

Tennessee Department of Transportation



Language Access Assessment and Planning Tool

Do YOU SPEAK ?

Do you speak English?	Point here and an interpreter will be assigned to you, at no cost.
¿Habla Español?	Señale aquí y se le asignará un intérprete sin costo
هل تتكلم العربية ؟	أشهر هنا والمترجم سيكون موجوداً مجاناً.
ته كوردی دهاڅقئ ؟	ئيشارمت ئۆزئى بکه مەرجومان بۆ تەحازر ئەکەين ، بە خۆراى.
ئايا كوردى قسه دهكەيت ؟	ئيشارمت لۆزه بکه مۆتەرجيمت بۆ ئاماده دهكەين ، بە خۆراى.
آيا شما فارسی صحبت ميکنيد؟	تەروصبە جێرمە ئێرە ئێمە هێرمانجا بەرگا رايگان بۆ اختيار شما قرار ميگيرد.
Bạn nói tiếng Việt phải không?	Chỉ vào đây và sẽ có người thông dịch viên giúp đỡ Bạn, Bạn không phải trả gì hết.
ku hadashaa afka somaaliga?	Halkaan farta ku-fiiq turjubaan lacag la-an ayaad heleysaa.
Da li govorite Bosanski?	Pokažite ovdje i prevodilac će vam biti obezbijeđen, besplatno.
Parlez-vous français?	Ici, un interpreteur sera assigné pour vous, sans avoir payé.
ທ່ານເວົ້າພາສາລາວໄດ້ຫຼືບໍ່?	ທ່ານຢາກເຈົ້າໜ້າທີ່ດ້ານນີ້ຈະມີພາສາລາວມາແປໃຫ້ທ່ານໂດຍບໍ່ໄດ້ເສັງເງິນ.
你會講中文嗎?	請點在這裡我們為你免費提供翻譯服務。
日本語を話せますか ?	ここを指して下さい。 無料の通訳者を指定します。
le-una azungumza kiswahili?	Nyosha kidola hapa na utatafsiriwa bila kulipa chochote.
Voce fala Português?	Aperte aqui e um intérprete lhe será fornecido sem custo algum.
क्या आप हिंदी बोल सकते हैं ?	इस जगह यहाँ पर किये, भाषांतर करनेवाले विनामुल्य मिल जायेंगे।
한국어를 하십니까?	이곳을 지적해주시면 통역자가 무료로 호출됩니다.
Вы говорите по-русски?	Укажите сюда, и совершенно бесплатно Вам будет предоставлен переводчик.
እናንተ ቃል ባላችኋል?	በነገት ወይም በደብዳቤ የመልስ ለመስጫ ክፍያ አስተርጓሚ ይመደብሉታል!
Eske ou pale kreyòl	Pwen isit la e yon entèpret ap vin ede'w gratis.
Jin kueni Thuok nuora?	Wane eme deri thuok nuora jek ke kuic du a thil kok.
તમે ગુજરાતી બોલી શકો છો?	અહીંયા ઈસાએ કરો, ભાષાંતર કરનાર વિનામુલ્યે મળી જશે.
Turkçe biliyormusunuz?	Burayı gösterirseniz, ücretsiz tercuman size yardım edecektir.
คุณพูดภาษาไทยหรือไม่?	กรุณาบอกให้ทราบด้วยถ้าคุณต้องการคนแปล



John Schroer, Commissioner of Transportation
 Cammie Davenport Woodle, CRO, Executive Director

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I. Introduction

The *Tennessee Department of Transportation's (TDOT) Language Access Assessment and Planning Tool for Limited Proficiency (LEP) Individuals* is a resource tool designed to ensure that all activities and programs are conducted in accordance with Title VI of the Civil Rights Act of 1964, Executive Order 13166, and all related regulations and directives.

This manual will serve as a guide to:

- 1) addressing the responsibilities of TDOT's Subrecipients of federal financial assistance, and;
- 2) ensuring that TDOT has a fully coordinated process (i.e., implementation of an annual needs assessment [data collection and analysis of LEP community, needs, etc.], public involvement that includes a process for seeking out and considering the needs of the LEP population).

TDOT is committed to compliance with Title VI of the Civil Rights Act of 1964 and all related regulations and directives. TDOT assures that no person shall on the grounds of race, color, national origin, gender, age or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any TDOT services, programs or activities.

Therefore, in accordance with Executive Order (EO) 13166 – *Improving Access to Services for Persons with Limited English Proficiency (LEP)*, TDOT's Civil Rights Office has developed this plan for providing meaningful access for people with limited English proficiency.

The following pages will delineate the prescribed procedures for ensuring that language does not become a roadblock to serving the needs of Tennessee's residents.

II. Authorities

A. Federal Authorities

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall “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 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity “to effectuate the provisions of

[section 601] * * * by issuing rules, regulations, or orders of general applicability.” 42 U.S.C. 2000d-1

Executive Order 13166 - Improving Access to Services for Persons with Limited English Proficiency (LEP) - Executive Order (EO) 13166 ensures that, consistent with Title VI, persons with Limited English proficiency (LEP) have meaningful access to federally conducted and funded programs and activities. The Order requires all agencies that provide Federal financial assistance to issue guidance on how Title VI applies (to recipients of that assistance) in their contact with persons who are LEP. The Order also requires that Federal agencies create plans for ensuring that their own activities also provide meaningful access for persons who are LEP. (See **Executive Order 13166** - Appendix A)

B. Federal Case (Authority)

The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including a regulation similar to that of DOJ, 45 CFR 80.3(b)(2), to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. In *Lau*, a San Francisco school district that has a significant number of non-English-speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs.

C. State Authority

Tennessee law provides that “[i]t is a discriminatory practice for any state agency receiving federal funds making it subject to Title VI of the Civil Rights Act of 1964, or for any person receiving such federal funds from a state agency, to exclude a person from participation in, deny benefits to a person, or to subject a person to discrimination under any program or activity receiving such funds, on the basis 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.”

Tennessee Human Rights Commission (THRC) Chapter 1500

Title VI Compliance Program – THRC Rule 1500-01-03-.08(3)(a)(6). States, “Departments and agencies shall include a LEP policy and procedure that is followed by staff when confronted with circumstances where language assistance is required...” (See Title VI Compliance Program Rule 1500 -01-03.08(3) (a) (6) – Appendix B) (See Title VI State Policy Guidance #11 -02: LEP National Origin Policy – Appendix C)

THRC Rule 1500-01-03-.03 states that “[i]t is a discriminatory practice for any state department or agency receiving federal funds making it subject to Title VI of the Civil Rights Act of 1964, or for any entity person receiving such federal funds from a state agency, to exclude a person from participation under any program or activity on the basis of race, color, or national origin.”

III. Guidance

August 2000 DOJ Guidance. The Department of Justice (DOJ), at the time the EO was published, also issued a guidance document for agencies to follow in designing their own LEP guidance for recipients, and in creating plans for making Federal activities and programs meaningfully accessible. The guidance clarified long-standing LEP responsibilities under Title VI and the Title VI regulations, including disparate impact regulations and a 1976 DOJ regulation requiring translation of documents in certain circumstances. (See *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs*, dtd May 2011, Appendix D)

[Memo to Federal Agencies from Attorney General Eric Holder Reaffirming the Mandates of Executive Order 13166 - February 17, 2011](#)

IV. Definitions

Demography is the study of the characteristics of human population, as size, growth, and vital statistics.

Frequency of Contact is used in the Four Factor Analysis. The more frequent the contact with a particular language group, the more likely that enhanced services in that language is needed.

Hispanic/Latino refers to a person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.

Interpretation is the act of listening to a communication in one language and orally converting it into another language, while retaining the same meaning.

Limited English Proficiency (LEP) is a term used to describe individuals who do not speak English as their primary language and who also may have a limited ability to read, write or understand English.

Linguistically Isolated Household is one in which no member 14 years old and over (1) speaks only English or (2) speaks a non-English language and speaks English "very well." In other words, all members 14 years old and over have at least some difficulty with English.

Primary Language is the language in which an individual is most effectively able to communicate.

Safe Harbor is provided for in Federal law. "Safe Harbor" is a stipulation so that recipients can ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. A "Safe Harbor" means that if a recipient provides written translations certain circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations under Title VI.

Translation is the replacement of written text from one language into an equivalent written text in another language. Translating documents to fourth (4th) grade literacy level ensures the targeted audience understands the information.

Vital Documents is documents that convey information that critically affects the ability of the recipient/customer to make decisions about his or her participation in the program.

V. Tennessee at a glance

Tennessee, according to the 2010 US Census, has 6,403,353 people living throughout the 95 counties. ¹

1. **Statewide racial/ethnic breakdown** looks like this:

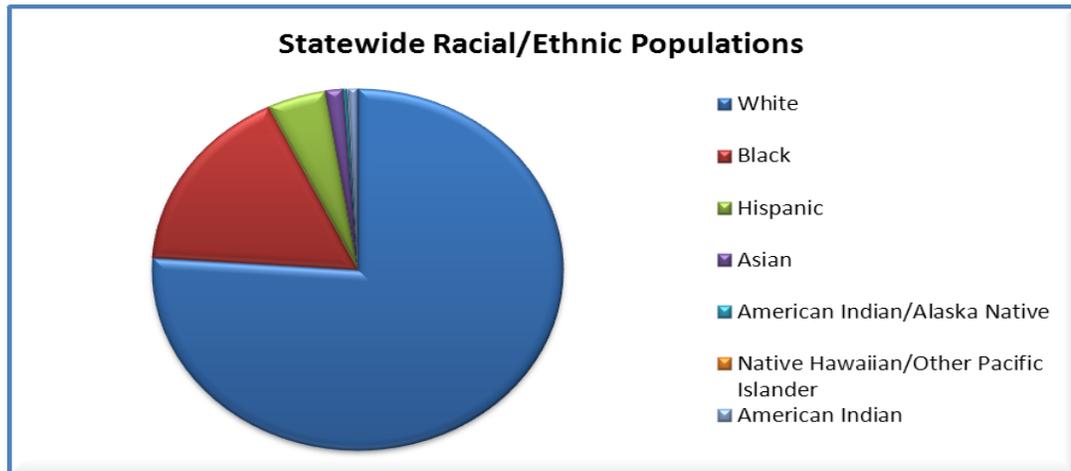


Figure 1: Statewide Demographics

2. **Region 1 racial/ethnic breakdown** looks like this:

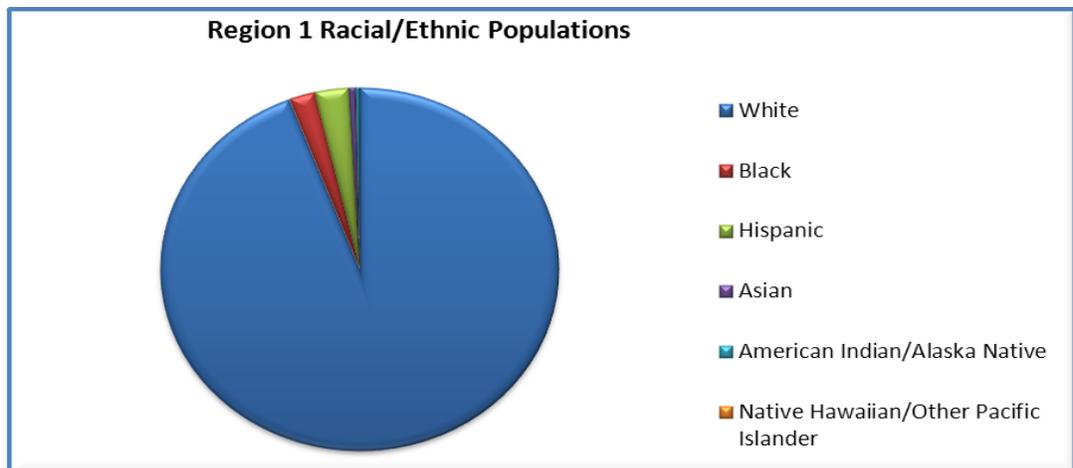


Figure 2: Region 1 Demographics

(Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, Sullivan, Unicoi, Union, Washington Counties)

¹ Source: U.S. Census Bureau, 2010 American Community Survey

White persons (not Hispanic)	89.60 percent
Black	2.03 percent
Hispanic	2.64 percent
Asian	.51 percent
American Indian and Alaska Native	.29 percent
Native Hawaiian and Other Pacific Islander	.01 percent

3. **Region 2 racial/ethnic breakdown** looks like this:

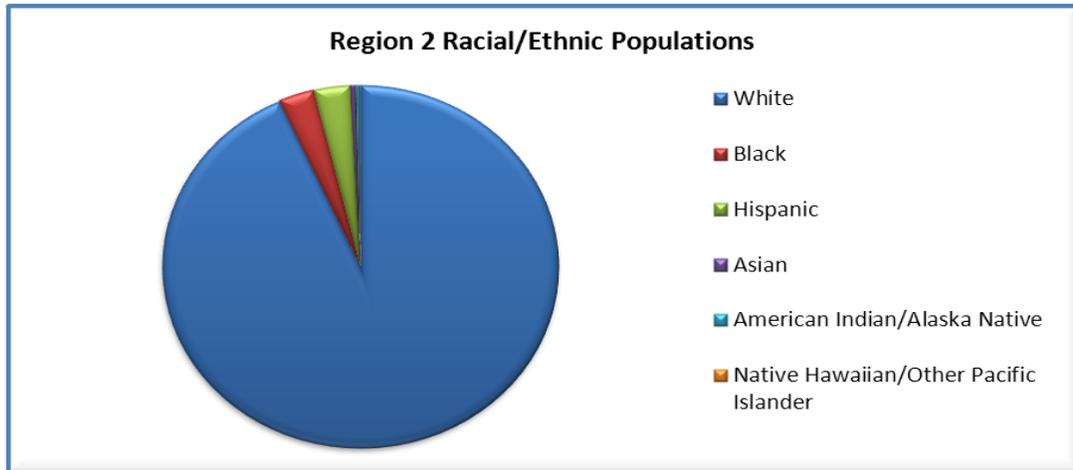


Figure 3: Region 2 Demographics

(Bledsoe, Bradley, Cannon, Crockett, Clay, Coffee, Cumberland, DeKalb, Fentress, Franklin, Grundy, Hamilton, Jackson, McMinn, Marion, Meigs, Overton, Pickett, Polk, Putman, Rhea, Sequatchie, Van Buren, Warren, White Counties)

