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UNITED STATES NUCLEAR REGULATORY COMMISSION

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

AGENCY: United States Nuclear Regulatory Commission.

ACTION: Notice of Proposed Guidance.  
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SUMMARY: The United States Nuclear Regulatory Commission publishes for public comment proposed policy Guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons. See 10 CFR Part 4.

DATES: Comments must be submitted on or before 30 days from the date of publication. The United States Nuclear Regulatory Commission will review all comments and will determine what modifications, if any, to this policy Guidance are necessary.

ADDRESSES: Interested persons should submit written comments to Corenthis B. Kelley, Acting Director, Office of Small Business and Civil Rights, U.S. Nuclear Regulatory Commission, Mail Stop: T-2F18, Washington, D. C. 20555-0001. Comments may also be submitted by facsimile to 301- 415-5953, or by e-mail to [CBK@nrc.gov](mailto:CBK@nrc.gov).

FOR FURTHER INFORMATION CONTACT: Marva C. Gary, Civil Rights Program Manager, at 301-415-7382, TDD 301-415-5244, or by email at [MCG@nrg.gov](mailto:MCG@nrg.gov) .

SUPPLEMENTARY INFORMATION: 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.

On October 26, 2001 and January 11, 2002, the Assistant Attorney General for Civil Rights issued to Federal departments and agencies Guidance memoranda, which reaffirmed the Department of Justice's commitment to ensuring that federally assisted programs and activities fulfill their LEP responsibilities, which clarified and answered certain questions raised regarding the August 16th publication. On March 14, 2002, the Office of Management and Budget (OMB) issued a Report To Congress titled "Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency." Among other things, the Report recommended the adoption of uniform guidance across all Federal agencies, with flexibility to permit tailoring to each agency's specific recipients. Consistent with this OMB recommendation, the Department of Justice (DOJ) published LEP Guidance for DOJ recipients which was drafted and organized to also function as a model for similar guidance by other Federal grant agencies. The proposed NRC Guidance is consistent with the model LEP Guidance document published by DOJ.

It has been determined that this Guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553. It has also been

determined that this Guidance document is not subject to the requirements of Executive Order 12866.

The text of the complete proposed Guidance document appears below.

Dated: March 28, 2003

*/RA/*

William D. Travers  
Executive Director for Operations  
United States Nuclear Regulatory Commission

1 I. Introduction

2  
3 Most individuals living in the United States read, write, speak and understand English. There are  
4 many individuals, however, for whom English is not their primary language. For instance, based  
5 on the 2000 census, over 26 million individuals speak Spanish and almost 7 million individuals  
6 speak an Asian or Pacific Island language at home. If these individuals have a limited ability to  
7 read, write, speak, or understand English, they are limited English proficient, or “LEP.” While  
8 detailed data from the 2000 census has not yet been released, 26% of all Spanish-speakers,  
9 29.9% of all Chinese-speakers, and 28.2% of all Vietnamese-speakers reported that they spoke  
10 English “not well” or “not at all” in response to the 1990 census.

11  
12 Language for LEP individuals can be a barrier to accessing important benefits or services,  
13 understanding and exercising important rights, complying with applicable responsibilities, or  
14 understanding other information provided by federally funded programs and activities. The  
15 Federal Government funds an array of services that can be made accessible to otherwise  
16 eligible LEP persons. The Federal Government is committed to improving the accessibility of  
17 these programs and activities to eligible LEP persons, a goal that reinforces its equally important  
18 commitment to promoting programs and activities designed to help individuals learn English.

19  
20 In certain circumstances, failure to ensure that LEP persons can effectively participate in or  
21 benefit from federally assisted programs and activities may violate the prohibition under Title VI  
22 of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin  
23 discrimination. The purpose of this policy Guidance is to assist recipients in fulfilling their  
24 responsibilities to provide meaningful access to LEP persons under existing law. This policy  
25 Guidance clarifies existing legal requirements for LEP persons by providing a description of the

1 factors recipients should consider in fulfilling their responsibilities to LEP persons.<sup>1</sup> These are the  
2 same criteria the United States Nuclear Regulatory Commission (NRC) will use in evaluating  
3 whether recipients are in compliance with Title VI and Title VI regulations.

