280, 288 n.8 ("We assume for purposes of this decision that section 503 confers the authority to promulgate disparate-impact regulations."); ** We cannot help observing, however, how strikingly that disparate-impact regulations are inspired by, at the service of, and inseparably intertwined with Sec. 504, when Sec. 504 permits the very behavior that the regulations forbid.") The memorandum, however, made clear that DOJ disagreed with the commentators' interpretation. Sandoval holds principally that there is no private right of action in order to Title VI disparate impact regulations. It did not address the validity of these regulations or Executive Order 13166 or otherwise limit the authority and responsibility of Federal agencies to enforce their own implementing regulations.
II. Who is covered?

USDA regulations require all recipients of Federal financial assistance from USDA to provide meaningful access to LEP persons. Federal financial assistance includes grants, below-market loans, training, and use of equipment, donations of surplus property, and other assistance. Covered entities include, but are not limited to:

- State and County agencies, offices, and departments
- Private vendors, agents, contractors, associations, and corporations
- Colleges, universities, and elementary and secondary schools
- County, district, and regional committees/councils
- Nursing homes, summer camps, food banks, and housing authorities
- Research and promotion boards and councils
- Other entities receiving, directly or indirectly, Federal financial assistance provided by USDA

Subrecipients likewise are covered when Federal funds are passed through from a recipient to a subrecipient.

Coverage extends to a recipient’s entire program or activity, i.e., to all parts of a recipient’s operations. This is true even if only one part of the recipient receives the Federal financial assistance. For example, USDA provides assistance to a University’s outreach department to provide business development services to local farmers and ranchers. In such a case, all operations of the University, not just those of the University’s outreach department, are covered.

Some recipients operate in jurisdictions in which English has been declared the official language. These recipients continue to be subject to Federal nondiscrimination requirements, including those applicable to the provision of Federally assisted services and benefits to persons with limited English proficiency.

III. Who is a limited English proficient person?

- Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English are limited English proficient or “LEP” and entitled to language assistance with respect to a particular type of benefit, service, or encounter. Examples of populations likely to include LEP persons who are encountered and/or served by USDA recipients and should be considered when planning language services include, but are not limited to, for example:

  - Persons seeking access to or needing assistance to obtain food stamps or other food assistance from a recipient;
  - Persons seeking information, seeking to enforce rights, or seeking benefits or services from recipient State and County agencies, offices, and their subdivision;
  - Persons encountering recipient private vendors, agents, contractors, associations, and corporations;
  - Students, community members, and others encountering recipient extension programs, colleges, universities, and elementary and secondary schools;
  - Persons seeking to participate in public meetings or otherwise participate in the activities of county, district, and regional committees/councils;
  - Persons seeking access to, or services or information from nursing homes, summer camps, food banks, and housing authorities;
  - Persons subject to the work of research and promotion boards;
  - Persons encountering other entities or persons who receive, directly or indirectly, Federal financial assistance provided by USDA; and
  - Parents and family members of the above.

IV. How does a recipient determine the extent of its obligation to provide LEP services?

In order to ensure compliance with Title VI and Title VI regulations, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs and activities. While designed to be a flexible and case-dependent standard, the starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered within the area serviced by the recipient;
2. The frequency with which LEP persons come in contact with the program or activity;
3. The nature and importance of the program, activity, or service to people’s lives; and
4. The resources available to the recipient and costs.

As indicated above, the intent of this Guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while avoiding the above four-factor analysis, a recipient may conclude that different language assistance measures are sufficient for the different types of programs or activities in which it engages. For instance, some of a recipient’s activities will be more relevant to the public than others and/or have greater impact on or contact with LEP persons, and thus may require more in the way of language assistance. However, the flexibility that recipients have to address the needs of the LEP populations they serve does not diminish and should not be used to minimize their obligation to address those needs. USDA recipients should apply the above factors to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

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A complaint filed with USDA alleges that a local food stamp certification office discriminates against LEP Chinese applicants by failing to provide these persons with language assistance in connection with its programs and activities, including written translations. The certification office identifies its service area as the geographic area identified in its plan of operations. USDA determines that a substantial number of the recipient's food stamp applicants and beneficiaries are drawn from the area identified in the plan of operations and that no area with concentrations of racial, ethnic, or other minorities is discriminatorily excluded from the plan. USDA is likely to accept the area identified in the plan of operations as the relevant service area.

