

Department of Justice Language Access Plan

March 2012

1. GENERAL LANGUAGE ACCESS POLICY

a. Policy Statement

1. It is the policy of the Department of Justice that Department staff shall take reasonable steps to provide limited English proficient (LEP) persons with meaningful access to all programs or activities conducted both by the Department and by entities receiving funding from the Department.
2. This policy is based on the principle that it is the responsibility of the Department and not the LEP person to take reasonable steps to ensure that communications between the Department and the LEP person are not impaired as a result of the limited English proficiency of the individual.
3. Department staff shall take reasonable steps to effectively inform the public of the availability of language accessible programs and activities.

b. Purpose and Authority

The purpose of this language access Plan is to make reasonable efforts to eliminate or reduce limited English proficiency as a barrier to accessing Department of Justice programs or activities. This Plan was created by the Department of Justice Language Access Working Group, a Department-wide group established by the Attorney General consisting of representatives from each component as well as leadership offices.

This Plan establishes guidelines in accordance with Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50,121 (Aug. 16, 2000). These guidelines are designed to be consistent with the standards set forth in the Department's initial LEP Guidance, Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency, 65 Fed. Reg. 50,123 (Aug. 16, 2000),¹ the Department's later LEP Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002),² and the Attorney

¹ This document is available at <http://www.justice.gov/crt/about/cor/Pubs/eolep.pdf>.

² This document is available at <http://www.justice.gov/crt/about/cor/lep/DOJFinLEPFRJun182002.php>.

General's memorandum to the heads of Department components, Language Access Obligations Under Executive Order 13166 (June 28, 2010).³ It is necessary for Department staff to make reasonable efforts to provide timely language assistance services to ensure that LEP individuals have substantially equal and meaningfully effective access to Department programs or services.⁴

c. Definitions

1. *Direct "In-Language" Communication* – Monolingual communication in a language other than English between a multilingual staff and an LEP person (e.g., Korean to Korean).
2. *Effective Communication* – Communication sufficient to provide the LEP individual with substantially the same level of access to services received by individuals who are not LEP. For example, staff must take reasonable steps to ensure communication with an LEP individual is as effective as communications with others when providing similar programs and services.
3. *Interpretation* – The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.
4. *Language Assistance Services* – Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in, the services, activities, or other programs administered by the Department.
5. *Limited English Proficient (LEP) Individuals* – Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).⁵

³ This document is available at http://www.justice.gov/crt/about/cor/language_access_memo.pdf. Further information, guidance, and technical assistance on the implementation of Executive Order 13166 can be found on the website of the Federal Coordination and Compliance Section of the Civil Rights Division, <http://www.justice.gov/crt/about/cor/>, or www.lep.gov.

⁴ Regarding timeliness, the LEP Guidance to DOJ Recipients provides that “[w]hile 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 provided at a time and place that avoids the effective denial of the service, benefit, or right at issue or the imposition of an undue burden on or delay in important rights, benefits, or services to the LEP person.” 67 Fed. Reg. at 41,461.

⁵ The Department has determined that Executive Order 13166 applies only to persons who are located within the United States and its territories, and does not apply extraterritorially.

6. *Meaningful Access* – Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual.⁶ For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed or inferior as compared to programs or activities provided to English proficient individuals.
7. *Multilingual staff or employee* – A staff person or employee who has demonstrated proficiency in English and reading, writing, speaking, or understanding at least one other language as authorized by his or her component.
8. *Primary Language* – An individual’s primary language is the language in which an individual most effectively communicates.
9. *Program or Activity* – The term “program or activity” and the term “program” mean all of the operations of the Department.⁷
10. *Qualified Translator or Interpreter* – An in-house or contracted translator or interpreter who has demonstrated his or her competence to interpret or translate through court certification or is authorized to do so by contract with the Department or by approval of his or her component.
11. *Sight Translation* – Oral rendering of written text into spoken language by an interpreter without change in meaning based on a visual review of the original text or document.
12. *Translation* – The replacement of written text from one language (source language) into an equivalent written text in another language (target language).
13. *Vital Document* – Paper or electronic written material that contains information that is critical for accessing a component’s program or activities, or is required by law.