4  
5 Before discussing these criteria in greater detail, it is important to note two basic underlying  
6 principles. First, we must ensure that federally assisted programs aimed at the American public  
7 do not leave some behind simply because they face challenges communicating in English. We  
8 must achieve this goal while finding constructive methods to reduce the costs of LEP  
9 requirements on recipients of Federal financial assistance.

10  
11 There are many productive steps that the Federal government, either collectively or as individual  
12 grant agencies, can take to help recipients reduce the costs of language services without  
13 sacrificing meaningful access for LEP persons. To that end, the NRC, in conjunction with the  
14 Department of Justice (DOJ), plans to continue to provide assistance and guidance in this  
15 important area. In addition, the NRC plans to work with its recipients and LEP persons to  
16 identify and share model plans, examples of best practices, and cost-saving approaches.  
17 Moreover, the NRC intends to explore how language assistance measures, resources and  
18 cost-containment approaches developed with respect to its own federally conducted programs  
19 and activities can be effectively shared or otherwise made available to recipients. An interagency  
20 working group on LEP has developed a website: [www.lep.gov](http://www.lep.gov), to assist in disseminating this  
21 information to recipients, Federal agencies, and the communities being served.

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<sup>1</sup>The policy guidance is not a regulation but rather a guide. Title VI and its implementing regulations require that recipients take reasonable steps to ensure meaningful access by LEP persons. This 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 limited English proficient.

1 In cases where a recipient of Federal financial assistance from the NRC also receives  
2 assistance from one or more other Federal agencies, there is no obligation to conduct and  
3 document separate data, when the data would be identical and for the same purpose. The  
4 same analyses and language assistance plans can be used. The NRC, in discharging its  
5 compliance and enforcement obligations under Title VI, will look to analyses performed and  
6 plans developed in response to similar detailed LEP Guidance issued by other Federal agencies.  
7 Accordingly, as an adjunct to this Guidance, recipients may, where appropriate, also rely on  
8 guidance issued by other agencies in discharging their Title VI LEP obligations.

9  
10 Many commentators have noted that some have interpreted the case of *Alexander v. Sandoval*,  
11 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that  
12 form the basis for the part of Executive Order 13166 that applies to federally assisted programs  
13 and activities. The NRC and DOJ have taken the position that this is not the case, and will  
14 continue to do so. Accordingly, we will strive to ensure that federally assisted programs and  
15 activities work in a way that is effective for all eligible beneficiaries, including those with limited  
16 English proficiency.

## 17 18 **II. Legal Authority**

19  
20 Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person  
21 shall “on the ground of race, color, or national origin, be excluded from participation in, be denied  
22 the benefits of, or be subjected to discrimination under any program or activity receiving Federal  
23 financial assistance.” Section 602 authorizes and directs Federal agencies that are empowered  
24 to extend Federal financial assistance to any program or activity “to effectuate the provisions of  
25 [section 601] \* \* \* by issuing rules, regulations, or orders of general applicability.” 42 U.S.C.  
26 2000d-1.

1  
2 In pertinent part, the NRC’s regulations promulgated pursuant to Section 602 forbid recipients  
3 from “utiliz[ing] criteria or methods of administration which have the effect of subjecting  
4 individuals to discrimination because of their race, color, or national origin, or have the effect of  
5 defeating or substantially impairing accomplishment of the objectives of the program [with  
6 respect to] individuals of a particular race, color, or national origin.” See 10 CFR Part 4 Subpart  
7 A §4.12 (b) [29 FR 19277, Dec. 31, 1964, as amended at 40 FR 8778, Mar. 3, 1975]

8  
9 The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted regulations promulgated  
10 by the former Department of Health, Education, and Welfare, including language identical to that  
11 of 45 CFR Part 1110, to hold that Title VI prohibits conduct that has a disproportionate effect on  
12 LEP persons because such conduct constitutes national-origin discrimination. In *Lau*, a San  
13 Francisco school district that had a significant number of non-English speaking students of  
14 Chinese origin was required to take reasonable steps to provide them with a meaningful  
15 opportunity to participate in federally funded educational programs.