White persons (not Hispanic)	92.27 percent
Black	2.91 percent
Hispanic	2.94 percent
Asian	.41 percent
American Indian and Alaska Native	.32 percent
Native Hawaiian and Other Pacific Islander	.01 percent

4. **Region 3 racial/ethnic breakdown** looks like this:

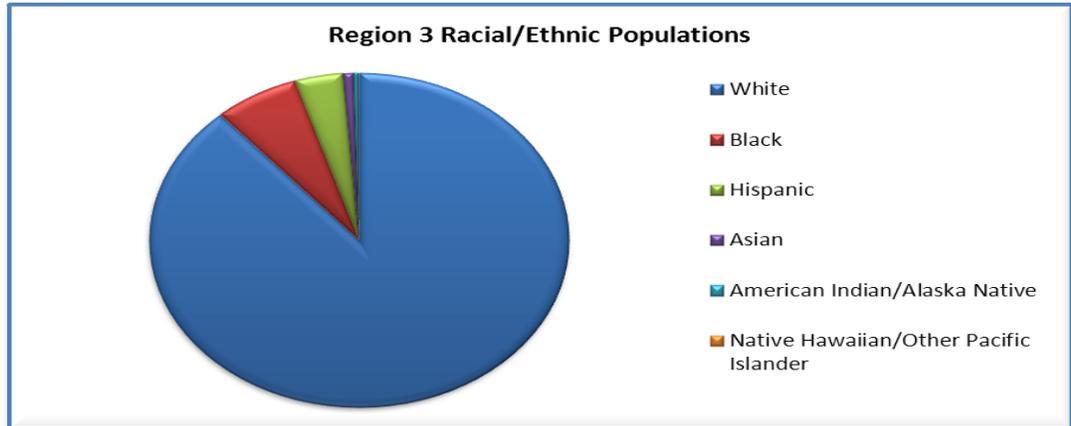


Figure 4: Region 3 Demographics

(Bedford, Cheatham, Davidson, Dickson, Giles, Hickman, Houston, Humphreys, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Montgomery, Moore, Perry, Robertson, Rutherford, Smith, Stewart, Sumner, Trousdale, Wayne, Williamson, Wilson Counties)

White persons (not Hispanic)	87.23 percent
Black	6.48 percent
Hispanic	3.68 percent
Asian	.80 percent
American Indian and Alaska Native	.38 percent
Native Hawaiian and Other Pacific Islander	.02 percent

5. **Region 4 racial/ethnic breakdown** looks like this:

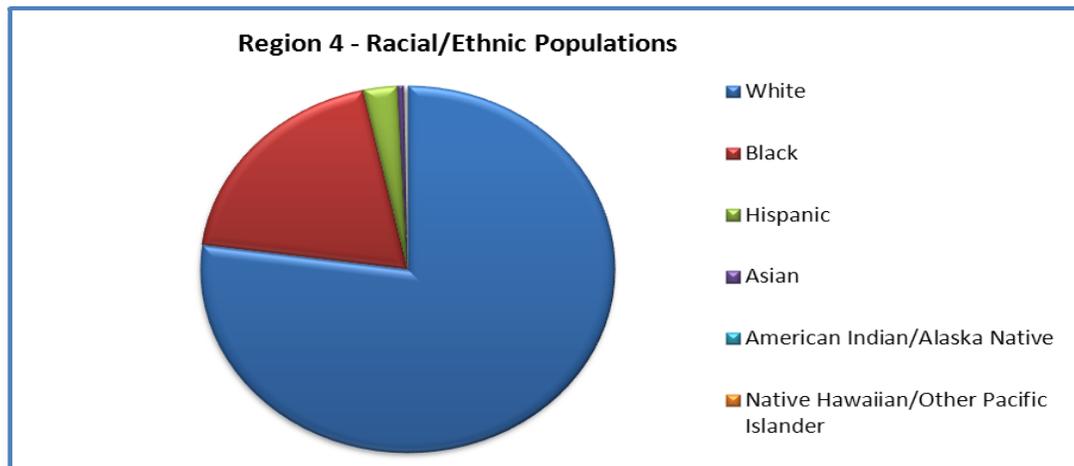


Figure 5: Region 4 Demographics

(Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman, Hardin, Haywood, Henry, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, and Weakly Counties)

White persons (not Hispanic)	76.22 percent
Black	19.2 percent
Hispanic	2.67 percent
Asian	.46 percent
American Indian and Alaska Native	.26 percent
Native Hawaiian and Other Pacific Islander	.00 percent

VI. TDOT Four Factor Analysis

Factor 1: *Number or Proportion of LEP Persons eligible to be served or likely to encounter TDOT programs, activities or services.* To determine the number of LEPs in TDOT’s service area (statewide), the CRO utilized the population estimations provided in the 2010 US Census. This data was used to determine 1) the LEP populations represented in the state, 2) Percentages of LEPs in the service areas, 3) whether LEP groups reach and/or exceed 5% the Safe Harbor stipulation, and 4) where the greatest population of LEPs reside in Tennessee.

According to the 2010 census, Tennessee’s population is estimated to be 6,346,105. As represented in **Figure 1** above, White persons not Hispanic represent 75.6%; African Americans represent 16.7%; persons of Latino/Hispanic origin represent 4.6%; Asian persons represent 1.4%; American Indian and Alaska Native persons represent .3%; and Native Hawaiian and Other Pacific Islanders represent .1% of the total population.

Based on the relatively high percentage of Latino/Hispanic residents in the state, the CRO focused its analysis on this group.

Latino/Hispanic LEPs Numbers			
Total:	249,279	Total:	135,401
Native:	113,878	Foreign Born:	5,136
Speak Only English	59,333	Speak Only English	130,265
Speak another language	54,546	Speak another language	36,121
Speak English “ very well ”	41,896	Speak English “ very well ”	94,144
Speak English “ less than very well ”	12,649	Speak English “ less than very well ”	135,401

Total LEPs: **106,793** = **.0168 %** less than 1 percent of Tennessee’s population

Figure 6: Linguistic Isolated Hispanic/Latino

Region 1		Region 2	Region 3	Region 4
Hamblen County	10.7%	Bradley County 4.7%	Bedford County 11.3%	Crockett County 8.7%
Loudon County	7.0%	DeKalb County 6.6%	Davidson County 9.8%	Shelby County 5.6%
Sevier County	5.3%	Hamilton County 4.5%	Montgomery County 8.0	
		Putnam County 5.3%	Rutherford County 6.7%	
		Warren County 8.1%		

Figure 7: Tennessee Counties with large concentrations of Latino/Hispanic populations

Factor 2: *Frequency with which LEP individuals come in contact with TDOT programs, activities or services.*

Based on the assessments conducted in the area of LEP utilization, there has been little to no contact with LEP individuals in the service areas during the 2010 reporting period.

Southwest TN Human Resource Agency, First TN Human Resource Agency, Mid-Cumberland Human Resource Agency, Upper Cumberland Resource Agency, Southeast TN Human Resource Agency, Northwest TN Human Resource Agency, Delta Human Resource Agency, South Central TN Human Resource Agency, East TN Human Resource Agency, Hancock County Rural Transportation, and the City of Pigeon Forge are TDOT subrecipients. These transportation providers report little to no contact with LEP individuals during the 2010 reporting period.

The City of Gatlinburg serves as a transportation provider in a tourist/resort area. Subsequently, this service provider reflects a substantial amount of contact with LEP individuals (20%). It is assumed that the riders are tourist, and that this number will fluctuate with the tourist seasons.

Factor 3: *Nature and importance of the program, activity or services provided by TDOT to the LEP population.*

Transportation plays an importance role in the lives of the LEP individuals and the citizens of Tennessee. Generally speaking, when transportation decisions are made, the LEP and minority communities are normally impacted the greatest. TDOT is committed to providing safe and reliable transportation services to the LEP population as well as all citizens of Tennessee.

TDOT's most critical services are those related to public transportation, right of way acquisitions, public involvement (public information or planning meetings), safety during construction, and providing the ability to file complaints.

Factor 4: *Resources available to TDOT and overall costs to provide LEP assistance.*

Currently, TDOT's resources consist of a department employee volunteer list. In situations where TDOT employees cannot provide services, i.e., an unfamiliar language or dialect, a legal matter or need for expert testimony, TDOT utilizes AVAZA for its translation and interpreting needs. Payment for these professional services are expended when services are rendered.

No funds were expended during the FY 2011 for LEP efforts.

VII. How does LEP affect the Department of Transportation?

The following matrix illustrates legal and policy considerations that require TDOT to provide LEP persons with meaningful access to programs, activities, and services.

Title VI of the Civil Rights Act of 1964	Limited English Proficiency Executive Order 13166
Federal law	Federal policy
Enacted July 2, 1964	Signed August 11, 2000
Considers all persons	Considers eligible population
Contains monitoring and oversight compliance review requirements	Contains monitoring and oversight requirements
Factor criteria is required, no numerical or percentage thresholds	Factor criteria is required, no numerical or percentage thresholds
Provides protection on the basis of race, color, and national origin	Provides protection on the basis of national origin
Focuses on eliminating discrimination in federally funded programs	Focuses on providing LEP persons with meaningful access to services using factor criteria
Annual Accomplishment and Upcoming Goals Report to FHWA, FTA, and THRC	Annual Accomplishment and Upcoming Goals Report to FHWA, FTA, and THRC

Table 1: Legal and Policy Considerations

VIII. TDOT Divisions/Programs Responsibilities

EO 13166 directs recipients of Federal financial assistance to take reasonable steps to provide LEP individuals with meaningful access to their programs, activities and services.

The following chart, although not exhaustive, illustrates TDOT divisions/programs and Title VI Program activities and responsibilities relative to LEP services.

Activities	Responsibilities	
	TDOT DIVISION/s PROGRAMS	TITLE VI PROGRAM
1. Assessing and addressing the needs of eligible persons	X	
2. Taking reasonable steps or ensuring that responsible steps are taken to ensure meaningful access	X	
3. Developing and implementing monitoring control mechanisms to ensure delivery of service and ongoing compliance	X	X
4. Compliance, monitoring, and oversight	X	X
5. Providing technical assistance and guidance	X	X
6. Reporting accomplishments and goals	X	X
7. Data collection and analysis	X	X
8. Ensuring that programs and activities provide for a fully coordinated process (interdisciplinary approach)	X	X

Table 2: Division/Title VI Program Responsibilities

The key to providing meaningful access for LEP persons is to ensure that effective communication exists between the service provider and the LEP person. To accomplish effective communication, the following actions and discussions are considered appropriate at a division/program level:

- ⊕ Perform a needs assessment.
- ⊕ Provide for oral language assistance.

- ⊕ Notify LEP customers of the availability of language assistance services.
- ⊕ Translate vital documents in languages other than English into appropriate language.
- ⊕ Train staff.
- ⊕ Develop written procedures.
- ⊕ Monitor and evaluate access to language assistance.



Figure 8 Self-Assessment Model

An effective Limited English Proficiency Plan should include:

1. Understanding How LEP Individual Interact with Your Agency

A federally conducted or funded program could interact with LEP individuals in a variety of ways. Any interaction with the public has the potential to interact with LEP individuals. These could include, but are not limited to, information line calls; education and outreach programs; public meetings; property acquisition, and more. It is important for an agency to examine the manner in which it interacts with the public and/or LEP individuals.

(Tennessee Department of Transportation’s Public Involvement Plan details the appropriate actions to take when conducting outreach and notification activities.)

<http://www.tdot.state.tn.us/documents/pip.pdf>

2. Identifying and Assessing of LEP Communities

A federally conducted or funded program should consider assessing the number of proportion of LEP persons from each language group in its service area to determine appropriate language assistance services. This analysis includes persons in a geographic service area with whom your agency comes into contact while carrying out the agency functions. For the assessment to be accurate it must also include all communities who are eligible for services or are likely directly affected by programs or activities. Agencies may determine the linguistic characteristics of an LEP population in a service area by reviewing available data from federal, state, and local government agencies, community, and faith based organizations.

3. Providing Language Assistance Services

Effective communication with LEP individuals requires your agency to have language assistance services in place. There are two primary types of language assistance services: Oral and Written.

Interpretation is and **ORAL** language assistance service:



Translation is a **WRITTEN** language assistance service:



It is appropriate to have written materials that have been historically provided in English to applicants, customers and the general public translated into languages that are regularly encountered. The translation of vital documents (documents that convey information that critically affects the ability of the recipient/customer to make decisions about his/or her participation in the program or activity) into languages other than English is particularly important where a significant number or percentage of the customers served and/or eligible to be served have limited English proficiency. Written materials include electronic documents and websites. Examples of vital documents for translation include, but not limited to: signage, public meeting notices, notices advising LEP individuals of free language assistance, language identification cards, applications or instructions on how to participate in a recipient's program or activities, or to receive recipient's benefits of services, etc.

Examples of vital documents include, but are not limited to: applications, public notices, consent forms, letters containing important information regarding participation in a program, eligibility rules, notices pertaining to the reduction, denial or termination of services or benefits, right to appeal, notices advising of the availability of language assistance and outreach and community education materials. It is recommended that divisions/programs develop criteria for deciding which documents are vital thereby subject to translation.

Translating documents for LEP to a fourth (4th) grade literacy level ensures the targeted audience understands the information. Community-based organizations or focus groups can assist with testing translations for language and literacy level appropriateness.

4. Training of Staff on Policies and Procedures

Staff will not be able to provide meaningful access to LEP individuals if they do not receive training on language access policies and procedures, including how to access language assistance services. Training should be mandatory for staff who have the potential to interact or communicate with LEP individuals, staff whose job it is to arrange for language assistance services, and managers. Training should include:

- 1) How to identify the language needs of an LEP individual;
- 2) How to access and provide the necessary language assistance services;
- 3) How to work with interpreters;
- 4) How to get documents translated; and
- 5) How to track and document the use of language services.