Example B: A privately owned limited-profit housing corporation enters into an agreement with USDA to provide low-income rural rental housing that will serve beneficiaries in three counties. The agreement is reviewed and approved by USDA. In determining the persons eligible to be served or likely to be affected, this relevant service area would generally be that designated in the agreement. However, if none of the counties has a significant population of LEP persons, and the others do not, consideration of that particular county as a service population for purposes of determining the proportion of LEP persons in the population served by that portion of the recipient's program or activity would be appropriate.

When considering the number or proportion of LEP individuals in a service area, recipients should consider LEP parents when their English-proficient or LEP minor children and dependents associated or participating in a recipient's program or activity.

Recipients should first examine their prior experiences with LEP encounters and determine the breadth and scope of language services that were used. In conducting this analysis, it is important to include language minority populations that are eligible for their programs or activities but may be underserved because of existing language barriers.

Other data should be consulted to refine or validate a recipient's prior experience, including the latest census data for the area served, data from school and from community organizations, and data from State and local governments. Community

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The focus of the analysis is on the lack of English proficiency, not the ability to speak more agencies, school systems, religious organizations, legal aid entities, and others who can offer assistance in identifying populations for whom outreach is needed and who would benefit from the recipients' programs and activities were language services provided.

(2) The Frequency With Which LEP Persons Come Into Contact With the Program or Activity.

Recipients should assess the frequency with which they have or should have contact with an LEP person from different language groups seeking assistance. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed. The steps that are reasonable for a recipient that serve an LEP person on a one-time basis will be very different than those expected from a recipient that serve LEP persons daily. In all cases, a recipient should determine the frequency of different types of language contacts. For example, frequent contact with Spanish-speaking people who are LEP may require certain assistance in Spanish. Less frequent contact with different language groups may suggest a different and less intensified solution. If an LEP person accesses a program or service on a daily basis, recipient has greater duties than if the same person's program or activity contact is unpredictable or infrequent. But even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP person seeks services under the program in question.

This plan needs not be intricate; it may be as simple as being prepared to use one of the commercially available telephone interpretation services to obtain immediate interpreter services. In applying this standard, recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

(3) The Nature and Importance of the Program or Activity or Service by the Program.

The more important the information, services, or benefits provided in a program or activity, or the greater the possible consequences of the contact to one language. Note that demographic data may indicate the most frequently spoken language other than English was then; some of the most commonly spoken languages other than English may be spoken by people who are also overwhelmingly proficient in English. Thus, they may not be the languages spoken most frequently by limited English proficient persons. When using demographic data, it is important to focus in on the language spoken by those who are not proficient in English.

LEP persons, the more likely language services are needed. For instance, in determining importance, the obligation to communicate information on the availability of emergency food assistance in a designated disaster area may differ significantly from the obligation to communicate information on the opportunity to attend a one-time free lunch at a community recreation center. A recipient needs to determine whether denial or delay of access to services, benefits or information could have serious or life-threatening implications for an LEP person. For example, the failure to translate consent forms or other essential documents may have serious service, or program, or activity.

(4) The Reasonableness of the Recipient's Efforts.

A recipient's level of resources and the costs that would be imposed on it in providing language services to LEP persons may limit its ability to provide language services to the extent that the costs imposed substantially exceed the benefits. Resource and cost issues, however, can often be reduced by technological advances, the sharing of language assistance materials and services among and between recipients, advocacy groups, and Federal agencies, and reasonable business practices.