16  
17 On August 11, 2000, Executive Order 13166, “Improving Access to Services for Persons with  
18 Limited English Proficiency,” 65 FR 50121 (August 16, 2000), was issued. Under that Order,  
19 every Federal agency that provides financial assistance to non-Federal entities must publish  
20 guidance on how their recipients can provide meaningful access to LEP persons and thus  
21 comply with Title VI regulations forbidding funding recipients from “[restricting] an individual in  
22 any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service,  
23 financial aid, or other benefit under the program” or from “utiliz[ing] criteria or methods of  
24 administration which have the effect of subjecting individuals to discrimination because of their  
25 race, color, or national origin, or have the effect of defeating or substantially impairing  
26 accomplishment of the objectives of the program as respects individuals of a particular race,

1 color, or national origin.”

2  
3 On that same day, DOJ issued a general guidance document addressed to “Executive Agency  
4 Civil Rights Officers” setting forth general principles for agencies to apply in developing guidance  
5 documents for recipients pursuant to the Executive Order. “Enforcement of Title VI of the Civil  
6 Rights Act of 1964 National Origin Discrimination Against Persons With Limited English  
7 Proficiency,” 65 FR 50123 (August 16, 2000) (“DOJ LEP Guidance”).

8  
9 Subsequently, Federal agencies raised questions regarding the requirements of the Executive  
10 Order, especially in light of the Supreme Court's decision in *Alexander v. Sandoval*, 532 U.S.  
11 275 (2001). On October 26, 2001, Ralph F. Boyd, Jr., Assistant Attorney General for the Civil  
12 Rights Division, issued a memorandum for “Heads of Departments and Agencies, General  
13 Counsels and Civil Rights Directors.” This memorandum clarified and reaffirmed the DOJ LEP  
14 Guidance in light of *Sandoval*.<sup>2</sup> The Assistant Attorney General stated that because *Sandoval*  
15 did not invalidate any Title VI regulations that proscribe conduct that has a disparate impact on  
16 covered groups--the types of regulations that form the legal basis for the part of Executive Order  
17 13166 that applies to federally assisted programs and activities--the Executive Order remains in  
18 force. This Guidance is thus published pursuant to Executive Order 13166.

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<sup>2</sup> The memorandum noted that some commentators have interpreted *Sandoval* as impliedly striking down the disparate-impact regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to Federally assisted programs and activities. *See, e.g., Sandoval*, 532 U.S. at 286, 286 n.6 (“[W]e assume for purposes of this decision that section 602 confers the authority to promulgate disparate-impact regulations; . . . We cannot help observing, however, how strange it is to say that disparate-impact regulations are ‘inspired by, at the service of, and inseparably intertwined with’ Sec. 601 \* \* \* when Sec. 601 permits the very behavior that the regulations forbid.”). The memorandum, however, made clear that DOJ disagreed with the commentators’ interpretation. *Sandoval* holds principally that there is no private right of action to enforce Title VI disparate-impact regulations. It did not address the validity of those regulations or Executive Order 13166 or otherwise limit the authority and responsibility of Federal grant agencies to enforce their own implementing regulations.

1 **III. Who Is Covered?**

2  
3 The NRC regulations at 10 CFR Part 4 Subpart A require all recipients of Federal financial  
4 assistance from the NRC to provide meaningful access to LEP persons.<sup>3</sup> Federal financial  
5 assistance includes grants, training, use of equipment, donations of surplus property, and other  
6 assistance. Recipients of assistance from the NRC typically include, but are not limited to:

- 7
- 8 • educational systems, universities, colleges, and research institutions
- 9 • day care center providers,
- 10 • food service providers,
- 11 • law enforcement and emergency response entities,
- 12 • State Health and Radiological Offices,
- 13 • State and Tribal Liaison Programs (STP.)
- 14 • fitness center providers
- 15 • profit and non-profit organizations and institutions
- 16 • healthcare center providers
- 17 • professional societies

18  
19 Subrecipients likewise are covered when Federal funds are passed through from one recipient to  
20 a subrecipient.