5. Monitoring, Evaluating, and Updating the LEP Plan

For a LEP Plan to be effective, Recipients/Subrecipients of federal funds must periodically monitor, evaluate, and update the plan, policies, and procedures. There is no prescribed method for monitoring and evaluating. You may include the following:

- ⊕ Surveying staff on how often they use the language assistance services;
- ⊕ Conducting customer satisfaction surveys to LEP beneficiaries;
- ⊕ Observing and evaluating agency interactions with LEP individuals;
- ⊕ Soliciting feedback from community based organizations and other stakeholders about the agency's effectiveness and performance in ensuring meaningful access for LEP individuals;
- ⊕ Keeping current on community demographics and needs by engaging stakeholders, faith-communities, and other local resources;
- ⊕ Considering new resources including funding, collaborations with other agencies, human resources, emerging technology, and other mechanisms for ensuring improved access for LEP individuals; and
- ⊕ Monitoring your agency's response to complaints or suggestions by LEP individuals, community members, and employees regarding language assistance services provided.

Creating a record of language assistance services can help inform programs whether there should be changes to the quantity or type of language assistance services. The monitoring and review of current policies and the types of languages assistance services provided should occur on an annual basis.

6. Providing Notices of Language Assistance

Recipients/Subrecipients must inform LEP individuals of their edibility for benefits, programs, and services in languages they understand. Agencies should assess all points of contact, telephone, in-person, mail, and electronic communication its staff has with the public and LEP individuals when

determining the best method of providing notice of language assistance services.

An agency should not only translate its outreach materials, but also explain how LEP individuals may access available language services. This may be accomplished through the use of effective, program specific notices such as forms, brochures, language access posters placed in conspicuous locations describing in multiple languages the availability of language assistance services, the use of "I Speak" language identification cards, and by including instructions in non-English languages on telephone menus.

7. Develop written procedures

To implement a successful language assistance program, guidance shall be provided to all employees through written procedures that address the following:

1. Identification and assessment of language needs.
2. Oral language assistance; including vendor charges for services, procedures on how to access and to request Department translation assistance.
3. Written translation of materials and publications.
4. Oral and written notification of the availability of language assistance.
5. Staff training on language service provision.
6. Monitor access to language assistance.

8. Monitor and evaluate access to language assistance

Monitoring and evaluating the accessibility and quality of language assistance needs of LEP persons ensures that LEP persons can meaningfully access programs and activities and is the responsibility of the respective divisions/programs. At a minimum, divisions/programs should conduct an annual assessment to determine: the current LEP composition of its service area; the current communication needs of LEP persons; whether existing assistance meets LEP needs; whether staff is knowledgeable about policies and procedures and how to implement them; and whether sources of and arrangements for assistance are still current and viable. One mechanism for monitoring is to seek feedback from customers and advocates.

Data collection and record keeping are key to an effective monitoring and compliance system. Analysis of the data collected provides an overview of how services are provided. Data collection mechanisms include the following:

- Race of LEP person
- Ethnicity of LEP person
- Primary language of the population in the program service area

- ⊕ Primary language of customers served
- ⊕ Data upon which the division based language needs assessment
- ⊕ Number of LEP persons, by language group, who received language services

IX. LEP Criteria

The following are factors for divisions/programs to consider when determining what reasonable steps to take to provide LEP individuals with meaningful access to its programs, activities, and services.

- ⊕ A factor in determining the reasonableness of a division's/program's efforts is the number or proportion of people who will be excluded from the program or activity absent efforts to remove language barriers.
- ⊕ Consider the frequency of contact. Obligations will differ for division/programs that have little contact with individuals who are LEP compared to a division/program who serves a large LEP population.
- ⊕ Consider the available resources. A larger division/program with extensive resources may have to take greater steps than a smaller unit with limited resources. On the premises translators may be appropriate in some circumstances; however, written translation, access to centralized interpreter language lines or other means, may be appropriate in other situations.
- ⊕ Costs must be factored into this balancing test as part of the consideration of "resources available." "Reasonable steps" may cease to be reasonable where the costs imposed substantially exceed the benefits in light of the factors outlined in the U.S. Department of Justice (DOJ), LEP Guidance. A suggestion might be to prioritize so that the language services are targeted where most needed because of the nature and importance of activity involved.

The guidance documents and their resource listed below are provided to assist divisions/programs with implementing LEP requirements and may be used in conjunction with this LEP Plan.

- ⊕ The U.S. Department of Transportation Guidance to Recipients on Special Language Services to Limited English Proficient Beneficiaries, Federal Register/Vol. 66, No. 14/Monday, January 22, 2001.
- ⊕ The U.S. DOJ Policy Guidance, Enforcement of Title VI of the Civil Rights Act of 1964-National Origin Discrimination Against Persons With Limited English Proficiency, Federal Register/Vol. 65, No. 159/Wednesday, August 16, 2000 <http://www.usdoj.gov/crt/cor/>
- ⊕ U.S. Department of Justice Clarifying Memorandum, dated October 26, 2001 <http://www.justice.gov/crt/about/cor/lep/Oct26memorandum.pdf>
- ⊕ **Avaza Language Service Corp** (See Appendix E)
- ⊕ United States Census 2010 Language Identification Flashcard http://2010.census.gov/partners/pdf/langfiles/LAG_flashcard.pdf

X. Data Collection

The Nondiscrimination Agreement between Federal Highway Administration (FHWA) Division Administrator, Federal Transit Authority (FTA) and TDOT obligates the department to collect statistical data (race, color, National origin, sex, disability and age) of participation in and beneficiaries of the program and activities conducted by the Recipient.

Data collection is crucial for ensuring that transportation programs, services, facilities and projects effectively meet the needs of “all persons” without discrimination; i.e., disproportionately benefiting or harming one group over another is a violation of Title VI.

Timely and accurate data allow for better decision making and provide support and defensibility to the decisions made.

Why collect data?

The Code of Federal Regulations 23, Chapter 1. Part 2009 (state Actions)(4) requires that the State “develop procedures for the collection of statistical data of participants in and beneficiaries of State highway programs; i.e., relocates, impacted citizens and affected communities.” The Nondiscrimination Agreement between the FHWA Division Administrator and the Department Commissioner assures the Department will collect statistical data (race, color, national origin, sex, disability and age) on participation in and beneficiaries of the program and activities conducted by the Department. In addition, data collection provides measurable evidence of the Department’s

performance as it relates to Title VI for annual reports to the FHWA and the Department's efforts to ensure compliance with Title VI.

Objective data is necessary to identify

1. Transportation needs of all persons within boundaries of plan and projects.
2. Impacts and persons impacted.
3. Persons to include in the decision making process.
4. "Champion(s) for various modes and transportation options.
5. Strategies to address impacts.
6. Alternatives to modes and locations and types of facilities (transit, light rail, van and carpooling, HOV lanes, etc.).
7. Priorities for investments.
8. Sources for financing investments.
9. Strategies to disseminate information.

Based on Title VI implementing regulations, each division/district is required

1. Provide for the collection of data and information to permit effective Enforcement of Title VI.
2. Collect data about beneficiaries.
3. Analyze the data and information collected.
4. Eliminate discrimination when it is found.
5. Take affirmative measures to ensure nondiscrimination.

Analysis

Types of analysis to address compliance with Title VI:

1. Percent of benefits allocated to persons below poverty line vs. persons above poverty line.
2. Distribution of benefits (dollars, facilities, systems, projects) by groups and communities.
3. Impact of investments on income, race, gender, disability and age groups.
4. Allocation of funds by mode (highway, bus, Commuter rail, urban rail).
5. Projected population increases versus planned facilities and types of facilities.
6. Language needs assessment.

In collecting data, consider

- RACE:
 - White
 - Asian

- American Indian/Alaskan Native
- Black or African American
- Hispanic/Latino

⊕ NATIONAL ORIGIN:

- Born in United States, Puerto Rico, Guam, the U.S. Virgin Islands, Northern Marianas or,
- Born abroad of American parent(s);
- Born outside United States, Puerto Rica, Guam, the U.S. Virgin Islands or Northern Marianas.

9. DOES THIS PERSON SPEAK A LANGUAGE OTHER THAN ENGLISH AT HOME?

- Yes
- No

If yes, what is the language? _____

⊕ SEX:

⊕ DISABLED:

⊕ AGE:

XI. Technical Assistance

The TDOT CRO Title VI Program is responsible for providing TDOT division/programs with technical assistance. This includes advising divisions/programs of LEP requirements, implementing, and assisting in developing individual program plans and mechanisms.

XII. Language Assistance Resources

1. [Internal Employee Language Translation Assistance](#)
TDOT maintains an up-to-date listing of employees (statewide) who have volunteered their interpreting skills.
2. **AVAZA Language Service Corporation** has secured the Tennessee State Government contract for providing over the phone interpreting, face-to-face interpreting, document translation and training, therefore assisting in providing over meaningful language assistance to the LEP population. 615-534-3400 (local) or 800-482-8292 (outside of Nashville ONLY).

3. 'I Speak Card' - Language identification card allows the LEP person to communicate his or her language visually. See AVAZA's 'I Speak' card in Appendix F.

XIII. Compliance and Enforcement

TDOT Division/Program Directors are responsible for ensuring that meaningful services to LEP persons are provided in their respective divisions/programs. Additionally, the designated Title VI Liaison will continuously monitor their respective division/programs to ensure LEP requirements are fulfilled and report annually on the accomplishments and upcoming goals relating to LEP activities to the TDOT CRO Title VI Program.

In determining whether LEP compliance is met, the Title VI Program will assess whether the division/program's procedures allow LEP persons to overcome language barriers and participate in a meaningful way in the division/program's activities and services. The division/program's appropriate use of methods and options detailed in this LEP Plan will be viewed as evidence of intent to comply with LEP requirements and the Title VI of the Civil Rights Act of 1964.

The following LEP Language Assessment Form should be used to collect data, evaluate and report your division's/program's activities to the TDOT CRO annually.

Appendices

Appendix A

Executive Order 13166

Presidential Documents

Title 3—

Executive Order 13166 of August 11, 2000

The President

Improving Access to Services for Persons With Limited English Proficiency

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order,

each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the **Federal Register** for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch 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.



THE WHITE HOUSE,
August 11, 2000.

Appendix B

Title VI Compliance Program Rule 1500-01-03.08(3) (a) (6)

**RULES
OF
TENNESSEE HUMAN RIGHTS COMMISSION**

**CHAPTER 1500-01-03
TITLE VI COMPLIANCE PROGRAM**

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1500-01-03-.01 APPLICATION.

These rules implement 2009 Public Chapter 437, as codified in Tennessee Code Annotated (T.C.A.), Title 4, Chapter 21, Section 203, requiring the Tennessee Human Rights Commission to verify that all state governmental entities that are recipients of Federal financial assistance comply with Title VI of the Civil Rights Act of 1964 by developing a statewide Title VI implementation plan, investigating allegations of noncompliance with Title VI and serving as the central coordinating agency for technical assistance, consultation and resources. These rules shall govern all state departments and agencies that receive Federal financial assistance in the state of Tennessee, to the end that no person shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity.

Authority: T.C.A. §§ 4-21-202 and 4-21-203. **Administrative History:** Original rule filed November 15, 2010; effective February 13, 2011.

1500-01-03-.02 DEFINITIONS.

- (1) "Applicant" means one who submits an application, request, or plan required to be approved by a primary recipient, as a condition to eligibility for Federal financial assistance, and the term "application" means such an application, request or plan.
- (2) "Assurance" means a written statement or contractual agreement signed by the head of an organization or agency agreeing to administer federally assisted programs in accordance with civil rights laws and regulations.
- (3) "Commission" means the Tennessee Human Rights Commission.
- (4) "Complainant" means the person by whom or on whose behalf a complaint is filed.
- (5) "Contractor" means any entity or individual who provides any function or service that requires the performance or delivery of assistance to beneficiaries under the terms of a contract with a department or agency.
- (6) "Facility" means all or any portion of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.
- (7) "Federal financial assistance" means:
 - (a) Grants and loans of Federal funds;

(Rule 1500-01-03-.02, continued)

- (b) The grant or donation of Federal property and interests in property;
 - (c) The detail of Federal personnel;
 - (d) The sale and lease of, and the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale or lease to the recipient; and,
 - (e) Any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.
- (8) "Limited English Proficiency (LEP)" means not speaking English as a primary language and having a limited ability to read, speak, or understand English. Individuals that might experience LEP are entitled to language assistance with respect to a particular type of service, benefit, or encounter.
- (9) "Primary recipient" means any department or agency that is authorized or required to extend Federal financial assistance to another recipient or subrecipient for the purpose of carrying out a program.
- (10) "Program" or "program or activity" means any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, rehabilitation, or other services or disposition, whether provided through employees of the recipient of Federal financial assistance or provided by others through contracts or other arrangements with the recipient, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid, or other benefits to individuals. The disposition, services, financial aid, or benefits provided under a program receiving Federal financial assistance shall be deemed to include any disposition, services, financial aid, or benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any disposition, services, financial aid, or benefits provided in or through a facility provided with the aid of Federal financial assistance or such non-Federal resources.
- (11) "Recipient" means any state department or agency in Tennessee, to whom Federal financial assistance is extended, directly or through another recipient, for any program, including any successor, assign, or transferee thereof, but such term does not include any ultimate beneficiary under any such program. Many programs have two recipients—a primary recipient and a subrecipient. A primary recipient is authorized or required to extend Federal financial assistance to another recipient for the purpose of carrying out a program. A subrecipient is any entity or person that receives Federal financial assistance from a primary recipient to carry out a program. Both the primary recipient and subrecipient are covered by and must conform to the federal and state regulations pertaining to Title VI.
- (12) "responsible Official" means the Title VI Coordinator or other designated person assigned with the responsibility within a department or agency of ensuring compliance with Title VI.
- (13) "responsible State official" means any Commissioner or other head official of any governmental entity that is a recipient of Federal financial assistance.
- (14) "Subcontract" means an agreement entered into by a contractor with any entity or individual who agrees to perform any function or service on behalf of the contractor which requires the performance or delivery of assistance to beneficiaries.