⁶ When federal rules or statutes allow for recovery of fees against a losing party to a court proceeding, it is the policy of the Department not to seek recovery of costs for language assistance services if doing so would result in discrimination against LEP individuals.

⁷ For the purposes of this Plan, the definition of “program or activity” is identical to that used under the regulations implementing Section 504 of the Rehabilitation Act of 1973: “[A] federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by the regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the department for program beneficiaries and participants. Activities in the first part include communication with the public (telephone contacts, office walk-ins, or interviews) and the public’s use of the Department’s facilities (cafeteria, library). Activities in the second category include programs that provide Federal services or benefits (immigration activities, operation of the Federal prison system).” 28 C.F.R. § 39.102.

Language access plans from DOJ components may supplement these definitions with additional terms or component-specific definitions that are not inconsistent with these definitions or with the objective of timely providing LEP persons with substantially equal and meaningfully effective access to Department programs or services.

d. Scope of Policy/Staff Compliance

Department staff should take reasonable steps to provide language assistance services to LEP individuals when they encounter or have reason to believe that they may encounter LEP individuals in the course of fulfilling their component's mission.⁸ Subject to guidelines set forth herein, Department staff should take reasonable steps to provide language assistance services upon request by an LEP person who wishes to access Department programs or activities or to whom Department staff wishes to communicate.⁹

This directive is intended only to improve the internal management of the Department's language access program, and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person. Because this document is intended for the internal management of the Department's language access program, it is not intended to be cited in any judicial or administrative proceeding. Administration of the programs discussed herein is within the sole discretion of the Department and its components. The Department will create and post a process for obtaining feedback regarding the Department's implementation of this policy.

2. BACKGROUND

Every day, Department staff interview witnesses, victims, and defendants in civil, criminal, and administrative cases and investigations; communicate with inmates who seek to access prison grievance procedures, counseling, health services, religious and other accommodations, and educational programming; hold immigration hearings, review immigration judges' determinations, generate correspondence related to these activities, and defend administrative immigration decisions in federal court; maintain hotlines and establish complaint procedures for members of the public; host web pages containing important information; transport prisoners between facilities and to court; account for communications between trustees and debtors, ensure that debtors understand information on bankruptcy, and oversee the credit counseling and debtor education process; and conduct outreach and produce brochures related to crime victims' rights, trafficking in persons, police misconduct, predatory telemarketing, and a host of other important issues.

⁸ Many Department tasks and functions are conducted by contracted personnel and, consequently, contracted personnel may interact with LEP individuals. Components should notify contracted personnel of the obligation to ensure nondiscrimination, including compliance with Executive Order 13166. Components should consider contractors and interns having contact with LEP individuals when determining who needs to be briefed on their roles and responsibilities under the Department's language access policies, plan, and procedures.

⁹ The Department seeks to deliver the highest standards of professional competence and ethical conduct during the course of fulfilling its mission. Consequently, Department attorneys should also consider their responsibilities under the applicable rules of professional conduct when dealing with LEP individuals, including unrepresented parties, victims, and witnesses. The Department's Professional Responsibility Advisory Office is available to assist Department attorneys in this regard.