21  
22 Coverage extends to a recipient's entire program or activity; *i.e.*, to all parts of a recipient's

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<sup>3</sup> Pursuant to Executive Order 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the DOJ LEP Guidance are to additionally apply to the Federally conducted programs and activities of Federal agencies, including the NRC.

1 operations. This is true even if only one part of the recipient receives the Federal assistance.<sup>4</sup>

2  
3 Finally, some recipients operate in jurisdictions in which English has been declared the official  
4 language. Nonetheless, these recipients continue to be subject to Federal non-discrimination  
5 requirements, including those applicable to the provision of federally assisted services to  
6 persons with limited English proficiency.

#### 8 **IV. Who Is a Limited English Proficient Individual?**

9  
10 Individuals who do not speak English as their primary language and who have a limited ability to  
11 read, write, speak, or understand English can be limited English proficient, or “LEP,” entitled to  
12 language assistance with respect to a particular type of service, benefit, or encounter.

13  
14 Examples of populations likely to include LEP persons who are encountered and/or served by  
15 the NRC’s recipients and should be considered when planning language services include, but  
16 are not limited to:

- 17 • Persons reasonably likely to be subject to emergency evacuation measures,
- 18 • Residents located in reasonable proximity to NRC-licensed facilities,
- 19 • Persons served by or subject to state health and radiological offices, and
- 20 • Students and faculty at colleges and universities with associated research centers.

#### 22 **V. How Does a Recipient Determine the Extent of Its Obligation To Provide LEP Services?**

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<sup>4</sup> However, if a Federal agency were to decide to terminate Federal funds based on noncompliance with Title VI or its regulations, only funds directed to the particular program or activity that is out of compliance would be terminated. 42 U.S.C. 2000d-1.

1 Recipients are required to take reasonable steps to ensure meaningful access to their programs  
2 and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the  
3 starting point is an individualized assessment that balances the following four factors: **(1) The**  
4 **number or proportion of LEP persons eligible to be served or likely to be encountered by**  
5 **the program or grantee; (2) the frequency with which LEP individuals come in contact**  
6 **with the program; (3) the nature and importance of the program, activity, or service**  
7 **provided by the program to people's lives; and (4) the resources available to the**  
8 **grantee/recipient and costs.** As indicated above, the intent of this Guidance is to suggest a  
9 balance that ensures meaningful access by LEP persons to critical services while not imposing  
10 undue burdens on small state and local governments or small nonprofit entities.

11  
12 After applying the above four-factor analysis, a recipient may conclude that different language  
13 assistance measures are sufficient for the different types of programs or activities in which it  
14 engages. For instance, some of a recipient's activities will be more important than others or have  
15 greater impact on or contact with LEP persons, and thus may require more in the way of  
16 language assistance. The flexibility that recipients have in addressing the needs of the LEP  
17 populations they serve does not diminish, and should not be used to minimize, the obligation that  
18 those needs be addressed. The NRC's recipients should apply the following four factors to the  
19 various kinds of contacts that they have with the public to assess language needs and decide  
20 what reasonable steps they should take to ensure meaningful access for LEP persons.

21  
22 (1) The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service  
23 Population

24  
25 One factor in determining what language services recipients should provide is the number or

1 proportion of LEP persons from a particular language group served or encountered in the  
2 eligible service population. The greater the number or proportion of these LEP persons, the  
3 more likely language services are needed. Ordinarily, persons “eligible to be served, or likely to  
4 be directly affected, by” a recipient's program or activity are those who are served or  
5 encountered in the eligible service population. This population will be program-specific, and  
6 includes persons who are in the geographic area that has been approved by a Federal grant  
7 agency as the recipient's service area. However, where, for instance, a Research Facility,  
8 University, Tribal Nation, Community, or Day Care Center serves a large LEP population, the  
9 appropriate service area is most likely the recipient’s personnel, family members utilizing the Day  
10 Care Center, or Local Tribe. The area serviced by the recipient may be that which is approved  
11 by state or local authorities or designated by the recipient itself, provided that these designations  
12 do not themselves discriminatorily exclude certain populations. When considering the number or  
13 proportion of LEP individuals in a service area, recipients providing services to minor LEP  
14 individuals should also include the individuals’ LEP parent(s) or primary caretakers among those  
15 likely to be encountered.