(Rule 1500-01-03-.02, continued)

- (15) "Subcontractor" means any entity or individual that provides any function or service which requires the performance or delivery of assistance to beneficiaries under the terms of a contract with a contractor.
- (16) "Subrecipient" means any entity or person that receives Federal financial assistance from a primary recipient to carry out a program. A subrecipient may include any local, county government, institution, local entity or organization, or any other entity charged with carrying out a program.

Authority: T.C.A. §§ 4-21-202, 4-21-203 and 28 CFR Part 42, Subpart C.

1500-01-03-.03 DISCRIMINATION PROHIBITED.

- (1) It is a discriminatory practice for any state department or agency receiving federal funds making it subject to Title VI of the Civil Rights Act of 1964, or for any entity or person receiving such federal funds from a state agency, to exclude a person from participation under any program or activity on the basis of race, color, or national origin.
- (2) Specific discriminatory actions prohibited
 - (a) A recipient under any program or activity to which this section applies may not, directly or through contractual or other arrangements, on the ground of race, color, or national origin:
 - 1. Deny an individual any disposition, service, financial aid, or benefit provided under the program;
 - 2. Provide any disposition, service, financial aid, or benefit to an individual which is different, or is provided in a different manner, from that provided to others under the program;
 - 3. Subject an individual to segregation or separate treatment in any matter related to the receipt of any disposition, service, financial aid, or benefit under the program;
 - 4. Restrict an individual in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any disposition, service, financial aid, or benefit under the program;
 - 5. Treat an individual differently from others in determining whether such person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any disposition, service, financial aid, function or benefit provided under the program;
 - 6. Deny an individual an opportunity to participate in the program through the provision of services or otherwise or afford such person an opportunity to do so which is different from that afforded others under the program (including the opportunity to participate in the program as an employee but only to the extent set forth in paragraph (3) below); or,
 - 7. Deny a person the opportunity to participate as a member of a planning or advisory body which is an integral part of the program.
 - (b) A recipient, in determining the type of disposition, services, financial aid, benefits, or facilities which will be provided under any such program, or the class of individuals to

(Rule 1500-01-03-.03, continued)

whom, or the situations in which, such services, financial aid, benefits, or facilities will be provided under any such program, or the class of individuals to be afforded an opportunity to participate in any such program, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or which have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

- (c) In determining the site or location of facilities, a recipient or applicant may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program on the ground of race, color, or national origin; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI of the Civil Rights Act of 1964, T.C.A. § 4-21-904 or this regulation.
 - (d) For the purposes of this section the disposition, services, financial aid, or benefits provided under a program receiving Federal financial assistance shall be deemed to include any portion of any program or function or activity conducted by any recipient of Federal financial assistance which program, function, or activity is directly or indirectly improved, enhanced, enlarged, or benefited by such Federal financial assistance or which makes use of any facility, equipment or property provided with the aid of Federal financial assistance.
 - (e) The enumeration of specific forms of prohibited discrimination in this paragraph and in paragraph (3) of this section does not limit the generality of the prohibition in paragraph (1) of this section.
 - (f) In administering a program regarding which the recipient has previously discriminated against persons on the ground of race, color, or national origin, the recipient must take affirmative action to overcome the effects of prior discrimination. Even in the absence of such prior discrimination, a recipient in administering a program may take affirmative action to overcome the effects of conditions which resulted in limiting participation by persons of a particular race, color, or national origin.
- (3) Employment practices
- (a) Whenever a primary objective of the Federal financial assistance to a program to which this regulation applies, is to provide employment, a recipient of such assistance may not (directly or through contractual or other arrangements) subject any individual to discrimination on the ground of race, color, or national origin in its employment practices under such program (including recruitment or recruitment advertising, employment, layoff, or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities). That prohibition also applies to programs as to which a primary objective of the Federal financial assistance is: (i) to assist individuals, through employment, to meet expenses incident to the commencement or continuation of their education or training, or (ii) to provide work experience which contributes to the education or training of the individuals involved.
 - (b) In regard to Federal financial assistance which does not have providing employment as a primary objective, the provisions of paragraph (3)(a) of this section apply to the employment practices of the recipient if discrimination on the ground of race, color, or national origin in such employment practices tends, on the ground of race, color, or national origin, to exclude persons from participation in, to deny them the benefits of or to subject them to discrimination under the program receiving Federal financial assistance. In any such case, the provisions of this subparagraph shall apply to the

(Rule 1500-01-03-.03, continued)

extent necessary to assure equality of opportunity to and nondiscriminatory treatment of beneficiaries.

Authority: *T.C.A. §§ 4-21-202, 4-21-203 and 28 CFR Part 42, Subpart C. Administrative History: Original rule filed November 15, 2010; effective February 13, 2011.*

1500-01-03-.04 ASSURANCE REQUIRED.

(1) General

- (a) Every application for Federal financial assistance to carry out a program to which this regulation applies, and every application for Federal financial assistance to provide a facility shall, as a condition to its approval and the extension of any Federal financial assistance pursuant to the application, contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with all requirements imposed by or pursuant to this subparagraph. In the case where the Federal financial assistance is to provide or is in the form of personal property, or real property or interest therein or structures thereon, such assurance shall obligate the recipient, or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, such assurance shall obligate the recipient for the period during which Federal financial assistance is extended pursuant to the application.
- (b) In the case of real property, structures or improvements thereon, or interest therein, which was acquired through a program of Federal financial assistance, or in the case where Federal financial assistance is provided in the form of a transfer of real property or interest therein from the Federal Government, the instrument effecting or recording the transfer shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. Where no transfer of property is involved, but property is improved under a program of Federal financial assistance, the recipient shall agree to include such a covenant in any subsequent transfer of such property.

- (2) Assurances from governmental entities. In the case of any application from any department, agency, or office of any county or local government for funds that may include Federal financial assistance for any specified purpose, the assurance required by this section, shall extend to any other department, agency, or office of the same governmental unit if the policies of such other department, agency, or office will substantially affect the project for which Federal financial assistance is requested.

(3) Assurance from academic and other institutions

- (a) In the case of any application for Federal financial assistance for any purpose to an academic institution, the assurance required by this section shall extend to admission practices and to all other practices relating to the treatment of students.
- (b) The assurance required with respect to an academic institution, detention or correctional facility, or any other institution or facility, insofar as the assurance relates to the institution's practices with respect to admission or other treatment of individuals as students, patients, wards, inmates, persons subject to control, or clients of the institution or facility or to the opportunity to participate in the provision of services, disposition, treatment, or benefits to such individuals, shall be applicable to the entire

(Rule 1500-01-03-.04, continued)

institution or facility. If, in any such case, the assistance sought is for the construction of a facility or part of a facility, the assurance shall in any event extend to the entire facility and to facilities operated in connection therewith.

- (4) Assurances from contractors. State departments or agencies shall require any and all contractors to sign statements of assurances or include such language of assurance in the contract to be signed by such contractor. For example, a statement contained in the contractual language should express that "the [Contractor] will comply, and all its subcontractors will comply, with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, and other appropriate civil rights statutes, as applicable."
- (5) Continuing state programs. Any state department or agency administering a program which receives continuing Federal financial assistance subject to this regulation shall as a condition for the extension of such assistance:
 - (a) Provide a statement that the program is (or, in the case of a new program, will be) conducted in compliance with this regulation; and,
 - (b) Provide for such methods of administration (e.g. policies) as are found by the Commission during the review of the annual implementation plan or periodic compliance review to give reasonable assurance that the primary recipient and all other recipients of Federal financial assistance under such program will comply with this regulation.

Authority: T.C.A. §§ 4-21-202, 4-21-203 and 28 CFR Part 42, Subpart C. **Administrative History:** Original rule filed November 15, 2010; effective February 13, 2011.

1500-01-03-.05 COMPLIANCE.

- (1) Cooperation and assistance. Each responsible State official shall, to the fullest extent practicable, seek the cooperation of its departmental/agency staff, subrecipients and contractors in obtaining compliance with this regulation and shall provide assistance and guidance to subrecipients and contractors to help them comply voluntarily with this regulation.
- (2) Compliance reports
 - (a) Each recipient and subrecipient shall keep such records and submit to the Commission timely, complete, and accurate compliance reports at such times, and in such form and containing such information, as the Commission may determine to be necessary to ascertain whether the recipient and its subrecipients have complied or is complying with this regulation. In general, recipients and subrecipients should have available for the Commission racial and ethnic data showing the extent to which members of minority groups are beneficiaries of federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient or contracts with any other person or group, such other recipient or contractor shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this regulation.
 - (b) Records and information which may be deemed as part of an agency's compliance report shall be included in the implementation plan that is submitted annually as set forth in these regulations. In addition, the Commission may request that any state department or agency submit a separate compliance report with reasonable notice of at least thirty (30) days when seeking additional information related to any investigation, audit or other periodic assessment conducted by the Commission.

(Rule 1500-01-03-.05, continued)

- (3) Access to sources of information. Each recipient and subrecipient shall permit access by the Commission during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities, as may be pertinent to ascertain compliance with this regulation. Whenever any information required of a recipient is in the exclusive possession of any other agency, institution, or person and that agency, institution, or person fails or refuses to furnish that information, the recipient shall so certify in its report and set forth the efforts which it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Commission from evaluating or seeking to verify compliance with this regulation. Information of a confidential nature obtained in connection with compliance evaluation or verification shall not be disclosed except where necessary in formal enforcement proceedings or where otherwise required by law.
- (4) Information to beneficiaries and participants. Each recipient shall make available to participants, beneficiaries, and other interested persons such information regarding the provisions of this regulation and its applicability to the program under which the recipient receives Federal financial assistance, and make such information available to them in such manner as the Commission finds necessary to apprise such persons of the protections against discrimination assured them by Title VI of the Civil Rights Act of 1964, T.C.A. § 4-21-904 and this regulation.

Authority: T.C.A. §§ 4-21-202, 4-21-203 and 28 CFR Part 42, Subpart C. **Administrative History:** Original rule filed November 15, 2010; effective February 13, 2011.

1500-01-03-.06 CONDUCT OF INVESTIGATIONS.

- (1) Complaints
 - (a) Complainants alleging discrimination based on race, color or national origin by a recipient may file a written verified complaint with the Commission. Complaints may also be filed with the Commission if the recipient is unknown or the recipient program or activity is associated with joint federal funding.
 - (b) Complaints must be filed within one hundred eighty (180) days after the alleged discriminatory practice occurs.
- (2) Investigations
 - (a) The Commission will make a prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply with these regulations. The investigation should include, whenever appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with these regulations occurred, and other factors relevant to a determination as to whether the recipient has failed to comply.
 - (b) The Commission may investigate allegations of noncompliance with Title VI made against any recipient (e.g. a department or agency) or its subrecipient(s); however, the Commission reserves the right to refer any complaint to the appropriate recipient for investigation and resolution.
 1. The responsible State official or responsible Official shall report the commencement of an investigation to the Commission within ten (10) days.
 2. The State official or responsible Official shall submit a summary of its investigation to the Commission prior to notifying the complainant.

(Rule 1500-01-03-.06, continued)

3. The Commission shall not investigate a complaint that is filed as a lawsuit in a court of law or as an administrative complaint with another state or federal department or agency.
4. If a complainant is dissatisfied with any recipient's finding following such investigation, the complainant may file with the federal agency that provides the funding.

(3) Resolution of matters

- (a) If an investigation pursuant to paragraph (2) of this section indicates a failure to comply, the Commission will so inform the department or agency and the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in paragraph (4) of this section.
- (b) If an investigation does not warrant action pursuant to paragraph (3)(a) of this section, the Commission will so inform the department or agency and the complainant, if any, in writing.
- (c) Intimidation or retaliatory acts prohibited
 1. No recipient, subrecipient or other related entity or person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 601 of Title VI of the Civil Rights Act of 1964, T.C.A. § 4-21-904 or this regulation, or because an individual has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this regulation.
 2. The identity of a complainant shall be kept confidential except to the extent necessary to carry out the purpose of this regulation, including the conduct of any investigation arising thereunder.

(4) Procedure for effecting compliance

- (a) If there appears to be a failure or threatened failure for any recipient to comply with these regulations and if the noncompliance or threatened noncompliance cannot be corrected by informal means in conjunction with the responsible State official and responsible Official, the Commission shall report its findings and recommendations to the governor and to each member of the general assembly.
- (b) If there appears to be a failure or threatened failure for any subrecipient to comply with these regulations and if the noncompliance or threatened noncompliance cannot be corrected by informal means, the responsible State official may suspend or terminate, or refuse to grant or continue Federal financial assistance, or use any other means authorized by law, to induce compliance by the subrecipient with this regulation. Such other means include any applicable proceeding under state or local law.
- (c) Noncompliance with assurance requirement. If an applicant or recipient fails or refuses to furnish an assurance required under Rule 1500-01-03-.04, or fails or refuses to comply with the provisions of the assurance it has furnished, or otherwise fails or refuses to comply with any requirement imposed by or pursuant to Title VI or this regulation, Federal financial assistance may be suspended, terminated, or refused in accordance with the procedures of this regulation.

(Rule 1500-01-03-.06, continued)

Authority: T.C.A. §§ 4-21-202, 4-21-203 and 28 CFR Part 42, Subpart C. *Administrative History:* Original rule filed November 15, 2010; effective February 13, 2011.

1500-01-03-.07 COORDINATION AND TRAINING.

- (1) While primary responsibility for compliance with Title VI rests directly with the responsible State official, in order to assure coordination of Title VI compliance and consistency among agencies, each department and agency that receives Federal financial assistance shall advise the Commission of the progress and results related to resolving any programmatic issues that prevent appropriate investigation of complaints.
- (2) Title VI training shall be made available at least annually by each recipient to employees, subrecipients, contractors and program area liaisons. The training shall provide information on Title VI provisions, application to program operations, the identification of Title VI issues and resolution of complaints. Each state department and agency shall provide a summary of the training conducted during the previous state fiscal year and training planned for the upcoming state fiscal year in the annual Title VI implementation plan.
- (3) Each responsible Official for a department or agency (e.g. Title VI Coordinator for a department) shall, attend annually at least one session of Title VI training to be sponsored by the Commission. The training shall provide a forum to discuss any updates or changes in the Title VI implementation plan and reporting requirements, as well as updates and changes in Title VI and related civil rights laws.