These and other examples highlight that the Department's mission depends on accurate communication with members of the public, regardless of their level of English proficiency. In compliance with Executive Order 13166, this Plan details the Department's initiatives to enhance access to its federally conducted programs and activities by LEP individuals.

a. Executive Order 13166

On August 11, 2000, the President issued Executive Order 13166, Improving Access to Services by Persons with Limited English Proficiency. *See* 65 Fed. Reg. at 50,121. On the same day, the Assistant Attorney General for Civil Rights issued an initial LEP Policy Guidance. *See* 65 Fed. Reg. at 50,123.¹⁰

The Executive Order has two broad objectives: The first directs each federal agency to develop and implement a system to ensure that LEP individuals can meaningfully access the agency's federally conducted programs and activities; the second directs federal agencies providing federal financial assistance to issue guidance to recipients of such assistance regarding their legal obligation to ensure meaningful access for LEP persons under the national origin nondiscrimination provisions of Title VI of the Civil Rights Act of 1964 and implementing regulations. In short, Executive Order 13166 tasks the Department with improving accessibility for LEP persons in all DOJ programs and activities and ensuring that those entities that receive funding from the Department do the same.

b. Transforming Policy into Practice: The Department of Justice Language Access Working Group

On June 28, 2010, the Attorney General issued a memorandum to the heads of Department components regarding their language access obligations under Executive Order 13166.¹¹ Among other requirements, the Memorandum established the DOJ Language Access Working Group (DOJ LAWG), co-chaired by the Assistant Attorneys General for Civil Rights and for Administration.¹²

The purpose of the DOJ LAWG is to guide and oversee component efforts toward full compliance with Executive Order 13166. Consisting of representatives from each component and leadership offices, the DOJ LAWG assists in implementing the Attorney General's request that each DOJ component create and implement its own language access plan by the end of calendar year 2011. The Attorney General set forth a number of responsibilities for component representatives who are participants in the DOJ LAWG, including: (1) serving as the component's language access coordinator; (2) assessing component operations for LEP needs and gaps in service; and (3) creating a component language access plan, along with policies and

¹⁰ Pursuant to Executive Order 13166, DOJ's federally conducted language access plan must also be consistent with the standards set forth in the Department of Justice guidance regarding the Title VI prohibition against national origin discrimination affecting LEP individuals.

¹¹ This document is available at http://www.justice.gov/crt/about/cor/language_access_memo.pdf.

¹² LEP Guidance to Recipients, 67 Fed. Reg. at 41,461.

protocols to implement the plan. Once all plans are submitted to, reviewed, and approved by the co-chairs, the DOJ LAWG will monitor the implementation and ongoing assessment of component language access plans.

Beginning in December 2010, the DOJ LAWG convened several bimonthly plenary meetings and established smaller focus groups or subcommittees to discuss topics including human resources, information technology, and procurement. Smaller focus groups also shared knowledge on language access issues affecting law enforcement components, components with correctional responsibilities, components that provide federal financial assistance, and civil litigating components. The Federal Coordination and Compliance Section (FCS)¹³ of the Civil Rights Division provided technical assistance to the DOJ LAWG, including training regarding language access program planning and the distribution of resources such as the *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs*¹⁴; *Common Language Access Questions, Technical Assistance, and Guidance for Federally Conducted and Federally Assisted Programs*¹⁵; and *Considerations for Providing Language Access in a Prosecutorial Agency*.¹⁶ DOJ LAWG members began drafting component-specific language access plans during the spring of 2011 and submitted those plans for review in the summer of 2011. This Plan is a product of the training, discussion, feedback, and ideas generated by the DOJ LAWG and will evolve as the demands, challenges, and opportunities faced by the Department change over time.¹⁷

c. Updating the Departmental Plan Implementing Executive Order 13166

In the eleven years since the Executive Order was signed and the Department first issued its implementation plan, our understanding of the need for language assistance services has expanded, the diversity of non-English languages we encounter has grown, and methods for providing language services have evolved. With over a decade of experience in complying with Executive Order 13166 and, in particular, enforcing the national origin anti-discrimination protections of Title VI, our approach focuses on implementing practical policies and procedures that will enable staff in Department components to communicate with LEP individuals. Understanding the ways in which individuals in general, and consequently LEP individuals, interact with each component has been critical in determining which language access policies and procedures apply to each component.