Where appropriate, training bilingual staff to act as interpreters and translators, and developing sharing through industry groups, telephonic and video conferencing interpretation services, pooling of resources, and standardizing documents to reduce translation needs, using qualified translators and interpreters to secure that documents needed are translated, and other such measures can reduce the need for additional resources.
formalized use of qualified community volunteers, for example, may help reduce costs. 18 Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well-substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other reasonable manner, their process for determining that language services would be limited based on resources or costs. This is not to suggest that smaller entities are immune from this requirement to provide meaningful access. Any recipient of federal financial assistance must be sure that any claim of resource limitations is well substantiated.

The four-factor analysis necessarily implicates the "mix" of LEP services required. Recipients have two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service (hereinafter "interpretation") and written translation (hereinafter "translation"). Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially available telespeech interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in others the LEP person may be referred to another office of the recipient for language assistance. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, a social service recipient having a service area with a significant Hispanic LEP population may need immediate oral interpreters available and should give serious consideration to hiring some bilingual staff. (Of course, many social services have already made such arrangements.) In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high—such as in the case of a voluntary general public tour of a recreational facility in which prearranged language services for the particular service may not be necessary. All recipients must provide meaningful access to all their programs. However, the four-factor analysis recognizes that there may be situations of import concerning certain activities that will lessen the burden on a recipient in certain unique situations. Regardless of the type of language service provided, quality and accuracy of those services can be critical in order to avoid serious consequences to LEP persons and to recipients. Recipients have substantial flexibility in determining the appropriate mix.

V. Selecting Language Assistance Services

Recipients have two main ways to provide language assistance to LEP persons—oral interpretation and written translation. Quality and accuracy of the language service is critical in order to avoid serious consequences to LEP persons and to recipients.

A. Oral Language Services (Interpretation)

Interpretation is the act of listening to something in one language (source language) and orally translating it into another language (target language). Where interpretation is needed and is reasonable, recipients should consider one of the following options for providing competent interpreters in a timely manner.

Competence of Interpreters. When providing oral assistance, recipients should ensure competency of the language service provider, no matter which of the strategies outlined below are used. Competency requires more than self-identification as bilingual. Some bilingual staff and community volunteers, for instance, may be able to communicate effectively in a different language when communicating information directly in that language, but not be competent to interpret in and out of English. Likewise, they may not be able to do written translations.

Competency to interpret, however, does not necessarily mean formal certification as an interpreter, although certification is helpful. When using interpreters, recipients should ensure that they:

- Demonstrate proficiency in and ability to communicate information accurately in both English and in the other language and identify and employ the appropriate mode of interpreting (e.g., consecutive, simultaneous, summarization, or sight translation);
- Have knowledge in both languages of any specialized terms or concepts peculiar to the recipient's program or activity and of any particularized vocabulary associated with the LEP person who is being assisted; 18
- Understand and follow confidentiality and impartiality rules to the same extent as the recipient for whom he or she is interpreting and
- Understand and adhere to their role as interpreters, without deviating into a role as counselor, advisor, or other inappropriate roles.

Some recipients may have additional self-imposed requirements for interpreters.

Where individual rights depend on precise, complete, and accurate interpretation or translation, particularly when ambiguous, incomplete, or inaccurate information may result in the denial or reduction of services or benefits, the use of certified interpreters is strongly encouraged. 18 Where such proceedings are lengthy, the interpreter will likely need breaks and team interpreting may be appropriate to ensure accuracy and to prevent errors caused by mental fatigue of interpreters.

While quality and accuracy of language services is critical, the quality and accuracy of language services is nevertheless part of the appropriate mix of LEP services required. The quality and accuracy of language services in a hearing regarding the reduction of benefits, for example, must be extraordinarily high, while the quality and accuracy of language services in a voluntary recreational program may not need to meet the same exacting standards.

Finally, when interpretation is needed, it should be provided in a timely manner. While there is no single definition for "timely" applicable to all types of interactions at all times by all types of recipients, one clear guide is that the language assistance should be

18 Some recipients with limited resources may find that entering into a bulk telephonic interpretation service contract will prove cost effective.