Authority: T.C.A. §§ 4-21-202 and 4-21-203. **Administrative History:** Original rule filed November 15, 2010; effective February 13, 2011.

1500-01-03-.08 MONITORING.

- (1) Periodic compliance reviews.
 - (a) The Commission shall from time to time review the practices of recipients (e.g. state departments and agencies) to determine whether they are complying with these regulations.
 - (b) The Commission shall report its activities, findings and recommendations, including whenever there is a finding by the Commission that any recipient (e.g. a state department or agency) has not met the requirements of these rules, to the governor and to each member of the general assembly.
- (2) Title VI implementation plan required
 - (a) It shall be a violation whenever any state governmental entity that receives Federal financial assistance fails to submit an annual implementation plan pursuant to T.C.A. § 4-21-203.
 - (b) The implementation plan shall be submitted to the Commission no later than October 1. The annual implementation plan shall include reports and updates of any subrecipient(s) and/or contractor(s), if applicable. Each agency's plan shall include a comprehensive list that identifies all of the state entity's subrecipients and contractors (not including subcontractors).
- (3) Contents of the Title VI implementation plan

(Rule 1500-01-03-.08, continued)

- (a) Table of contents. Table of contents shall include, at minimum, the sections listed in parts 1 - 14. The required contents of the implementation plan are subject to any guidelines issued by the Commission.
1. Overview. The department or agency shall provide an overview of its operations and organizational structure to ensure that the nondiscrimination policy will be implemented throughout the entire organization.
 2. Federal programs or activities. Identify the following with respect to the most recent fiscal year as well as any projections for federal funds to be received during the upcoming fiscal year:
 - (i) Each program and/or activity and the federal dollar amount received for the fiscal year; and,
 - (ii) Each federal grant, loan or subsidy not included in subpart (i) above and the federal dollar amount received for each.
 3. Organization of the Civil Rights Office/Civil Rights Coordinator
 - (i) Describe the organization and staffing of the agency's Civil Rights/ Title VI Unit.
 - (ii) Outline the duties and responsibilities of the Title VI Director/ Coordinator.
 4. Data collection and analysis. Include racial and ethnic data demonstrating the extent to which members of minority groups are beneficiaries of the department's federally assisted programs and/or services.
 5. Definitions. Definitions of all common terms stated in the plan shall be included to ensure that agency staff, recipients and beneficiaries have consistent applicable definitions.
 6. Discriminatory practices. Specify prohibited discrimination practices under Title VI and where applicable, provide examples of prohibited discrimination practices in relation to agency activities.
 7. Limited English Proficiency (LEP) Plan. Departments and agencies shall include an LEP policy and procedure that is followed by staff when confronted with circumstances where language assistance is required;
 8. Complaint procedures. Describe procedures related to complaints, investigations, report of findings, and hearings and appeals, if applicable.
 9. Compliance review. Provide an overview of how the department or agencies monitors subrecipients and contractors concerning pre-/post-award procedures, minority representation of contractors, and public notice and outreach methods. Include procedures utilized by the department or agency to address subrecipient and/or contractor non-compliance.
 10. Compliance/Noncompliance reporting
 - (i) List any federal or state departments/agencies (other than the Commission) to which the department or agency furnishes or shares Title VI compliance reports; and,

(Rule 1500-01-03-.08, continued)

- (ii) Identify and list any and all federal reporting requirements of which the state department or agency is responsible by citing the applicable Code of Federal Regulations (CFR) citation and/or federal departmental circular that governs each program, activity or federal funds identified in the implementation plan.

- 11. Title VI training plan
 - (i) Describe training program and provide the number of total staff, subrecipients and/or contractors, the actual number and percentage of each that received training and dates that training was offered; and,
 - (ii) List proposed dates for future training programs that will be offered to staff, subrecipients and contractors.

- 12. Public notice and outreach
 - (i) Identify how the department or agency disseminates information about the following to its clients and constituents:
 - (I) Title VI implementation plan;
 - (II) Complaint procedures;
 - (III) Nondiscrimination policy;
 - (IV) Programs and services; and,
 - (V) Participation on planning boards and advisory bodies.
 - (ii) List the methods used by the department or agency to inform the public about the process for obtaining grants or bidding on contracts over which the department or agency has oversight.

- 13. Evaluation procedures
 - (i) Describe how the agency plans to address any existing needs and implementation plan deficiencies; and,
 - (ii) Provide a timeline for meeting the above plans.

- 14. Responsible Officials. Provide the name, title, address and signature of both:
 - (i) the responsible State official charged with ensuring that the department or agency complies with Title VI; and,
 - (ii) the Title VI Director/Coordinator or other designated person assigned with the task of developing and drafting the annual implementation plan.

Authority: T.C.A. §§ 4-21-202, 4-21-203 and 28 CFR Part 42, Subpart C. **Administrative History:** Original rule filed November 15, 2010; effective February 13, 2011.

Appendix C

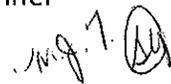
Title VI State Policy Guidance # 11-01:LEP National Origin Policy



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MEMORANDUM

To: Department Heads
Title VI Personnel

From: M. J. Thomas 
Director, Title VI Compliance Program

Re: Title VI State Policy Guidance #11-02: LEP National Origin Policy

Date: June 6, 2011

1. Introduction
2. Purpose and Application
3. Legal Authority
4. Policy Guidance
5. Compliance and Enforcement

I. Introduction

Tennessee statutory law charges the Tennessee Human Rights Commission with several responsibilities and duties, to include but not limited to the following: 1) to search for interdepartmental gaps, inconsistencies and inefficiencies in the implementation of a comprehensive state policy and 2) to serve as the central coordinating agency for executive branch departments and agencies for technical assistance, consultation and resources to encourage and assist compliance with the requirements of Title VI. One requirement of Title VI which warrants a coordinated strategy or statewide approach is in the area of national origin discrimination. This policy addresses recipient responsibilities to limited English proficient (LEP) persons pursuant to Title VI of the Civil Rights Act of 1964 and the Tennessee Human Rights Commission's implementing regulations.

There are many individuals for whom English is not their primary language. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or "LEP." Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance. Language for LEP individuals 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.

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin discrimination. To the extent additional clarification is desired on the obligation under Title VI to ensure meaningful access by LEP persons and how recipients can satisfy that obligation, a recipient should consult the Tennessee Human Rights Commission Title VI Compliance Program.

II. Purpose and Application

The purpose of this policy guidance is to clarify the responsibilities of executive branch departments ("recipients") and their respective subrecipients within the State of Tennessee which receive Federal financial assistance, and assist them in fulfilling their responsibilities to LEP persons. Recipients must take reasonable steps to ensure that persons have meaningful access to the programs, services and information provided by recipients in order to avoid discrimination on the grounds of national origin.

This policy guidance provides an analytical framework that recipients may use to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information and other important portions of their programs and activities for individuals who are LEP. Title VI implementing regulations of the Tennessee Human Rights Commission prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Thus, a recipient's policy or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have an adverse effect on the ability of national origin minorities to meaningfully access programs and services.

Recipient entities have considerable flexibility in determining how to comply with their legal obligation in the LEP setting; however, recipient entities must establish and implement policies and procedures for providing language assistance sufficient to fulfill their Title VI responsibilities and provide LEP persons with meaningful access to services.

III. Legal Authority

Tennessee law provides that "[i]t is a discriminatory practice for any state agency receiving federal funds making it subject to Title VI of the Civil Rights Act of 1964, or for any person receiving such federal funds from a state agency, to exclude a person from participation in, deny benefits to a person, or to subject a person to discrimination under any program or activity receiving such funds, on the basis of race, color, or national origin." T.C.A. §4-21-904 (See also Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S. C. 2000d). Rules and regulations governing the Tennessee Human Rights Commission Title VI Compliance Program forbid recipients from "utiliz[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." THRC Rule 1500-01-03-.03(2)(b).

The United States Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated by the former Department of Health, Education, and Welfare, including a regulation similar to that of DOJ, 45 CFR 80.3(b)(2), to hold that Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national-origin discrimination. In *Lau*, a San Francisco school district that had a significant number of non-English speaking students of Chinese origin was required to take reasonable steps to provide them with a meaningful opportunity to participate in federally funded educational programs. In light of U. S. Supreme Court case law and applicable Title VI regulations, the State of Tennessee recognizes the need for consistent application of Title VI LEP obligations by requiring recipients to develop an LEP plan and/or policy.

According to THRC Rule 1500-01-03-.08(3)(a)(6), the Title VI Implementation Plan submitted by executive branch departments and agencies shall include an LEP policy and the procedure that an entity follows when confronted with circumstances where language assistance is required. The LEP plan or procedures shall include a list of translator services utilized by the department or agency and identify various languages encountered by the department as a result of on-site or telephonic encounters from the public.

IV. Policy Guidance

1. Who is covered?

Executive branch departments and agencies within the State of Tennessee, and their respective subrecipients which receive Federal financial assistance, either directly or indirectly, through a grant, cooperative agreement, contract or subcontract are covered by this policy guidance. Title VI applies to all Federal financial assistance, which includes but is not limited to

awards and loans of federal funds, awards or donations of federal property, details of federal personnel, or any agreement, arrangement or other contract that has the provision of assistance as one of its purposes.

Title VI prohibits discrimination in any program or activity that receives Federal financial assistance. In most cases, when a recipient receives Federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, and not just the part of the program that uses the federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the federal assistance were used only by one part.

2. Who is a Limited English Proficient Individual?

Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be limited English proficient, or "LEP," entitled to language assistance with respect to a particular type of service, benefit, or encounter.

3. Basic Requirement: All Recipients Must Take Reasonable Steps To Provide Meaningful Access to LEP Persons

Determining the extent of the recipient's obligation to provide LEP services

To determine the extent of the obligation to provide LEP services, executive branch departments and agencies subject to Title VI are required to take reasonable steps to ensure meaningful access to its programs and activities by LEP persons. This is accomplished by taking an individualized assessment which applies the following four (4) factors to the various kinds of contacts that a recipient has with the public to assess language needs and decide what reasonable steps it should take:

1. The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population
 - a. This population will be program-specific.
2. The Frequency With Which LEP Individuals Come in Contact With the Program
 - a. Even when a recipient serves LEP persons on an unpredictable or infrequent basis, a plan may be as simple as being prepared to use a telephone interpreter line to obtain immediate interpreter services.
3. The Nature and Importance of the Program, Activity, or Service Provided by the Program
 - a. Determine whether denial or delay of access to services or information could have serious or even life threatening implications for the LEP individual.

4. The Resources Available to the Recipient and Costs
 - a. Explore cost-effective means of delivering competent and accurate language services before limiting services due to resources.
 - b. Articulate in documentation the process for determining that language services would be limited based on resources or costs.

Each recipient must have on file documentation to support that it has taken an individualized assessment to determine its LEP obligations. Documentation may include but is not limited to the following:

1. Data showing the number and percentage of LEP persons served by agency programs in the eligible service population; and,
2. Data showing the number and percentage of LEP persons actually served by agency programs (state and federally funded).

Oral (Interpretation) and Written (Translation) Language Services

There are two (2) main ways to provide language services: oral (interpretation) and written (translation).

Interpretation is the act of listening to something in one language and orally translating it into another language. The provision of oral language services may include the following: hiring bilingual staff; hiring staff interpreters; contracting for interpreters; using telephone interpreter lines; using community volunteers; and in certain instances, utilizing family members and/or friends of the individual requiring oral language services, where permissible.

- When interpretation is needed and is reasonable, such services should be provided in a *competent* and *timely* manner. For example, the quality of services is significant in a healthcare setting when compared to services provided at a bicycle safety class.
- When interpretation is *necessary*, recipients should generally offer competent interpreter services at no cost to the LEP person.

Translation is the replacement of a written text from one language into an equivalent written text in another language. After applying the four factor analysis, a recipient may determine that an effective LEP plan includes the translation of vital written materials into the languages of each frequently-encountered LEP group eligible to be served and likely to be affected by the recipient's program. Vital written materials could include: consent and complaint forms, notices advising LEP persons of free language assistance, written notices of rights, denial, loss, or decreases in benefits or services; and applications to participate in a federally funded program or activity or to receive benefits or services.

Whether a document is vital may depend upon the importance of the program, information, encounter, or service involved and the consequences to the LEP person if the information in question is not provided accurately or in a timely manner. Recipients are encouraged to create a plan for consistently determining, over time and across various activities, what documents are "vital" to the meaningful access of the LEP population served.

- The extent of a recipient's obligation to provide written translations of documents should be determined on a case-by-case basis.
- Awareness of rights or services is an important part of "meaningful access."

Safe harbor guidelines, which apply exclusively to the translation of written documents, state that if a recipient provides written translations under the "safe harbor" circumstances outlined by various federal departments and agencies, such action will be considered strong evidence of a recipient's compliance with written translation obligations. See Department of Justice (DOJ) Policy Guidance titled "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons," published at 67 FR 41455, 41457- 41465 (June 18, 2002) (DOJ Recipient LEP Guidance).

Developing an effective LEP Plan or Procedures

After determining what language services are appropriate, the recipient should develop an effective LEP plan. An "LEP Plan" is not required, but the absence of a plan does not obviate the requirement to ensure meaningful access. Elements of an effective LEP plan or procedures include the following:

1) Identification of LEP individuals

- a) A department or agency may satisfy this element by:
 - i) Utilizing translation cards provided by the language assistance state contractor or other organizations or entities that offer language assistance services.
 - ii) Keeping records of the various languages confronted by the department or agency as a result of on-site and telephonic contact with the public.
 - iii) Posting notices in frequently encountered languages notifying LEP persons of language assistance.