16

17 Recipients should first examine their prior experiences with LEP encounters and determine the  
18 breadth and scope of language services that were needed. In conducting this analysis, it is  
19 important to include language minority populations that are eligible for their programs or  
20 activities but may be under served because of existing language barriers. Other data should be  
21 consulted to refine or validate a recipient's prior experience, including the latest census data for  
22 the area served, data from school systems and from community organizations, and data from  
23 state and local governments.<sup>5</sup> Community agencies, school systems, religious organizations,

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<sup>5</sup> The focus of the analysis is on lack of English proficiency, not the ability to speak more than one language. Note that demographic data may indicate the most frequently spoken languages other than English and the percentage of people who speak that language who speak or understand English less than well. Some of the most commonly spoken languages other than English may be spoken by people who are also overwhelmingly proficient

1 | legal aid entities, and others can often assist in identifying populations for whom outreach is  
2 | needed and who would benefit from the recipients' programs and activities where language  
3 | services are provided.

#### 5 | (2) The Frequency With Which LEP Individuals Come in Contact With the Program

7 | Recipients should assess, as accurately as possible, the frequency with which they have or  
8 | should have contact with an LEP individual from different language groups seeking assistance.

9 | The more frequent the contact with a particular language group, the more likely that enhanced  
10 | language services in that language are needed. The steps that are reasonable for a recipient  
11 | that serves an LEP person on a one-time basis will be very different from those expected from a  
12 | recipient that serves LEP persons daily.

14 | It is also advisable to consider the frequency of different types of language contacts. For  
15 | example, frequent contacts with Spanish-speaking people who are LEP may require certain  
16 | assistance in Spanish. Less frequent contact with different language groups may suggest a  
17 | different and less intensified solution. If an LEP individual accesses a program or service on a  
18 | daily basis, a recipient has greater duties than if the same individual's program or activity contact  
19 | is unpredictable or infrequent. But even recipients that serve LEP persons on an unpredictable  
20 | or infrequent basis should use this balancing analysis to determine what to do if an LEP  
21 | individual seeks services under the program in question. This plan need not be intricate. It may  
22 | be as simple as being prepared to use one of the commercially-available telephonic  
23 | interpretation services to obtain immediate interpreter services. In applying this standard,

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in English. Thus, they may not be the languages spoken most frequently by limited English proficient individuals. When using demographic data, it is important to focus in on the languages spoken by those who are not proficient in English.

1 recipients should take care to consider whether appropriate outreach to LEP persons could  
2 increase the frequency of contact with LEP language groups.

3  
4 (3) The Nature and Importance of the Program, Activity, or Service Provided by the Program

5  
6 The more important the activity, information, service, or program, or the greater the possible  
7 consequences of the contact to the LEP individuals, the more likely language services are  
8 needed. For example, the obligations of a federally assisted state health and radiological office  
9 enforcing health and safety standards are generally far greater than those of a federally assisted  
10 science or engineering program. A recipient needs to determine whether denial or delay of  
11 access to services or information could have serious or even life-threatening implications for the  
12 LEP individual. Decisions by a Federal, state, or local entity to make an activity compulsory,  
13 such as participation in an educational program or compliance with emergency procedures, can  
14 serve as strong evidence of the program's importance. While all situations must of course be  
15 analyzed on a case-by-case basis, the following general observations may be helpful to the  
16 NRC's recipients considering the implications of applying this factor of the four-factor test to their  
17 respective programs:

- 18
- 19 • An assisted financial institution in a city with a large Hispanic population including a  
20 significant number of LEP members should consider translating account and loan  
21 applications into Spanish (or implementing a procedure through which Spanish-speaking  
22 LEP persons could be served by Spanish-speaking officers). This same institution could  
23 also consider Spanish summaries of portions of loan documents governing borrower  
24 rights and responsibilities.
  - 25 • In a large jurisdiction with a significant LEP community, the 911 emergency line, or  
26 emergency evacuation plan administered by an NRC Licensed Facility should consider

1 employment of bilingual State Liaison Officers, or staff members capable of translating  
2 vital information in the language and dialogue of the LEP population located in the vicinity  
3 of the NRC licensed facility. Ensure that the LEP population has access to emergency  
4 evacuation information, procedures for filing complaints of contamination, hazards, safety  
5 concerns, or denial of access. Post and disseminate information in the language of the  
6 LEP population, in high stress situations. Identify individuals or community groups who  
7 may serve as bi-lingual volunteers with a small LEP population. While it should still have  
8 a plan for serving callers who are LEP, it may be possible to rely upon a telephonic  
9 interpretation service that is fast enough and reliable enough to attend to the emergency  
10 situation, or include some other accommodation short of hiring bilingual staff.