18 Many languages have "regionalisms," or differences in usage. For instance a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages that do not have an appropriate direct interpretation of some programmatic terms, the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used going forward.
provided at a time and place that avoids the effective denial of the service or benefit at issue or the imposition of an undue burden on or de in the provision of important information rights, benefits or services to the LEP person. For example, when hiring bilingual staff, there is a likelihood that the provision of information, services or benefits is necessary for the recipient to communicate with an LEP person.

**Contracting for Interpreters.** Contracting for interpreters may be a cost-effective option when there is no regular need for a particular language skill. In addition, using bilingual organizations and mutual assistance associations provides interpretation services for LEP persons from those language groups.

**Using Telephone Interpreter Lines.** Telephone interpreter services often offer affordable interpreting assistance in many different languages. They may be particularly appropriate where the need for an English proficient person is not an issue. Although telephone interpreting services are useful in many situations, it is important to ensure that, when using such services, the interpreters used are competent to interpret any technical or legal terms specific to a particular program or activity that may be important parts of the conversation. Nuances in language and context may often require communication with an English proficient person who cannot be recognized over the phone. Video teleconferencing may sometimes help to resolve such issues where necessary. In addition, when documents are being discussed, it is important to give telephone interpreters adequate opportunity to review the documents prior to the discussion and any logistical problems should be addressed.

**Using Community Volunteers.** In addition to consideration of bilingual staff, interpreters, or contract interpreters (either in-person or by telephone) as options to ensure meaningful access by LEP persons, use of recruited and trained community volunteers working with, for instance, community-based organizations may provide a cost-effective supplement to language assistance strategy under appropriate circumstances. They may be particularly useful in providing language access for a recipient’s less critical programs and activities. To the extent the recipient relies on community volunteers, it is often best to ensure that volunteers are trained in the information, services, or benefits of the program activity that can communicate directly with LEP persons in their language. Just as with all interpreters, community volunteers used to interpret between English speakers and LEP persons, or to orally translate documents, should be competent in the skill of interpreting and knowledgeable about applicable confidentiality and interpreter rules. Recipients should consider formal arrangements with community-based organizations that provide volunteers to address these concerns and to help ensure that services are readily available.

**Use of Family Members, Friends, or Others as Interpreters.** Although recipients should not plan to rely on an LEP person as an interpreter, family members, friends, or other informal interpreters to provide meaningful access to important programs or activities, where LEP persons may be permitted to use, at their own expense, an interpreter of their own choosing (whether a professional interpreter, friend, family member, friend, or other person of their choosing) in place of or as a supplement to the free language services expressly offered by the recipient. LEP persons may feel more comfortable when a trusted family member or friend, or other person they trust, is present. In addition, in exigent circumstances that are not reasonably foreseeable, it may be unreasonably burdensome for the recipient not provided by the recipient may be necessary. However, with proper and careful planning, services should be avoided most such situations.

**Recipients, however, should take steps to ensure that family members, friends, legal guardians, care givers, and other informal interpreters fully understand the circumstances and subject matter of the program activity.** In particular, when using the services of a professional interpreter, it is important to ensure that the interpreter is competent to interpret any technical or legal terms specific to a particular program or activity that may be important parts of the conversation. Nuances in language and context may often require communication with an English proficient person who cannot be recognized over the phone. Video teleconferencing may sometimes help to resolve such issues where necessary. In addition, when documents are being discussed, it is important to give telephone interpreters adequate opportunity to review the documents prior to the discussion and any logistical problems should be addressed.

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For USDA recipient programs and activities, this is particularly true in an administrative hearing or in situations in which health, safety, or access to sustenance or important benefits and services are at stake, or when credibility and accuracy are important. To protect an LEP person’s rights or access to important benefits and services, an LEP recipient applies for food stamps or a low-income farm loan. The recipient should not rely on friends or family members of the LEP recipient or other informal interpreters.