- **The following measures listed above should be employed by a department or agency and documented in a manner that all employees are aware of and are able to direct LEP individuals in an appropriate fashion. Under appropriate circumstances and when relevant, a department should consider creating an option on the department's voicemail to hear the recording in another language.**

2) Language assistance measures

- a) Publish a list of employees that are designated to provide language assistance.
 - b) Establish procedures that staff must follow to access language line services or to direct persons to the appropriate staff member(s).
- **Departments and agencies must have documentation to verify that its staff has been informed of and has access to the department's language assistance procedures.**
- 3) Training to ensure that staff understands the obligation to provide meaningful access to services
 - 4) Providing Notice to LEP persons
 - a) Notice of fair treatment and/or notice of right to file a complaint in another language
 - 5) Monitoring and Updating the LEP Plan
 - a) Departments and agencies should have a process for determining whether changes in demographics, types of services or other needs require annual reevaluation of its LEP Plan.

V. Compliance and Enforcement

State of Tennessee Title VI laws and regulations provide that the Tennessee Human Rights Commission will verify that all state governmental entities that are recipients of Federal financial assistance comply with Title VI of the Civil Rights Act of 1964. If there appears to be a failure or threatened failure of any recipient to comply with Title VI regulations and if the noncompliance or threatened noncompliance cannot be corrected by informal means in conjunction with the responsible State official who is the executive branch department head, then the Tennessee Human Rights Commission shall report its findings and recommendations to the governor and to each member of the general assembly.

In determining a recipient's compliance with Title VI, the primary concern is to ensure that the recipient's policies and procedures overcome barriers resulting from language differences that would deny LEP persons a meaningful opportunity to participate in and access programs, services, and benefits. A recipient's appropriate use of the methods and options discussed in this policy guidance will be deemed by the Tennessee Human Rights Commission as evidence of a recipient's willingness to comply voluntarily with its Title VI obligations.

Appendix D

Language Access Assessment and Planning Tool for Federally Conducted and Federally Conducted And Federally Assisted Programs



Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs

**Federal Coordination and Compliance Section
Civil Rights Division
U.S. Department of Justice**

May 2011

“Whether in an emergency or in the course of routine business matters, the success of government efforts to effectively communicate with members of the public depends on the widespread and nondiscriminatory availability of accurate, timely, and vital information.”

- Attorney General Eric Holder, Memorandum to All Federal Agencies Regarding Executive Order 13166, February 17, 2011

LANGUAGE ACCESS ASSESSMENT AND PLANNING TOOL FOR FEDERALLY CONDUCTED AND FEDERALLY ASSISTED PROGRAMS

I. OVERVIEW

The goal of all language access planning and implementation is to ensure that your agency communicates effectively with limited English proficient (LEP) individuals.¹ As the Attorney General notes in his [Memorandum to all Federal Agencies Regarding the Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166](#), this requires ensuring effective communication at all points of contact between an LEP person and your agency.² While each agency's approach to overcoming language barriers may differ depending on a variety of factors, a useful model for providing meaningful access to LEP individuals often includes:

A. Conducting a self-assessment to determine what types of contact your agency has with the LEP population.

The self-assessment identifies language service needs, and evaluates the bilingual, translation, and interpretation resources already available to help LEP individuals access your agency's benefits, programs, services, information, or other operations. (Part II B, below).

B. Developing language access policy directives, implementation plan, and procedures.

- 1. Language Access Policy Directives-** Policy directives set forth standards, operating principles, and guidelines that govern the delivery of language appropriate services. Policy directives may come in different forms but are designed to require the agency and its staff to ensure meaningful access. Policy directives should be made publicly available.
- 2. Language Access Implementation Plan-** The plan is a management document that outlines how the agency defines tasks, sets deadlines and priorities, assigns responsibility, and allocates the resources necessary to come into or maintain compliance with language access requirements. It describes how the agency will meet the service delivery standards

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¹ See Exec. Order No. 13166, 65 Fed Reg. 50,121 (Aug. 11, 2000), <http://www.lep.gov/13166/eolep.pdf>.

² See Attorney General Holder Memorandum to All Federal Agencies Regarding the Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166 (February 17, 2011), http://www.lep.gov/13166/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf.

delineated in the policy directives, including the manner by which it will address the language service and resource needs identified in the self-assessment. The plan is a roadmap that helps agencies: navigate the process of setting deadlines and priorities, and identifying responsible personnel for policy and procedures development; hire, contract, assess, and ensure quality control of language assistance services (oral and written); provide notice of language assistance services; provide staff training; and conduct ongoing monitoring and evaluation.

- 3. Language Access Procedures-** Procedures are the "how to" for staff. They specify for staff the steps to follow to provide language services, gather data, and deliver services to LEP individuals. Procedures can be set forth in handbooks, intranet sites, desk references, reminders at counters, notations on telephone references, and the like.

Part II will help you assess how your agency currently provides language assistance services to LEP individuals, using the Sample Self Assessment included in Part II B. Part III provides a framework for developing appropriate language access policy directives, plan, and procedures.

C. Scope

The obligations of Executive Order 13166 apply to all federal conducted and assisted programs. In his [Memorandum for Heads of Federal Agencies regarding the Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166](#), the Attorney General directed federal agencies that provide federal financial assistance to draft LEP guidance for agencies that are recipients of federal financial assistance (recipients). The term federal financial assistance includes, but is not limited to, grants and loans of federal funds; grants or donations of federal property; training; details of federal personnel; or any agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

All agencies providing federal financial assistance directly or indirectly should obtain information and maintain records that ensure that they can determine which entities have received such assistance, including a list of sub-grantees, and for what purpose the assistance has been provided. When any agency provides federal financial assistance it must ensure that recipients acknowledge and agree that they will comply (and require any sub-grantees, contractors, successors, transferees, and assignees to comply) with applicable provisions of federal civil rights laws and policies prohibiting discrimination, including but not limited to Title VI of the Civil Rights Act of 1964, which prohibits recipients from discriminating on the basis of race, color, or national origin, including limited English proficiency. See 42 U.S.C. 2000d et seq. Model assurance language addressing national laws and policies prohibiting discrimination can be found at http://www.justice.gov/crt/about/cor/draft_assurance_language.pdf. Agencies must require recipients to obtain these assurances from their sub-recipients and must maintain systems that can record and track the recipient's agreement with these assurances. See 28 C.F.R. §42.105.

II. SELF-ASSESSMENT AND CONSIDERATIONS FOR YOUR PLAN



An assessment can help an agency determine if it communicates effectively with LEP individuals and can inform language access program planning. The questions in Part II B. (starting on page 8) may be used by federal agencies and recipients to conduct a self-assessment of their progress in providing language assistance services to LEP persons. Divided into six sections, the self-assessment approximates the elements that are part of effective language access policy directives and implementation plans: (1) understanding how LEP individuals interact with your agency; (2) identifying and assessing LEP communities; (3) providing language assistance services; (4) training staff on policies and procedures; (5) providing notice of language assistance services; and (6) monitoring, evaluating, and updating the language access policy directives, plans, and procedures.³ The tool is a starting point; agencies should add or modify as appropriate for their programs and activities.

A. Guidance Regarding Self-Assessments

Provided below are additional guidance and considerations for each of these six elements. While the order may differ, your agency should consider each of these elements as it develops its plan. The sample self-assessment questionnaire is available at Part II B.

1. Understanding How LEP Individuals Interact with Your Agency

A federally conducted or funded program could interact with LEP individuals in a variety of ways. Any interaction with the public has the potential to interact with LEP individuals. These could include, but are not limited to, program applicants and participants; hotline or information line calls; outreach programs; public meetings and hearings; public access to agency websites; written materials or complaints sent to an agency; agency brochures intended for public distribution; contacts with potential witnesses, victims, defendants; and interactions with detainees and prisoners. It is important for agencies to also examine the manner in which the agency interacts with the public and/or LEP individuals (e.g. in-person consultations versus

³ See Department of Justice, *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 67 FR 41464-65 (June 18, 2002). (hereinafter “2002 DOJ Guidance”), <http://www.justice.gov/crt/about/cor/lep/DOJFinLEPFRJun182002.pdf>.

correspondence) as this can dictate the type of language assistance services provided by the agency.

2. Identification and Assessment of LEP Communities

A federally conducted or funded program should consider assessing the number or proportion of LEP persons from each language group in its service area to determine appropriate language assistance services. This analysis includes persons in a geographic service area with whom your agency comes into contact while carrying out agency functions. For the assessment to be accurate it must also include all communities who are eligible for services or are likely directly affected by programs or activities. Agencies may determine the linguistic characteristics of an LEP population in a service area by reviewing available data from federal, state, and local government agencies, community, and faith based organizations:

REMINDER: Your primary goal is to effectively communicate with LEP individuals. The order in which each element is achieved may differ from agency to agency. While it may be helpful to identify and assess your LEP communities before providing language assistance services, this should not stand in the way of providing meaningful access to LEP individuals.

- Federal Agencies.
 - The *U.S. Census Bureau* through its *American Community Survey (ACS)* maintains statistics on the linguistic composition of LEP individuals in your service area: <http://www.census.gov/hhes/socdemo/language/data/index.html>. Beginning with the 2010 Census, the Census Bureau stopped collecting decennial census data on language use and English-speaking ability. Language data continues to be gathered on an annual basis by the ACS and can be found on the American FactFinder website, www.factfinder.census.gov. The Census Bureau has also created a website explaining how to use the ACS language data it collects: <http://www.census.gov/hhes/socdemo/language/index.html>.
 - The *U.S. Department of Education* maintains a Civil Rights Data Collection, <http://ocrdata.ed.gov/>, which has information from the nation's school districts including student enrollment and educational programs and services disaggregated by race, ethnicity, sex, limited English proficiency, and disability. The National Center for Education Statistics, <http://nces.ed.gov/fastfacts/display.asp?id=96>, has information on children who speak a language other than English at home.
 - The *Federal Interagency Working Group on Limited English Proficiency Website* also has demographic information available at http://www.lep.gov/demog_data.html
- State and local government agencies.
 - State social service agencies, state departments of education, local social service agencies, and school districts often gather and report information on LEP populations.
- Local community-based and religious organizations.

- Consider consulting organizations that serve and work with LEP communities to get an accurate assessment of the existing and emerging LEP communities in your service area.

An agency should also consider identifying and tracking the primary language of LEP individuals that seek and receive programs and services. This can be accomplished by determining the points of contact between agency staff and LEP individuals. Agencies may create mandatory data fields for LEP, languages spoken and the preferred language for written communication to ensure that all staff collect and input this information. By regularly collecting and updating this data, agencies will be able to accurately identify and efficiently address the changing needs of their LEP communities.

3. Providing Language Assistance Services

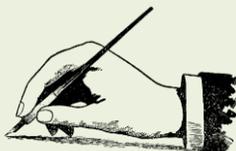
Effective communication with LEP individuals requires your agency to have language assistance services in place. There are two primary types of language assistance services: oral and written. Oral language assistance service may come in the form of "in-language" communication (a demonstrably qualified bilingual staff member communicating directly in an LEP person's language) or interpreting.

An interpreter renders a message spoken in one language into one or more other languages. Interpretation can take place in-person, through a telephonic interpreter, or via internet or video interpreting. An interpreter must be competent and have knowledge in both languages of the relevant terms or concepts particular to the program or activity and the dialect and terminology used by the LEP individual. Depending upon the circumstances, interpreters may provide simultaneous interpretation of proceedings so that an LEP person understands what is happening in that proceeding, or may interpret an interview or conversation with an LEP person in the consecutive mode. Interpreter competency requires more than self-identification as bilingual. Agencies should avoid using family members, children, friends, and untrained volunteers as interpreters because it is difficult to ensure that they interpret accurately and lack ethical conflicts.

INTERPRETATION is an **ORAL** language assistance service.



TRANSLATION is a **WRITTEN** language assistance service.



Translation is the replacement of written text from one language into another. A translator also must be qualified and trained. Federal agencies and recipients may need to identify and translate vital documents to ensure LEP individuals have meaningful access to important written information. Vital written documents include, but are not limited to, consent and complaint forms; intake and application forms with the potential for important consequences; written notices of rights; notices of denials,

losses, or decreases in benefits or services; notice of disciplinary action; signs; and notices advising LEP individuals of free language assistance services. Agencies should proactively translate vital written documents into the frequently encountered languages of LEP groups

eligible to be served or likely to be affected by the benefit, program or service. When agency personnel have reason to believe that an individual is LEP, the agency must respond to that LEP individual in a language he or she understands. For example, a letter sent to a specific LEP person should be translated into the appropriate language for that individual to ensure effective communication. Agencies should also put processes in place for handling written communication with LEP individuals in less frequently encountered languages.

4. Training of Staff on Policies and Procedures

Staff will not be able to provide meaningful access to LEP individuals if they do not receive training on language access policies and procedures, including how to access language assistance services. This training should be mandatory for staff who have the potential to interact or communicate with LEP individuals, staff whose job it is to arrange for language assistance services, and managers. Training should explain how staff can identify the language needs of an LEP individual, access and provide the necessary language assistance services, work with interpreters, request document translations, and track the use of language assistance services. Bilingual staff members who communicate "in-language" to LEP individuals, or who serve as interpreters or translators, should be assessed and receive regular training on proper interpreting and translation techniques, ethics, specialized terminology, and other topics as needed. Without periodic assessment and training, bilingual staff may not be able to provide the language assistance services necessary to ensure LEP individuals have meaningful access to your agency's programs.

5. Providing Notice of Language Assistance Services

Federal agencies and recipients must inform LEP individuals of their eligibility for benefits, programs, and services in a language they understand. Agencies should assess all points of contact, telephone, in-person, mail, and electronic communication its staff has with the public and LEP individuals when determining the best method of providing notice of language assistance services. An agency should not only translate its outreach materials, but also explain how LEP individuals may access available language assistance services. Methods used to inform LEP individuals about language assistance services may include translating outreach materials into other languages, updating non-English content in key languages on the main page of the program website, and providing public service messages in non-English media describing your programs.