In compliance with the Attorney General's June 2010 memorandum, each component began the process of creating a language access plan by evaluating their current efforts to provide meaningful access to LEP individuals. The DOJ LAWG encouraged components to use

¹³ The Federal Coordination and Compliance Section, among other functions, is responsible for government-wide coordination with respect to Executive Order 13166. The Section serves as the federal repository for the internal implementation plans that each federal agency is required to develop to ensure meaningful access to its own federally conducted programs and activities, and it also reviews and approves each funding agency's external LEP guidance for its recipients.

¹⁴ Available at http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf.

¹⁵ Available at http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf.

¹⁶ Available at http://www.lep.gov/resources/092111_Prosecutors_Planning_Tool.pdf.

¹⁷ See Part 3(k) (Performance Measurement and Evaluation).

the *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs* to self-assess and determine their own capacity and need to provide services to LEP individuals. This tool is a practical application of the four-factor analysis set out in guidance issued in accordance with Executive Order 13166, and provides components with technical assistance in creating a language access plan, policies, and procedures.

The four-factor analysis is a flexible and fact-dependent standard that is used to determine the appropriate language assistance services to ensure an LEP individual has meaningful access to that agency's programs and activities. The four-factor analysis considers: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people's lives; and, (4) the resources available to the program and costs.¹⁸ The Attorney General's June 2010 memorandum explains that "Executive Order 13166 tasks the Department with improving accessibility for LEP persons in everything that we do on the Department level."¹⁹ Some components with high levels of interaction with the public will have more language service requirements than others based on component assessment of the range and nature of component activities and contact or potential contact with LEP individuals.

The creation of the DOJ LAWG and related cost-saving or cost-sharing initiatives are aimed at maximizing Department resources to ensure cost-effective delivery of quality language assistance services.²⁰

¹⁸ LEP Guidance to Recipients, 67 Fed. Reg. at 41,459.

¹⁹ Language Access Obligations Under Executive Order 13166 at 1.

²⁰ The LEP Guidance to Recipients, 67 Fed. Reg. at 41,461, provides further information regarding the consideration of costs as a factor in the provision of language assistance services: "A recipient's level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, 'reasonable steps' may cease to be reasonable where 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 grant agencies; and reasonable business practices. Where appropriate, training bilingual staff to act as interpreters and translators, information sharing through industry groups, telephonic and video conferencing interpretation services, pooling resources and standardizing documents to reduce translation needs, using qualified translators and interpreters to ensure that documents need not be 'fixed' later and that inaccurate interpretations do not cause delay or other costs, centralizing interpreter and translator services to achieve economies of scale, or the formalized use of qualified community volunteers, for example, may help reduce costs. 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."

3. OPERATIONAL GUIDELINES IN THE PROVISION OF LANGUAGE ASSISTANCE SERVICES

a. Quality Control

Ensuring the quality and accuracy of language assistance services provided by the Department is critical to providing LEP individuals with meaningful access to Department programs and activities. Components should take reasonable steps to ensure that all staff or contracted personnel who serve as translators, interpreters or who communicate “in-language” with LEP persons are competent to do so. Considerations of competency in light of particular tasks may include:

- Demonstrated proficiency in and ability to communicate information accurately in both English and the other language;
- Identifying and employing the appropriate mode of interpreting (e.g., consecutive, simultaneous, or sight translation), translating, or communicating fluently in the target language;
- Knowledge in both languages of any specialized terms or concepts particular to the component’s program or activity and of any particularized vocabulary used by the LEP person;
- Understanding and following confidentiality, impartiality, and ethical rules to the same extent as Department staff;
- Understanding and adhering to their role as interpreters, translators, or multilingual staff.