11  
12 With respect to the importance of a program, activity, or service provided by one of the Agency's  
13 recipients, the obligation to provide translation services will most likely be greatest in  
14 educational/training situations or in connection with the provision of safety, and/or emergency  
15 evacuation services. Entities that receive Federal financial assistance from another agency such  
16 as the Department of Education, may rely on the more particularized LEP Guidance of that other  
17 agency to ensure compliance with the obligation to provide meaningful access in those  
18 respective contexts.

19  
20 (4) The Resources Available to the Recipient and Costs

21  
22 A recipient's level of resources and the costs that would be imposed on it may have an impact  
23 on the nature of the steps it should take. Smaller recipients with more limited budgets are not  
24 expected to provide the same level of language services as larger recipients with larger budgets.  
25 In addition, "reasonable steps" may cease to be reasonable where the costs imposed  
26 substantially exceed the benefits.

1  
2 Resource and cost issues, however, can often be reduced by technological advances; the  
3 sharing of language assistance materials and services among and between recipients, advocacy  
4 groups, and Federal grant agencies; and reasonable business practices. Where appropriate,  
5 training bilingual staff to act as interpreters and translators, information sharing through industry  
6 groups, telephonic and video conferencing interpretation services, pooling resources and  
7 standardizing documents to reduce translation needs, using qualified translators and interpreters  
8 to ensure that documents need not be “fixed” later and that inaccurate interpretations do not  
9 cause delay or other costs, centralizing interpreter and translator services to achieve economies  
10 of scale, or the formalized use of qualified community volunteers, for example, may help reduce  
11 costs.<sup>6</sup> Recipients should carefully explore the most cost-effective means of delivering  
12 competent and accurate language services before limiting services due to resource concerns.  
13 Large entities and those entities serving a significant number or proportion of LEP persons  
14 should ensure that their resource limitations are well-substantiated before using this factor as a  
15 reason to limit language assistance. Such recipients may find it useful to be able to articulate,  
16 through documentation or in some other reasonable manner, their process for determining that  
17 language services would be limited based on resources or costs.

18  
19 This four-factor analysis necessarily implicates the “mix” of LEP services required. Recipients  
20 have two main ways to provide language services: Oral interpretation either in person or via  
21 telephone interpretation service (hereinafter “interpretation”) and written translation (hereinafter  
22 “translation”). Oral interpretation can range from on-site interpreters for critical services provided  
23 to a high volume of LEP persons to access through commercially-available telephonic  
24 interpretation services. Written translation, likewise, can range from translation of an entire

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<sup>6</sup> Small recipients with limited resources may find that entering into a bulk telephonic interpretation service contract will prove cost effective.

1 document to translation of a short description of the document. In some cases, language  
2 services should be made available on an expedited basis while in others the LEP individual may  
3 be referred to another office of the recipient for language assistance.

4  
5 The correct mix should be based on what is both necessary and reasonable in light of the  
6 four-factor analysis. Regardless of the type of language service provided, quality and accuracy  
7 of those services can be critical in order to avoid serious consequences to the LEP person and  
8 to the recipient. Recipients have substantial flexibility in determining the appropriate mix.

9

## 10 **VI. Selecting Language Assistance Services**

11

12 Recipients have two main ways to provide language services: oral and written language  
13 services. Quality and accuracy of the language service is critical in order to avoid serious  
14 consequences to the LEP person and to the recipient.