Current applicants or beneficiaries of your programs or services should also receive notice and information about available language assistance services. This may be accomplished through the use of effective, program specific notices such as forms, brochures, language access posters placed in conspicuous locations describing in multiple languages the availability of language assistance services, the use of "I Speak" language identification cards⁴, and by including instructions in non-English languages on telephone menus.

⁴ An example of an "I Speak" card can be found at www.justice.gov/crt/lep/resources/OhioLangIDcard.pdf .

6. Monitoring, Evaluating, and Updating the Language Access Policy Directives, Plans, and Procedures

For a language access program to continue to be effective, an agency must periodically monitor, evaluate, and update the plan, policies and procedures. Some federal agencies and recipients may designate a committee or staff person to be the language access coordinator responsible for monitoring, evaluating, and updating the language access program. Federal law does not prescribe a particular program model or evaluation approach. Consequently, the approach to and design of an effective language access evaluation may vary for each agency and recipient. Monitoring the effectiveness of your program may include:

- Surveying staff on how often they use language assistance services, if they believe there should be changes in the way services are provided or the providers that are used, and if they believe that the language assistance services in place are meeting the needs of the LEP communities in the service area.
- Conducting customer satisfaction surveys of LEP applicants and beneficiaries based on their actual experience of accessing the agency's benefits, programs, information, or services.
- Observing and evaluating agency interactions with LEP individuals.
- Soliciting feedback from community-based organizations and other stakeholders about the agency's effectiveness and performance in ensuring meaningful access for LEP individuals.
- Keeping current on community demographics and needs by engaging school districts, faith communities, refugee resettlement agencies, and other local resources.
- Considering new resources including funding, collaborations with other agencies, human resources, emerging technology, and other mechanisms for ensuring improved access for LEP individuals.
- Monitoring your agency's response rate to complaints or suggestions by LEP individuals, community members, and employees regarding language assistance services provided.

Creating a record of language assistance services can help inform programs whether there should be changes to the quantity or type of language assistance services. The monitoring and review of current policies and the types of language assistance services provided should occur on an annual basis.

B. A Sample Self-Assessment

1. Understanding How LEP Individuals Interact with Your Agency

The following series of questions helps agencies understand how an LEP individual may come into contact with your agency:

1. Does your agency interact or communicate with the public or are there individuals in your agency who interact or communicate or might interact or communicate with LEP individuals?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Please describe the manner in which your agency interacts with the public or LEP individuals:	<input type="checkbox"/> In-Person <input type="checkbox"/> Telephonically <input type="checkbox"/> Electronically (e.g. email or website)	<input type="checkbox"/> Via Correspondence <input type="checkbox"/> Other: (please specify)
3. Does your agency provide federal financial assistance to any non-federal entities? (Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds can range from state and local agencies, to nonprofits and other organizations.)	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. If your agency does provide federal financial assistance to non-federal entities: <ul style="list-style-type: none"> a. Do you have an active program in place to require your recipients of federal financial assistance to comply with Title VI and language access standards? b. Does your agency inform recipients of federal financial assistance that they should budget for language assistance services? c. Does your agency inform recipients of federal financial assistance about which grants can be used, in whole or in part, to improve language access? 	<ul style="list-style-type: none"> Yes a. Yes b. Yes c. Yes 	<ul style="list-style-type: none"> No a. No b. No c. No

2. Identification and Assessment of LEP Communities

The following series of questions aims to identify the LEP population you serve:

<p>1. How does your agency identify LEP individuals? (Select all that apply)</p>	<input type="checkbox"/> Assume limited English proficiency if communication seems impaired <input type="checkbox"/> Respond to individual requests for language assistance services <input type="checkbox"/> Self-identification by the non-English speaker or LEP individual <input type="checkbox"/> Ask open-ended questions to determine language proficiency on the telephone or in person <input type="checkbox"/> Use of "I Speak" language identification cards or posters	<input type="checkbox"/> Based on written material submitted to the agency (e.g. complaints) <input type="checkbox"/> We have not identified non-English speakers or LEP individuals <input type="checkbox"/> Other (Please specify): _____
<p>2. Does your program have a process to collect data on:</p> <p>a. The number of LEP individuals that you serve?</p> <p>b. The number of LEP individuals in your service area?</p> <p>c. The number and prevalence of languages spoken by LEP individuals in your service area?</p>	<p>Yes</p> <p>a. Yes</p> <p>b. Yes</p> <p>c. Yes</p>	<p>No</p> <p>a. No</p> <p>b. No</p> <p>c. No</p>
<p>3. How often does your agency assess the language data for your service area?</p>	<input type="checkbox"/> Annually <input type="checkbox"/> Biennially	<input type="checkbox"/> Not Sure <input type="checkbox"/> Other: _____
<p>4. What data does your agency use to determine the LEP communities in your service area? (Select all that apply)</p>	<input type="checkbox"/> Census <input type="checkbox"/> US Dept. of Education <input type="checkbox"/> US Dept. of Labor <input type="checkbox"/> State Agencies	<input type="checkbox"/> Community Organizations <input type="checkbox"/> Intake information <input type="checkbox"/> Other: _____
<p>5. Do you collect and record primary language data from individuals when they first contact your programs and activities?</p>	<p>Yes</p>	<p>No</p>
<p>6. If you collect and record primary language</p>		

data, where is the information stored?		
7. What is the total number of LEP individuals who use or receive services from your program each year?		
8. How many LEP individuals attempt to access your programs or services each month?		
9. How many LEP individuals use your programs or services each month?		
10. Specify the top six most frequently encountered non-English languages by your program and how often these encounters occur (e.g., 2-3 times a year, once a month, once a week, daily, constantly).	Language 1. 2. 3. 4. 5. 6.	Frequency of Encounters 1. 2. 3. 4. 5. 6.

3. Providing Language Assistance Services

The following set of questions will help you assess how well your agency is providing language assistance services to LEP individuals:

1. Does your agency currently have a system in place for tracking the type of language assistance services it provides to LEP individuals at each interaction?	Yes	No
2. What data, if any, do you maintain regarding language assistance services? (Select all that apply)	<input type="checkbox"/> Primary language of persons encountered or served <input type="checkbox"/> Use of language assistance services such as interpreters and translators <input type="checkbox"/> Funds or staff time spent on language assistance services	<input type="checkbox"/> Number of bilingual staff <input type="checkbox"/> Cost of interpreter services <input type="checkbox"/> Cost of translation of materials into non-English languages <input type="checkbox"/> Other (Please specify): _____
3. Does your agency have a system to track the cost of language assistance services?	Yes	No
4. What types of language assistance services does your agency provide? (Select all that apply)	<input type="checkbox"/> Bilingual staff <input type="checkbox"/> In-house interpreters (oral) <input type="checkbox"/> In-house translators (documents) <input type="checkbox"/> Contracted interpreters <input type="checkbox"/> Contracted	<input type="checkbox"/> Language bank or dedicated pool of interpreters or translators <input type="checkbox"/> Volunteer interpreters or translators <input type="checkbox"/> Interpreters or

	translators <input type="checkbox"/> Telephone interpretation services <input type="checkbox"/> Video interpretation services	translators borrowed from another agency <input type="checkbox"/> Other (Please specify): _____
5. Does your agency a) have a certification or assessment process that staff must complete before serving as interpreters or translators for LEP individuals? b) Does the process include use of standardized language proficiency exams?	a) Yes b) Yes	a) No b) No
6. Does your agency ask or allow LEP individuals to provide their own interpreters or have family members or friends interpret?	Yes	No
7. Does your agency have contracts with language assistance service providers (in-person interpreters, telephone interpreters, video interpreters, or translators)?	Yes	No
8. Does your agency provide staff with a list of available interpreters and the non-English languages they speak, or information on how to access qualified interpreters?	Yes	No
9. Does your agency identify and translate vital documents into the non-English languages of the communities in your service area?	Yes	No
10. Which vital written documents has your agency translated into non-English languages?	<input type="checkbox"/> Consent forms <input type="checkbox"/> Complaint forms <input type="checkbox"/> Intake forms <input type="checkbox"/> Notices of rights <input type="checkbox"/> Notice of denial, loss or decrease in benefits or services <input type="checkbox"/> Notice of disciplinary action	<input type="checkbox"/> Applications to participate in programs or activities or to receive benefits or services <input type="checkbox"/> Other (please specify): _____
11. Does your agency translate signs or posters announcing the availability of language assistance services?	Yes	No
12. When your agency updates information on its website, does it also add that content in non-English languages?	Yes	No

4. Training of Staff on Policies and Procedures

The following series of questions will help you identify whether staff receive appropriate training on your language access policies and procedures:

1. Does all agency staff receive initial and periodic training on how to access and provide language assistance services to LEP individuals?	Yes	No
2. Who receives staff training on working with LEP individuals? (Select all that apply)	<input type="checkbox"/> Management or senior staff <input type="checkbox"/> Employees who interact with or are responsible for interactions with non-English speakers or LEP individuals	<input type="checkbox"/> Bilingual Staff <input type="checkbox"/> New employees <input type="checkbox"/> All employees <input type="checkbox"/> Volunteers <input type="checkbox"/> Others (Please specify): _____ <input type="checkbox"/> None of the above
3. Are language access policies and LEP issues included in the mandatory training curriculum for staff?	Yes	No
4. Does your agency staff procedural manual or handbook include specific instructions related to providing language assistance services to LEP individuals?	Yes	No
5. Does staff receive periodic training on how to obtain and work with interpreters?	Yes	No
6. Does staff receive periodic training on how to request the translation of written documents into other languages?	Yes	No
7. Do staff members who serve as interpreters receive regular training on proper interpreting techniques, ethics, specialized terminology, and other topics?	Yes	No
8. Do staff members who serve as interpreters receive interpreter training from competent interpreters or other trainers familiar with the ethical and professional requirements of an interpreter?	Yes	No

5. Providing Notice of Language Assistance Services

The following series of questions will help you assess how you provide notice of language assistance services to the LEP population in your service area:

1. How do you inform members of the public about the availability of language assistance services? (Select all that apply)	<input type="checkbox"/> Frontline and outreach multilingual staff <input type="checkbox"/> Posters in public areas <input type="checkbox"/> "I Speak" language identification cards distributed to frontline staff <input type="checkbox"/> Website	<input type="checkbox"/> Social networking website (e.g. Facebook, Twitter) <input type="checkbox"/> E-mail to individuals or a list serv <input type="checkbox"/> Other (Please specify): _____ <input type="checkbox"/> None of the above
2. Do your translated program outreach materials inform LEP individuals about the availability of free language assistance services?	Yes	No
3. Does your agency regularly advertise on non-English media (television, radio, newspaper, and websites)?	Yes	No
4. Does your agency inform community groups about the availability of free language assistance services for LEP individuals?	Yes	No
5. Does your agency inform current applicants or recipients about the availability of language assistance services?	Yes	No
6. Does the main page of your agency website include non-English information that would be easily accessible to LEP individuals?	Yes	No
7. Does your agency have multilingual signs or posters in its offices announcing the availability of language assistance services?	Yes	No

6. Monitoring and Updating a Language Access Procedures, Policy, and Plan

The following set of questions will help you assess whether you have an effective process for monitoring and updating your language access policies, plan and procedures:

1. Does your agency have a written language access policy?	Yes	No
2. If so, is a description of this policy available to the public?	Yes	No
3. How often is your agency's language access policy reviewed and updated?	<input type="checkbox"/> Annually <input type="checkbox"/> Biennially	<input type="checkbox"/> Not Sure <input type="checkbox"/> Other: _____

4. When was the last time your agency's language access policy was updated?	Month_____	Year_____
5. How often does your agency update its data on the LEP communities in your service area?	<input type="checkbox"/> Annually <input type="checkbox"/> Biennially	<input type="checkbox"/> Not Sure <input type="checkbox"/> Other:_____
6. Does your agency have a language access coordinator?	Yes	No
7. Does your agency have a formal language access complaint process?	Yes	No
8. Has your agency received any complaints because it did not provide language assistance services?	Yes	No
9. Do you monitor the system for collecting data on beneficiary satisfaction and/or grievance/complaint filing?	Yes	No
10. Do you obtain feedback from the LEP community on the effectiveness of your language access program and the language assistance services you provide?	Yes	No

III. DEVELOPING LANGUAGE ACCESS DIRECTIVES, PLANS, AND PROCEDURES

This section will provide federal agencies and organizations, as well as agencies that receive federal financial assistance (recipients), with a framework to develop, modify, and implement language access policy directives, plans, and procedures. This framework should help agencies plan their organizational approach to providing language assistance services when an LEP individual seeks or encounters an agency contact. Language access policy directives, plans, and procedures will differ depending on a variety of factors including the nature or method of operation of the agency and its points of contact with the public. Some steps that are reasonable for an agency that serves a few LEP persons in a year may be different than those expected from an agency that serves several LEP persons each day. Accordingly, we recommend tailoring this framework to your agency’s mission, the population served (both their language needs and the cultural context), the importance of the service provided by the program, and the available resources.

Many federal agencies and recipients have found that it is useful, when developing or revising their language access program, to establish a work group that includes administrators, professional and administrative support staff, potential beneficiaries, and members of community organizations. By working with a diverse group that includes stakeholders, you will receive more comprehensive input from those whose support and efforts may be important to the success of your language access policy directives, plan, and procedures. Inclusive approaches in plan design and development also tend to promote overall community awareness and support. By leveraging personnel from different departments, an agency is able to build institutional knowledge and resources that will lead to long-term policy coherence and consistency. In addition, these individuals will be valuable resources to draw upon during evaluation and improvement activities.

A. Components of a Language Access Program

While we describe language access policy directives, plans, and procedures as three distinct concepts, you may notice significant overlap between the three areas as you begin to develop your agency’s language access program. We have provided the framework below to help you conceptualize the task ahead and provide you with a model flexible enough to tailor to your agency’s particular needs.