Components should also take reasonable steps to ensure that all staff or contracted personnel who serve as translators are briefed by component staff on the context and intended audience for the translated text. For example, components may elect to provide guidance with respect to style, technical word choice, phrasing, or reading level depending on the context or target audience.²¹

Absent exigent circumstances, the Department should avoid using family members (including children), neighbors, friends, acquaintances, and bystanders to provide language assistance services.²² Likewise, components should avoid using individual opposing parties,

²¹ The LEP Guidance to Recipients, 67 Fed. Reg. at 41,464, provides that “[t]ranslators should understand the expected reading level of the audience and, where appropriate, have fundamental knowledge about the target language group’s vocabulary and phraseology. 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, legal, or other technical concepts helps avoid confusion by LEP individuals and may reduce costs.”

²² Components should provide staff with further guidance regarding circumstances that would rise to the level of exigent and procedures for providing language assistance services during those circumstances.

adverse witnesses, or victims to a dispute as interpreters. Using family, friends, bystanders, or parties to a dispute to interpret could result in a breach of confidentiality, a conflict of interest, or inadequate interpretation.²³

b. Translation of Department Texts

1. Translating Vital Documents

The Department prioritizes translation of vital documents. Classification of a document as “vital” depends upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. The determination of what documents are considered “vital” is left to the discretion of individual components, which are in the best position to evaluate their circumstances and services within their language access planning materials.

Essentially, there are two distinct types of vital documents – those that are meant for the general public or a broad audience,²⁴ and those that are specific communications regarding a case or matter between an individual and the Department. Each component should exercise its discretion in creating a process for identifying and prioritizing vital documents or texts to translate. Components should also ensure that all translations are completed by qualified translators.

Documents that may be considered “vital” may include, but are not limited to, certain:

- Administrative complaints, release, or waiver forms;
- Claim or application forms;
- Letters of findings;
- Public outreach or educational materials (including web-based material);

²³ The Department has a strong interest in ensuring *accurate* communications with LEP individuals given the Department’s mission as the nation’s primary federal criminal investigation and enforcement agency. The 2002 DOJ Guidance allows recipients of federal financial assistance to use family members, friends, or other informal interpreters to provide interpretation services if the LEP individual so desires and has been specifically notified of the right to free, competent, and confidential language services. The Guidance further cautions that the use of informal interpreters must be “appropriate in light of the circumstances and subject matter of the program, service or activity, including protection of the recipient’s own administrative or enforcement interest in accurate interpretation.” To avoid the problems associated with issues of quality assurance, confidentiality, privacy, and conflict of interest, the Department has elected to avoid using family members (including children), neighbors, friends, acquaintances, and bystanders absent exigent circumstances.

²⁴ Components may find it useful to consider the top languages spoken by LEP individuals within their district or field office when considering the target languages for translation of vital documents meant for the general public or a broad audience that includes LEP individuals. For example, the top six languages spoken at home by LEP persons age 5 years or older according to American Community Survey (ACS) 2006-2010 multi-year data are: Spanish, Chinese, Vietnamese, Korean, Tagalog, and Russian.

- Letters or notices pertaining to statutes of limitations, referrals to other federal agencies, a decision to decline to investigate a case or matter, or closure of an investigation, case or matter;
- Written notices of rights, denial, loss, or decreases in benefits or services, parole, and other hearings;
- Forms or written material related to individual rights;
- Notices of community meetings or other case-related community outreach;
- Notices regarding the availability of language assistance services provided by the component at no cost to LEP individuals;
- Certain consent orders, decrees, Memoranda of Agreement, or other types of pleadings or litigation materials, within the discretion of the component.²⁵

Under most circumstances, materials primarily directed to attorneys, advocates, architects, police, or other professionals will not be considered “vital” for these purposes. Department components or subcomponents with core litigation functions may also be subject to applicable legal standards that may vary based on pertinent federal local rules. Components will necessarily be guided by those legal standards in making decisions as to translation, and this Plan is not intended to supersede or alter those requirements. Recognizing that translations can be resource and time intensive, components are encouraged to seek stakeholder input in determining which documents should be prioritized for translation. Components are also encouraged to pursue resource-sharing and cost-saving initiatives across the Department when translating documents. For example, components may consider sharing glossaries of commonly used terms to reduce the cost of translating terms of art or technical terms. Ultimately, components will assess the considerations in this Plan, including the four-factor analysis, and make decisions within their discretion and consistent with component language access plans as to how to provide meaningful access to written texts.