While issues of competency, confidentiality, and interest in the use of family members (especially children), friends, or other informal interpreters often make their use inappropriate, their use as interpreters may be an appropriate option where proper application of the four factors indicates that a consideration of the use of family members is necessary. An example of such a case is where an LEP recipient applies for food stamps or a low-income farm loan. The recipient should consider whether a record of that choice and of the recipient’s offer of assistance is appropriate. Where appropriate, complete, and accurate translations of information contained in a particular program or activity include the translation of vital information into the language of each affected population. Thus, where a recipient is engaged in community outreach activities, it may be helpful to determine what documentation and services are used by the LEP community. The recipient should consider whether translations of outreach materials are appropriate.

### B. Written Language Services (Translation)

Translation is the replacement of a written text from one language (source language) into an equivalent written text in another language (target language). The recipient should consider whether or not a document or the text from one language (source language) into an equivalent written text in another language (target language).

**What Documents Should Be Translated?**

After applying the four-factor analysis, a recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into the language of each frequently encountered LEP group eligible to be served and/or likely to be affected by the recipient’s program.

- **Applicants to participate in a recipient’s program or activity or to receive recipient benefits or services:**
  - Consent forms, complaint forms, intake forms, letters containing important information related to participation (such as cover letters outlining conditions of participation in a loan program or committee election);
  - Written notices pertaining to eligibility requirements, rights, losses, denials, decreases in benefits or services, foreclosures, or terminations of services or benefits and/or the right to appeal such actions;
  - Written notices pertaining to enforcement requirements, rights, losses, denials, decreases in benefits or services, foreclosures, or terminations of services or benefits and/or the right to appeal such actions;
  - Notices advising LEP persons of the availability of free language assistance;
  - Written texts that do not assess English language proficiency, but test competency for a particular license, job, or skill for which knowing English is not required;
  - Outreach materials;
  - Any documents that require a response from applicants, beneficiaries, and/or other participants.

**Whether or not a document (or the information it solicits) is “vital”** may depend upon the importance of the program or activity, information, encounter, service, or benefit involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. For instance, applications for voluntary credit management courses are not necessarily vital (so long as they are not a prerequisite to obtaining or maintaining better credit), whereas, applications for rural rental housing would be considered vital. Where appropriate, recipients are encouraged to create a plan for consistently determining, over time and across its various activities, what documents are "vital" to the meaningful access of the LEP populations they serve. Note, however, that even when a document is not vital, the recipient still must provide meaningful access, which may require sight translation or other language assistance services. Classifying a document as vital or non-vital is sometimes difficult, especially in the case of outreach materials like brochures or other information on rights and services. Awareness of rights or services is an important component of "meaningful access." Lack of awareness that a particular program, right, or service exists may be as meaningful as providing the program, right, or service. Thus, where a recipient is engaged in community outreach activities, it may be helpful to determine what outreach materials are used by the LEP community. The recipient should consider whether translations of outreach materials are appropriate.
written materials into all of those languages is unrealistic. Although recent technological advances have made it easier for recipients to store and share translated documents, such an undertaking would incur substantial costs and require substantial resources. Nevertheless, well-substantiated claims of lack of resources to translate all vital documents into dozens of languages do not necessarily relieve the recipient of the obligation to translate these documents into at least several of the more frequently encountered languages and to set benchmarks for future translations into the remaining languages over time. As a result, the extent of the recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances, in light of the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the up-front costs of translating a document (as opposed to oral interpretation) should be amortized over the likely life span of the document when applying this four-factor analysis.

Safe Harbor. Many recipients would like to ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. Paragraphs (a) and (b) below outline the circumstances that can provide a "safe harbor," which means that a recipient provides written translations under these circumstances, each action will be considered strong evidence of compliance with the recipient's written-translation obligations.