15

### 16 **A. Oral Language Services (Interpretation)**

17

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

22

23 **Competence of Interpreters.** When providing oral assistance, recipients should ensure  
24 competency of the language service provider, no matter which of the strategies outlined below  
25 are used. Competency requires more than self-identification as bilingual. Some bilingual staff  
26 and community volunteers, for instance, may be able to communicate effectively in a different

1 language when communicating information directly in that language, but not be competent to  
2 interpret in and out of English. Likewise, they may not be able to do written translations.

3  
4 Competency to interpret, however, does not necessarily mean formal certification as an  
5 interpreter, although certification is helpful. When using interpreters, recipients should ensure  
6 that they:

- 7  
8 • Demonstrate proficiency in and ability to communicate information accurately in both  
9 English and in the other language and identify and employ the appropriate mode of  
10 interpreting (e.g., consecutive, simultaneous, summarization, or sight translation);  
11
- 12 • Have knowledge in both languages of any specialized terms or concepts peculiar to the  
13 entity's program or activity and of any particularized vocabulary and phraseology used by  
14 the LEP person;<sup>7</sup> and, if applicable, understand and follow confidentiality and impartiality  
15 rules to the same extent the recipient employee for whom they are interpreting and/or to  
16 the extent their position requires.
- 17
- 18 • Understand and adhere to their role as interpreters without deviating into any other role  
19 such as counselor or advisor.  
20

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

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<sup>7</sup> Many languages have “regionalisms,” or differences in usage. For instance, a word that may be understood to mean something in Spanish for someone from Cuba may not be so understood by someone from Mexico. In addition, because there may be languages which do not have an appropriate direct interpretation of some terms, the interpreter should be so aware and be able to provide the most appropriate interpretation. The interpreter should likely make the recipient aware of the issue and the interpreter and recipient can then work to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate.

1 individual rights depend on precise, complete, and accurate interpretation or translations, the  
2 use of certified interpreters is strongly encouraged.<sup>8</sup> Where such proceedings are lengthy, the  
3 interpreter will likely need breaks and team interpreting may be appropriate to ensure accuracy  
4 and to prevent errors caused by mental fatigue of interpreters. The NRC recognizes, however,  
5 that such situations are infrequent in the types of programs and activities it typically funds.

6  
7 While quality and accuracy of language services is critical, the quality and accuracy of language  
8 services is nonetheless part of the appropriate mix of LEP services required. The quality and  
9 accuracy of language services in compulsory educational classes, for example, must be quite  
10 high while the quality and accuracy of language services in translation of general public  
11 announcements, need not meet the same exacting standards.

12  
13 Finally, when interpretation is needed and is reasonable, it should be provided in a timely  
14 manner. To be meaningfully effective, language assistance should be timely. While there is no  
15 single definition for “timely” applicable to all types of interactions at all times by all types of  
16 recipients, one clear guide is that the language assistance should be provided at a time and  
17 place that avoids the effective denial of the service, benefit, or right at issue or the imposition of  
18 an undue burden on or delay in important rights, benefits, or services to the LEP person.  
19 Conversely, where access to or exercise of a service, benefit, or right is not effectively precluded  
20 by a reasonable delay, language assistance can likely be delayed for a reasonable period.

21  
22 *Hiring Bilingual Staff.* When particular languages are encountered often, hiring bilingual staff  
23 offers one of the best, and often most economical, options. Recipients and sub-recipients can,  
24 for example, fill public contact positions, such as program directors, with staff who are bilingual

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<sup>8</sup> For those languages in which no formal accreditation or certification currently exists, courts and law enforcement agencies should consider a formal process for establishing the credentials of the interpreter.

1 and competent to communicate directly with LEP persons in their language and at the  
2 appropriate level of competency. Similarly, a State Liaison Officer or a State Tribal Program  
3 serving an area with a significant LEP population could seek to match individuals with limited  
4 English skills with language-appropriate bilingual mentors. If bilingual staff are also used to  
5 interpret between English speakers and LEP persons, or to orally interpret written documents  
6 from English into another language, they should be competent in the skill of interpreting. Being  
7 bilingual does not necessarily mean that a person has the ability to interpret. In addition, there  
8 may be times when the role of the bilingual employee may conflict with the role of an interpreter  
9 (for instance, a bilingual member of a formal review panel adjudicating allegations of program or  
10 fiscal noncompliance would probably not be able to perform effectively the role of interpreter and  
11 adjudicator at the same time, even if the bilingual employee were a qualified interpreter).  
12 Effective management strategies, including any appropriate adjustments in assignments and  
13 protocols for using bilingual staff, can ensure that bilingual staff are fully and appropriately  
14 utilized. When bilingual staff cannot meet all of the language service obligations of the recipient,  
15 the recipient should turn to other options.