2. Translating the Department’s Web Content

Components shall take reasonable steps to translate public website content and electronic documents that contain vital information about agency programs and services.²⁶ Components

²⁵ In some instances, monitoring compliance with an agreement or order will be significantly assisted by community involvement and outreach. In such cases, translation of the agreement or order into the most common languages of the affected community can be an effective method of engaging the community in monitoring. In some cases a translated summary of a pleading will be a helpful way to communicate with LEP persons, and in other instances it will be appropriate to translate the entire pleading itself, subject to component discretion. (As discussed, however, documents directed to attorneys are generally outside the scope of this Plan.) Where an agreement is translated, the component may wish to consider options for ensuring that the English-language version of the agreement controls the relationship between the parties.

²⁶ See also Office of Management and Budget, Executive Office of the President, memorandum for the heads of Executive departments and agencies, Policies for Federal Agency Public Websites (Dec. 17, 2004), available at <http://www.whitehouse.gov/omb/memoranda/fy2005/m05-04.pdf>.

shall identify the appropriate languages for translation and shall determine which electronic documents contain vital information.²⁷ Translations of web content may include web pages that contain important information intended for the general public, such as information about the component's jurisdiction and mission, information about how to file a complaint, information about how to contact the component, and information designed to educate individuals or communities about their rights under the law. Components are encouraged to review the General Services Administration's guidance on multilingual websites, <http://www.howto.gov/web-content/multilingual>, when including multilingual content on their websites.

3. Additional Translation Considerations for Components that Provide Federal Financial Assistance

Components that provide federal financial assistance may also consider translating solicitation notices for grants or programs that may be of interest or may affect areas with large populations of LEP individuals. For example, a component may decide to translate solicitation notices into Spanish if the grant or program is aimed at benefiting individuals in Puerto Rico.

c. Identifying LEP Individuals

Component staff should, at the point of first contact with an LEP individual, make reasonable efforts to conduct or arrange for an initial assessment of the need for language assistance services, and components should make reasonable efforts to obtain such services if they are needed to effectively communicate with the individual. Component staff can determine whether a person needs language assistance in several ways:

- Self-identification by the non-English speaker, LEP individual or companion;
- Inquiring as to the primary language of the individual if they have self-identified as needing language assistance services;²⁸
- Asking a multilingual staff or qualified interpreter to verify an individual's primary language;
- Using an "I Speak" language identification card or poster (an example of such a card from the U.S. Census Bureau is available at: <http://www.justice.gov/crt/lep/resources/ISpeakCards2004.pdf>).

d. Tracking and Reporting

Each component should collect data regarding its provision of language assistance services and provide this data to the DOJ LAWG every two years in order for the DOJ LAWG to

²⁷ See Part 3(b)(1) (Translating Vital Documents).

²⁸ Staff should avoid assumptions about an individual's primary language. Some countries have multiple distinct languages, which are often misperceived as different dialects with only a slight variance. For example, LEP persons from Latin American countries may speak an indigenous or non-Spanish language as their primary language. Staff should make every effort to ascertain an individual's primary language to ensure effective communication without making assumptions based on race, color, or national origin.

assess the effectiveness of DOJ's language assistance services.²⁹ The DOJ LAWG will identify the data to be collected, which may include the number of cases, matters, or outreach initiatives in which language assistance services were provided; the primary languages of communication with the LEP persons; the cost of any language assistance services provided; and the type of language assistance provided during a case or matter, if any.

e. Staff Training

Department staff need to know how and when to access language assistance services. For policies and procedures to be effective, components should take reasonable efforts to ensure that new and existing component staff members periodically receive training on: the content of the language access policy; identifying language access needs; and, providing language assistance services to LEP individuals. The DOJ LAWG will develop a basic language access training that components could use as training for staff having the potential to interact or communicate with LEP individuals, staff whose job it is to arrange for language support services, and managers of such staff. The DOJ LAWG will make this training available through DOJ Learning Management Systems. Components have the discretion to determine the nature, form, and frequency of the training. The DOJ LAWG will develop and review training options and make any further recommendations as appropriate.