The failure to provide written translations under the circumstances outlined in paragraphs (a) and (b) does not mean there is non-compliance. Rather, they provide a common starting point for recipients to consider whether and at what point the importance of the service, benefit, or activity involved; the nature of the information sought; and the number or proportion of LEP persons served call for written translations of commonly-used forms into frequently encountered languages other than English. Thus, these paragraphs merely provide a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis.

Example: Even if the safe harbors are not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of a recipient's program or activity, the translation of the written materials is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Safe Harbor Provisions. The following actions will be considered strong evidence of compliance with the recipient's written-translation obligations:

a. The USDA recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1,002, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents needed, can be provided orally; or

b. If there are fewer than 50 persons in a language group that reaches the 5 percent trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

These Safe Harbor Provisions apply to the translation of written documents only. They do not affect the requirement to provide meaningful access to LEP persons through competent oral interpreters where oral language services are needed and are reasonable. The four-factor analysis must always be used in evaluating the need for, and extent of use of, oral interpretation.

For example, recipients should, where appropriate, ensure that program rules have been explained to LEP program participants prior to taking adverse action against them.

Competence of Translators. As with oral interpreters, translators of written documents should be competent. Many of the same considerations apply. However, the skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may not be competent to translate.

Particularly where legal or other vital documents being translated, competence can often be assured by having a second, independent translator "check" the work of the primary translator. Alternatively, one translator can translate the document, and a second, independent translator could translate it back into English to check that the appropriate meaning has been conveyed. This is called "back translation." Recipients should ensure that translators understand the expected reading level of their audiences and, where appropriate, have fundamental knowledge about the target language group's vocabulary and phrasing.

Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English language version or has no relevant equivalent meaning. Community organizations may be able to help consider whether a document is written at a good level for the audience. Likewise, consistency in the words and phrases used to translate terms of art, or technical concepts helps avoid confusion by LEP persons and may reduce costs. Providing translators with examples of previous accurate translations of similar material by the recipient, other recipients, or Federal agencies may be helpful.

While quality and accuracy of translation services is critical, the quality and accuracy permit meaningful access by LEP persons.

VI. Elements of Effective Plan on Language Assistance for LEP Persons

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the identified needs of the LEP populations it serves. Recipients have considerable
flexibility in developing this plan. The development and maintenance of a periodically updated written plan on language assistance for LEP persons ("LEP plan") for use by recipient employers serving the public will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Moreover, such written plans would likely provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. These benefits should lead staff to develop a written LEP plan that language assistance services, and how staff and LEP persons can access the services. Despite these benefits, certain USDA recipients, such as recipients serving very few low persons and recipients with limited resources, may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. Accordingly, in the event that a recipient elects not to develop a written plan, it should consider alternative ways to articulate in some other reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, religious organizations, community groups, and groups working with new immigrants, can be very helpful in providing important input into this planning process from the beginning.

The following steps may be helpful in designing an LEP plan and are typically part of effective implementation plans:

(1) Identifying LEP Persons Who Need Language Assistance

The first two factors in the four-factor analysis require an assessment of the number of proportion of LEP persons eligible to be served or encountered and the frequency of encounters. This requires recipients to identify LEP persons with whom they have contact. One way to determine the language of communication is to use language identification cards (or "I speak cards"), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might say "I speak Spanish" in both Spanish and English, "I speak Vietnamese" in both English and Vietnamese, etc. To reduce costs of compliance, the Federal Government has made a set of these cards available on the Internet. The Census Bureau's "I speak card" can be found and downloaded at www.justice.gov/crt/about/crs/Pubs/ISpeakCards.pdf. When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition to helping employees identify the language of LEP persons they encounter, the plan will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons that language assistance will encourage them to self-identify.

(2) Language Assistance Measures

An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance, recipients may want to include information on at least the following:

- Types of language services available;
- How staff can obtain these services;
- How to respond to LEP callers;
- How to respond to written communications from LEP persons;
- How to respond to LEP persons who have no contact with recipient staff.