- 1. Language Access Policy Directives.** A policy directive sets forth standards, operating principles, and guidelines that will govern the delivery of language appropriate services. Policy directives may be in the form of a public directive, order, rule, regulation, guidance,



or other policy document. The purpose and authority for a policy directive may come from federal, state, or local laws, orders, or ordinances. A policy directive often includes the following components:

Example General Policy Statement:

“It is the policy of this agency to provide timely meaningful access for LEP persons to all agency programs and activities. All personnel shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services. All personnel will inform members of the public that language assistance services are available free of charge to LEP persons and that the agency will provide these services to them.”

a. *A General Policy Statement.* This section explains the goals and expectations of the agency in terms that bind the agency and its employees.

b. *Purpose and Authority.* This section provides the legal basis or administrative authority for the agency policy and may explain the nexus between the policy directives and the agency’s mission. For example:

“The purpose of this policy is to establish effective guidelines, consistent with Title VI of the Civil Rights Act of 1964 and Executive Order 13166, for agency personnel to follow when providing services to, or interacting with, individuals who have limited English proficiency (LEP). Following these guidelines is essential to the success of our mission to [insert].”

c. *Language Assistance Measures.* This section sets forth the standards for language assistance services to be provided to LEP individuals. Language assistance measures should be written in a manner that requires staff compliance consistent with the agency’s culture. The measures define acceptable methods of communication with LEP persons and may further elaborate requirements such as those for data gathering and recording, notice, and training. In the sample general policy statement, the decree that all personnel “shall provide free language assistance services to LEP individuals whom they encounter or whenever an LEP person requests language assistance services” describes the standards for how and when the agency must communicate with LEP persons.

d. *Staff Compliance.* This section describes the responsibility of each division, unit, or staff member. For example, the sample general policy statement above denotes that “all personnel” are required to provide free language assistance services to LEP individuals and must inform the public about available language assistance services.

e. *Definitions.* A policy directive may also explain any terms referenced in the policy. These terms may include agency-specific classifications of bilingual staff, interpreter, language assistance services, LEP, primary language, translation, vital documents, etc.

Additional Language Access Policy Directives. An agency may have more than one policy directive. For example, an agency may have a policy directive that explains its overall obligation to provide services to LEP individuals and secondary or topical policy directives that support the agency’s overarching LEP goals and objectives. Additional policy directives may include formal guidelines that describe the agency’s rules and regulations, for example:

- *Staff Training.* A policy directive on staff training may dictate the frequency, curriculum, and target personnel for ongoing training. For example, this policy directive may mandate training particular to management, interpreters, translators, or frontline staff who encounter LEP individuals.
- *Bilingual Staff.* A policy directive on bilingual staff may state a policy that second language skills are a desired characteristic, prescribe the hiring process for bilingual staff, provide the mechanism for designating jobs as bilingual, when and how to test the competency of prospective or current bilingual staff, define which staff are “bilingual,” and/or additional remuneration for bilingual staff.
- *Performance Measurement.* A policy directive on performance measurement may order the frequency and manner of monitoring and oversight. For example, an agency may elect to conduct an audit of language assistance services on an annual basis.

2. A Language Access Plan. The plan is a management tool that provides an administrative blueprint for bringing the agency into compliance with language



access requirements. The plan describes how the agency will implement the standards for service delivery delineated in the policy directives, including explaining how the agency will increase its capacity to address the language service and resource needs identified in the self-assessment. The plan is a roadmap that helps agencies: navigate the process of setting deadlines, priorities, and identifying responsible personnel for policy and procedures development; hire, contract, assess, and ensure quality control of language assistance services (oral and written); provide notice of language assistance services; provide training of staff; and conduct ongoing monitoring and evaluation. Key components of a language access plan include:

- a. *Identification of persons charged with implementing the plan.* A plan should describe the management staff, workgroup, committee, or other agency staff who will be responsible for creating and overseeing the policy directives, developing and modifying the language access plan, and establishing and implementing operational procedures. The plan should also detail the chains of command for authority and oversight and explain any coextensive responsibility and coordination with other agencies, divisions, and offices.
- b. *Identification and assessment of LEP communities.* A plan should address what resources will be needed to assess the number or proportion of eligible LEP persons from each language group in an agency service area and the resources that will be needed to provide language assistance services. The plan should also outline the work needed to install or maintain systems for data collection and management.
- c. *A description of the timeframe, objectives, and benchmarks for work to be undertaken.*
- d. *Identification of funding and procurement issues and the steps needed to address them.*
- e. *Notice of language assistance services.* A plan should also describe how the agency intends to implement the changes needed to inform LEP individuals of the benefits, programs, and services for which they may be eligible and the available language assistance services.
- f. *Training staff on policies and procedures.* A plan will identify training needs and explain how they will be addressed.
- g. *Monitoring and updating the plan, policies, and procedures.* A plan will explain the agency's approach to monitoring how it provides services to LEP individuals, how it monitors plan performance, and the process for reviewing, and, if appropriate, modifying current language access plans, policies, and procedures.
- h. *Collaborating with LEP communities and other stakeholders.* Organizations that have significant contact with LEP persons, such as schools, religious

organizations, community groups, and groups working with new immigrants can be very helpful in linking LEP persons to an agency's programs and its language assistance services. The plan can include provisions for creating and conducting outreach and the actions needed to implement an effective system to gather feedback and involve outside entities or individuals in the review process.

3. Language Access Procedures. Procedures are detailed explanations that specify the steps to be followed to provide language assistance services, gather data, and deliver services to LEP individuals. Procedures can be set forth in handbooks, intranet sites, desk references, and reminders at counters. Procedures may entail use of forms or software. Language access procedures often explain the following:

- How staff are to respond to telephone calls from LEP individuals.
- How staff together, track, and record language preference information.
- How staff inform LEP individuals about available language assistance services.
- How staff will identify the language needs of LEP individuals.
- How staff are to respond to correspondence (letters and email) from LEP individuals.
- How staff will procure in-person interpreter services.
- How staff will access telephone or video interpreter services.
- How to use bilingual staff for LEP services and which staff are authorized to provide in-language service.
- How to obtain translations of documents.
- How staff will process language access complaints.

B. Appointing a Language Access Coordinator or Other Responsible Personnel

Some agencies have found it helpful to appoint a language access coordinator and other responsible personnel. These individuals are responsible for devising and ensuring that the agency adheres to its language access policy directives, plan and procedures to provide meaningful access to LEP persons. The language access coordinator should be or report to a high-ranking official within the agency since high level support is essential to successful implementation. The coordinator is responsible for language assistance services and may delegate duties but should retain responsibility for oversight, performance, and implementation of the language access plan. Agencies with multiple offices and divisions may find that each component or field office should designate an individual as a local language access coordinator. The language access plan should set forth the name and contact information of the responsible official(s). The language access coordinator should consider creating a working group of key stakeholders to assist in creating and implementing language access procedures for the agency.

The language access coordinator may also oversee personnel and performance of employee and non-employee interpreters and translators, including:

- Identifying qualified interpreters and translators to be included in an interpreter database;

- Creating interpreter, translator, and bilingual staff qualifications and ethical standards;
- Outlining measures to ensure quality control of interpreters and translators;
- Training and testing bilingual individuals including staff who provide language assistance services;
- Assigning qualified interpreters, translators and bilingual employees to perform language assistance functions;
- Maintaining a regularly updated list of all competent bilingual employees, contract interpreters, and contract translators that includes their availability, non-English language(s) spoken, and contact information;
- Changing hiring and personnel practices to increase staff language capacity (e.g., providing pay incentives for bilingual employees);
- Developing a procurement strategy for contract language assistance services providers;
- Searching for funding and other resources to support interpretation and translation; technological and other infrastructural support, and staffing;
- Providing input in budgetary and procurement matters related to implementation of the language access policy, plan, and procedures; and
- Coordinating procurement for interpreter and translator compensation for services rendered.

C. Community Outreach and Disseminating Language Assistance Services Information

When language assistance services are not readily available at a given agency, LEP individuals will be less likely to participate in or benefit from its programs and services. As a result, many LEP persons may not seek out agency benefits, programs, and services; may not provide beneficial information or file complaints; and may not have access to critical information provided by your agency because of limited access to language assistance services. Thus, self-assessments of the number of current LEP contacts may significantly underestimate the need for language services. Agencies should make every effort to conduct effective outreach, including:

- Providing information to the public and to LEP communities regarding the language assistance services available free of charge. Information should be provided in English and in the appropriate other languages using, for example, signage, websites, translated documents, telephone tree options, kiosks, and community-focused outreach;
- Coordinating with other agencies and stakeholders to ensure consistent identification of LEP status, primary language, and similar information; and
- Exchanging promising practices and challenges with other governmental and non-governmental agencies.

The Federal Interagency Working Group on Limited English Proficiency welcomes and encourages your comments regarding this tool. To provide written comments, please write:

The Federal Interagency Working Group on LEP
C/O Federal Coordination and Compliance Section
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Ave., NWB
Washington, DC 20530

Appendix E

AVAZA Language Services Corps Contact Information

Title VI Program
Phone: 615.741.3681

Translation Assistance

Limited English Proficiency (LEP) is a term used to describe individuals who are not proficient in speaking and reading the English language. As a means to ensure that TDOT continues to conduct business in an effective and efficient manner, engaging individuals from different cultures, TDOT utilizes the services of AVAZA Language Services Corporation.

LEP Persons have the right to language assistance at no cost to them in their spoken language. TDOT divisions/programs are responsible for informing the public of this right. Language identification cards or posting signs in public areas are methods that can be used to provide notice of the service.

Employee Resources:

[Internal Employee Language Translation Assistance](#) (pdf)

MULTIPLE LANGUAGE INTERPRETATION SERVICE OVER THE PHONE TRANSLATIONS

AVAZA Language Service Corporation

Contact: Tim Capra Contact Phone: 615.534.3400

AVAZA Language Service Corporation has secured the Tennessee State Government contract for providing over the phone interpreting, face-to-face interpreting, document translation and training, therefore assisting in providing over meaningful language assistance to the LEP population. AVAZA provides:

- User-friendly service
- Support in over 120 languages and dialects
- 98% closure on last minute requests (On-Site Services)
- Emphasis on clarity, customer care, and consistency
- 24/7/365 access
- Qualified and Certified interpreters
- Practices in compliance to HIPAA, strict adherence to Confidentiality
- Unified Identity

To review TDOT's LEP Guidelines:

<http://home.tdot.state.tn.us/civilrights/titlevi/lep/guidelines.pdf>

Appendix F

“I SPEAK CARDS”

Do you speak English?	Point here and an interpreter will be assigned to you, at no cost.	English
¿Habla Español?	Señale aquí y se le asignará un intérprete sin costo.	Spanish
هل تتكلم العربية؟	أشر هنا والمترجم سيكون موجوداً مجاناً.	Arabic
ته كوردی دهئاخفی؟	ئیشارته قیژی بکه ته رجومان بو ته حازر دهکین ، به خورای.	Kurdish (Behdini)
ئایا کوردی قسه دهکیت؟	ئیشارته لیڤه بکه موته رجیمت بوئاماده دهکین ، به خوڤای.	Kurdish (Sorani)
آیا شما فارسی صحبت میکنید؟	تروصبم جترمک، دینک هراشا اجنیا بهرگا رایگان در اختیار شما قرار میگیرد.	Farsi
Bạn nói tiếng Việt phải không?	Chỉ vào đây và sẽ có người thông dịch viên giúp đỡ Bạn, Bạn không phải trả gì hết.	Vietnamese
Maku hadashaa afka somaaliga?	Halkaan farta ku-fiiq turjubaan lacag la-an ayaad heleysaa.	Somali
Da li govorite Bosanski?	Pokažite ovdje I prevodilac će vam biti obezbijedžen, besplatno.	Bosnian
Parlez-vous français?	Ici, un interpréteur sera assigné pour vous, sans avoir payé.	French
ທ່ານເວົ້າພາສາລາວແມ່ນບໍ່?	ກະລຸນາບອກເຈົ້າໜ້າທີ່ຕາມມື້ຈະມີນາຍພາສາມາແປໃຫ້ທ່ານໂດຍບໍ່ໄດ້ເສັງເງິນ.	Laotian
你會講中文嗎?	請點在這裡我們為你免費提供翻譯服務。	Chinese (Mandarin)
日本語を話せますか？	ここを指して下さい。無料の通訳者を指定します。	Japanese
Je-una azungumza kiswahili?	Nyosha kidola hapa na utatafsiriwa bila kulipa chochote.	Kiswahili
Voce fala Português?	Aperte aqui e um intérprete lhe será fornecido sem custo algum.	Portuguese
क्या आप हिंदी बोल सकते हैं ?	इशारा यहाँ पर किजिये, भाषांतर करनेवाले विनामुल्य मिल जायेंगे।	Hindi
한국어를 하십니까?	이곳을 지적해주시면 통역자가 무료로 호출됩니다.	Korean
Вы говорите по-русски?	Укажите сюда, и совершенно бесплатно Вам будет предоставлен переводчик.	Russian
እማርኛ ይናገሩሉ??	በጣትዎ ወደዚህ ያመልክቱ ያለምንም ክፍያ አስተርጓሚ ይመደብሉታል!	Amharic
Eske ou pale kreyòl	Pwen isit la e yon entèprèt ap vin ede'w gratis.	Haitian Creole
Jin kueni Thuok nuera?	Wane eme deri thuok nuera jek ke kuic du a thil kok.	Nuer
તમે ગુજરાતી બોલી શકો છો?	અહિંયા ઇશારો કરો, ભાષાંતર કરનાર વિનામુલ્યે મળી જશે.	Gujarati
Türkçe biliyormusunuz?	Burayı gösterirseniz, ücretsiz tercuman size yardim edecektir.	Turkish
คุณพูดภาษาไทยหรือเปล่า?	กรุณาบอกให้ทราบด้วยถ้าคุณต้องการคนแปล	Thai
Afaan Oromoo nidubata	Harkake asiti baasi gargasa Afaan hikaa malaqa duwa argaata.	Oromo

CIVIL RIGHTS OFFICE



TENNESSEE DEPARTMENT OF TRANSPORTATION

Affirmative Action
Small Business Development
Title VI

505 Deaderick ST, STE 1800 JKP

Nashville, TN

Toll Free Number: 888.370.3647

Office Number: 615.741.3681

Fax Number: 615.741.3169

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