Each component should take reasonable steps to ensure that relevant staff members receive training on the Department and component's language access policies, Plan, and procedures. Training may include, but is not limited to:

- Identifying the language needs of an LEP individual;
- Working with an interpreter in person or on the telephone;
- Requesting documents for translation;
- Accessing and providing language assistance services through multilingual employees, in-house interpreters and translators, or contracted personnel;
- Duties of professional responsibility with respect to LEP individuals;
- Interpreter ethics;
- Tracking the use of language assistance services; and
- Tips on providing effective assistance to LEP individuals.

Components are encouraged to offer technical training to multilingual staff (e.g., interpreter ethics, interactive online language access courses, etc.) to maintain and improve their language assistance skills.

²⁹ See Part 3(k) (Performance Measurement and Evaluation).

f. Human Resources

The Department values the multilingual skills of its employees. When considering human resource and hiring policies, each component should assess the extent to which non-English language proficiency in particular languages is necessary for particular positions or to fulfill the component's mission. Upon assessment of its language needs, components are encouraged to provide opportunities for professional development of language skills for all qualified Department employees. It is left to component discretion to identify and develop the language skills of Department employees who could serve as multilingual employees. However, all components should take reasonable steps to develop quality control procedures to ensure that Department employees who communicate or correspond in a non-English language with LEP individuals do so in an accurate and competent manner. Multilingual employees with frequent interaction with LEP individuals or whose workplan includes the provision of language assistance services are encouraged to undergo language assessment by the Language Testing and Assessment Unit of the FBI. Each component should track the composition of existing and new staff by non-English languages spoken and level of oral and written proficiency. Maintaining an inventory of multilingual staff could be useful for future resource-sharing initiatives within and between components. Managers are encouraged to take into account the amount of time an employee has spent providing language assistance services when assessing workload and productivity.

g. Procurement

If a component elects to procure language assistance services, each component's procurement office should take reasonable efforts to ensure that any Request for Proposals or contract for language assistance services will specify responsibilities, assign liability, set pay rates, and provide for dispute resolution.³⁰ For example, contracted language assistance service providers should have:

- Qualified and competent translators and interpreters, including second checks for translations;³¹
- Mechanisms to ensure confidentiality and avoid conflicts of interest;
- Ability to meet the component's demand for interpreters;
- Ability to meet the component's demand for translation, including the delivery of the translation in editable electronic or other required formats;
- Reasonable cancellation fees;

³⁰ If a component does not have its own executive or procurement office, it should seek assistance from the Justice Management Division's Consolidated Executive Office to procure language assistance services.

³¹ The DOJ LAWG will develop Department-wide standards to help components ensure that contracted language assistance services providers are qualified and competent. The DOJ LAWG is currently working on refining standards as part of the Telephonic Interpretation Base Project based on initial procurement standards developed by the Executive Office for Immigration Review (EOIR).

- On-time service delivery;
- Acceptable emergency response time;
- Rational scheduling of qualified interpreters;
- Any requirements for tracking usage;
- Rapid rates of connection to interpreters via telephone, video, or electronically; and
- Effective complaint resolution when translation or interpretation errors occur.