(3) Training Staff

Staff should know their obligations to provide meaningful access to information and services for LEP persons. An effective LEP plan would likely include training to ensure that:

- Staff know policies and procedures;
- Staff having contact with recipients are trained to work effectively with person and telephone interpreters. Recipients may want to include training as part of the orientation for new employees. It is important to ensure that all employees in public contact positions are properly trained. Recipients have flexibility in deciding the manner in which the training is provided. The more frequent the contact with LEP persons, the greater the need will be for in-depth training. Staff with little or no contact with LEP persons may only have to be aware of an LEP plan. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so that they can reinforce its importance and ensure its implementation by staff.

(4) Providing Notice to LEP Persons

Once a recipient has decided, based on the four factors that it will provide language services, it is important to let LEP persons know that those services are available and they are free of charge. Recipients should provide this notice in a language that LEP persons will understand. Examples of notification that recipients should include:

- Posting signs in intake areas and other entry points and adequate posting on Web sites. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact (including Web sites) so that LEP persons can learn how to access those language services. This is particularly true in areas with high volumes of LEP persons seeking access to important programs, activities, services, or benefits provided by USDA recipients. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered and should explain how to get the language help.

- Stating in outreach documents that language services are available from the recipient. Announcements could be in, for instance, brochures, booklets, and in outreach and recruitment information. These statements should be translated into the most common languages and "tagged" onto the front of common documents;

- Working with community-based organizations and other stakeholders to inform LEP persons of the recipient's services, including the availability of language assistance services;

- Using a telephone voice mail menu. The menu could be in the most common languages encountered. It should provide information about language assistance services and how to get them;

- Including notices in local newspapers in languages other than English; Providing notices on non-English-language radio and television stations about the available language assistance services and benefits and how to get them;

- Presentations and/ or notices at schools and religious organizations;

- Posting notices/links for language assistance on recipient agency Web sites. These should be translated into the most commonly encountered

11 The Social Security Administration has made such signs available at http://www.ssa.gov/multilanguage/indielple. gin. These signs could, for example, be mailed for recipient use.
USDA regulations

As persons is enforced and periodically to meaningful will is voluntary is regulatory enforcement comprehensive goal VI and Title VI the implementation ensure LEP

VI. Effort toward systems will provide meaningful access for LEP persons, USDA proposes reasonable steps recipients that are consistent with this guidance, and that, as part of a broader implementation plan or schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient’s activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, USDA recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to programs or activities having a significant impact on important benefits, and services, are addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to Federally assisted programs and activities.

VIII. Effect on State and Local Laws

Some State and local laws may express language access obligations/requirements. Recipients may meet these obligations, so long as they do not conflict with or set a lower standard than is required under Title VI and Title VI regulations. Moreover, recipients must also comply as a matter of state law with higher requirements if those requirements exist under state laws.

Dated: November 17, 2014.

Thomas J. Vilsack,
Secretary.

[FR Doc. 2014-27805 Filed 11-20-14; 8:45 am]
BILLING CODE 2410-4S-P
# Appendix #3

<table>
<thead>
<tr>
<th>Program</th>
<th>Objective</th>
<th>Recipient</th>
<th>Uses</th>
<th>Beneficiary</th>
<th>Loan/Grant</th>
<th>Terms/Conditions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cooperative Agreements</td>
<td>To supply Federal assistance to States desiring to operate a meat and poultry inspection program in order to assure the consumer an adequate supply of safe, wholesome, and properly labeled meat and poultry products</td>
<td>MD State Meat and Poultry Inspection (MPI) Program (Alabama, Arkansas, Delaware, Georgia, Iowa, Illinois, Indiana, Kansas, Louisiana, Maine, Minnesota, Mississippi, Missouri, Montana, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming)</td>
<td>To assist States that operate meat and poultry inspection programs which are equal to federal meat and poultry inspection programs</td>
<td>Meat, poultry, and egg products plants located within the State engaged in slaughtering or processing meat, poultry, and egg products for shipment in commerce are required to have inspection</td>
<td>FSS provides up to 50% funding for a State Cooperative Inspection Program</td>
<td>In order for States to operate their own MPI program, they must meet and enforce requirements &quot;at least equal to&quot; those imposed under the Federal Inspection Act. Poultry Products Inspection Act. Subsidies provided through the 1977 Food and Agriculture Act of 1977 and Civil Rights laws. State MPI programs are routinely evaluated to determine if each program meets the &quot;at least equal to&quot; criteria. That criteria consist of 9 components: Statistical Authority and Food Safety Regulations, Inspection, Product Sampling, Staffing and Training, Human Handling, Food Safety, Consumer Protection, Compliance, Civil Rights, and Financial Accountability</td>
</tr>
</tbody>
</table>
## Appendix #4