Potential bidders for language assistance services contracts should also be required to commit to an adequate quality control process for all deliverables. The DOJ LAWG will work with the General Services Administration to identify promising practices with respect to negotiating and securing high quality language assistance services.

h. Components Providing Federal Financial Assistance

Components that provide federal financial assistance to state and local governments and other entities, whether by way of funding, in-kind assistance, training, detail of personnel, or other assistance, should take reasonable efforts to ensure that recipients of such assistance are complying with their Title VI nondiscrimination obligations. Components have a variety of mechanisms for securing compliance, including executing assurances of nondiscrimination, conducting periodic audits, conducting complaint-based investigations, and selecting recipients for compliance reviews.

i. Notification of the Availability of Language Assistance Services

Each component should make reasonable efforts to notify the public about its LEP policies and how to access language assistance services. Components should determine what information shall be provided in English and in appropriate non-English languages using, for example, websites, translated documents, and community-focused outreach.³²

When language assistance services are not readily available at a given component or an LEP individual does not know about the availability of language assistance services, LEP individuals will be less likely to participate in or benefit from a component's programs and services. As a result, many LEP persons may not seek out component benefits, programs, information, and services; may not offer vital assistance in investigations or information that would help determine entitlement or eligibility for benefits; and may not file complaints. Organizations that have significant contact with LEP persons, such as schools, faith-based organizations, community groups, and groups working with new immigrants can provide important input into the language access planning process and can often assist in identifying populations for whom outreach is needed and who would benefit from the component's

³² See Part 3(b) (Translation of Department Texts).

programs and activities where language services are provided. Components may also consider consulting with entities representing LEP interests to obtain feedback on the accuracy and quality of the component's language assistance services.

j. Departmental and Interagency Cooperation

Components are encouraged to collaborate with each other and other federal agencies to share resources, improve efficiency, and standardize federal terminology. For example, a group of procurement officials have been meeting to discuss and test whether a Department-wide telephonic interpretation service, designed and structured by DOJ components, will assist the Department and individual components to meet certain language access needs and obligations under Executive Order 13166 and the Attorney General's recent mandate. The purpose of the Telephonic Interpretation Base Project is to assess the demand for such service (including languages requested) and to ascertain if a Department-wide contract is useful to the Department and individual components.

The Department supports sharing promising practices and exploring Department-wide and interagency initiatives that could potentially streamline and improve our ability to provide meaningful access to LEP individuals. To that end, the DOJ LAWG will identify ongoing or additional subcommittees to focus on areas of cross-cutting implementation concern.

k. Performance Measurement and Evaluation

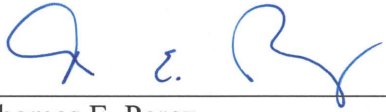
Components should periodically reassess and, where appropriate, update their language access plans to ensure that the scope and nature of language assistance services provided under the plan reflect updated information on relevant LEP populations, component language assistance needs, changes in technology, and component experience under the plan. Further, each component should take reasonable efforts to ensure that its in-house and contract language services, directory of translated documents, signs, and web-based services meet current language needs.

Every two years, the DOJ LAWG should assess the effectiveness of component language assistance services by, among other things, conducting an inventory of languages most frequently encountered, identifying the primary channels of contact with LEP community members (whether telephonic, in person, correspondence, web-based, etc.), reviewing component programs and activities for language accessibility, reviewing plans and protocols, reviewing the annual cost of translation and interpreter services, and consulting with outside stakeholders. The DOJ LAWG should work collectively to identify the appropriate language access metrics to monitor and evaluate the Department's ability to overcome language barriers.

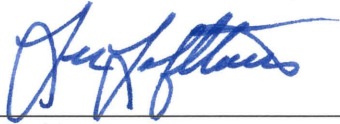
4. DOJ COMPONENT PLANS

As of the date of this document, thirty-one components have prepared a language access plan or policy statement in conformity with this Departmental Language Access Plan. Any component that has opted not to prepare a component-specific language access plan should adopt the policies and principles discussed in this Plan.

Submitted to the Attorney General by:



Thomas E. Perez
Assistant Attorney General, Civil Rights Division



Lee Lofthus
Assistant Attorney General for Administration

Approved:



Eric Holder
Attorney General

DATE: April 5, 2012