Record of Contact with LEP Persons

<table>
<thead>
<tr>
<th>Date of Contact with LEP Person</th>
<th>State Personnel Who Communicated with LEP Person</th>
<th>Primary Language Spoken by LEP Person</th>
<th>Geographic Location of LEP Person</th>
<th>Method of Contact with LEP Person (In Person, Telephonic, Written)</th>
<th>Type of Service Provided to LEP Person</th>
</tr>
</thead>
<tbody>
<tr>
<td>04-01-2015</td>
<td>Tammie Smith</td>
<td>Spanish</td>
<td>Lawrence, Kansas</td>
<td>In Person</td>
<td>Provided copy of application and 800 number to interpreter service.</td>
</tr>
</tbody>
</table>

The information captured above should be provided to the FSIS Civil Rights Staff on an annual basis.
Appendix #5

Sample Survey to Record Contact with LEP Persons

An individual with Limited English Proficiency (LEP) is defined as a person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English.

The purpose of the survey is to gather information on the number and frequency of contacts that FSIS employees have with LEP individuals where the nature of those interactions is of critical importance in the receipt of Federal services. This survey pertains to the language needs of FSIS customers, and does not apply to FSIS employees who, in order to perform their duties, must be fluent in the English language.

LEP Survey

Q. Do you encounter LEP individuals in the course of communicating critical information? Critical information is defined as information required for obtaining or retaining Federal services and/or benefits, or is required by law. Examples include:
   • Application procedures and documentation required to apply for grants of inspection
   • Documentation and information needed to enforce and ensure compliance with food safety requirements
   • Information on recalls

A. Yes/No (If the answer is yes, proceed to the next question. If the answer is no, the survey is over.)

Q. What critical information are you providing to these LEP individuals?

A. Fill in

Q. What are the primary languages of these LEP individuals? (Select all that apply)

A. Spanish; French; Mandarin (Chinese); Japanese; Vietnamese; Arabic; Don’t Know; Other (fill in)

For each language selected, please answer the following questions:

Q. Over the course of the year, approximately how many people do you encounter that speak this language?

A. Number

Q. How often do you interact with these LEP individuals?

A. Daily; Weekly; Monthly; Annually

Q. Are there FSIS employees in the local area who are fluent in this language and can serve as interpreters as needed?

A. Yes/No/Don’t Know
Appendix #6

LEP Release Acknowledgment Form

I hereby affirm that I offered language assistance or interpreter services at no cost to __________________ and the services were declined. I explained that the use of a family member or friend for the aforementioned services could result in a breach of confidentiality, violating his/her individual privacy, and could disclose sensitive and confidential information that he/she would not like disclosed.

Name (Printed): ___________________________ Date: ________________
(Employee)
Signature: ____________________________________________
Appendix #7

Format for LEP Plan:

I. Introduction
II. Policy
III. Legal Authority
IV. Definitions/Key Terms
V. Scope
VI. Current LEP Practices
VII. Four Factor Analysis
VIII. Communication/Outreach (Notification to LEP Persons)
IX. LEP Training
X. Roles and Responsibilities