16

17 *Hiring Staff Interpreters.* Hiring interpreters may be most helpful where there is a frequent need  
18 for interpreting services in one or more languages. Depending on the facts, sometimes it may be  
19 necessary and reasonable to provide on-site interpreters to provide accurate and meaningful  
20 communication with an LEP person.

21

22 *Contracting for Interpreters.* Contract interpreters may be a cost-effective option when there is  
23 no regular need for a particular language skill. In addition to commercial and other private  
24 providers, many community-based organizations and mutual assistance associations provide  
25 interpretation services for particular languages. Contracting with and providing training regarding  
26 the recipient's programs and processes to these organizations can be a cost-effective option for

1 providing language services to LEP persons from those language groups.

2

3 *Using Telephone Interpreter Lines.* Telephone interpreter service lines often offer speedy  
4 interpreting assistance in many different languages in public-contact situations. They may be  
5 particularly appropriate where the mode of communicating with a Limited English proficient  
6 person would also be over the phone. Although telephonic interpretation services are useful in  
7 many situations, it is important to ensure that, when using such services, the interpreters used  
8 are competent to interpret any technical terms specific to a particular program that may be  
9 important parts of the conversation. Nuances in language and non-verbal communication can  
10 often assist an interpreter and cannot be recognized over the phone. Video teleconferencing  
11 may sometimes help to resolve this issue where necessary. In addition, where documents are  
12 being discussed, it is important to give telephonic interpreters adequate opportunity to review the  
13 document prior to the discussion and any logistical problems should be addressed.

14

15 *Using Community Volunteers.* In addition to consideration of bilingual staff, staff interpreters, or  
16 contract interpreters (either in-person or by telephone) as options to ensure meaningful access  
17 by LEP persons, use of recipient-coordinated community volunteers, working with, for instance,  
18 community-based organizations may provide a cost-effective supplemental language assistance  
19 strategy under appropriate circumstances. They may be particularly useful in providing  
20 language access for a recipient's less critical programs and activities. To the extent the recipient  
21 relies on community volunteers, it is often best to use volunteers who are trained in the  
22 information or services of the program and can communicate directly with LEP persons in their  
23 language. Just as with all interpreters, community volunteers skilled in interpreting between  
24 English speakers and LEP persons, or when orally translating documents, one should be  
25 competent in the skill of interpreting, and knowledgeable about applicable confidentiality and  
26 impartiality rules, if any. Recipients should consider formal arrangements with community-based

1 organizations that provide volunteers to address these concerns and to help ensure that services  
2 are available more regularly.

3  
4 *Use of Family Members or Friends as Interpreters.* Although recipients should not plan to rely  
5 on an LEP person's family members, friends, or other informal interpreters to provide meaningful  
6 access to important programs and activities, where LEP persons so desire, they should be  
7 permitted to use, at their own expense, an interpreter of their own choosing (whether a  
8 professional interpreter, family member, or friend) in place of or as a supplement to the free  
9 language services expressly offered by the recipient. LEP persons may feel more comfortable  
10 when a trusted family member or friend acts as an interpreter. In addition, in exigent  
11 circumstances that are not reasonably foreseeable, temporary use of interpreters not provided  
12 by the recipient may be necessary. However, with proper planning and implementation,  
13 recipients should be able to avoid most such situations.

14  
15 Recipients, however, should take special care to ensure that family, legal guardians, caretakers,  
16 and other informal interpreters are appropriate in light of the circumstances and subject matter  
17 of the program, service or activity, including protection of the recipient's own interest in accurate  
18 interpretation. In many circumstances, family members (especially children) or friends are not  
19 competent to provide quality and accurate interpretations. Issues of confidentiality, privacy, or  
20 conflict of interest may also arise. LEP individuals may feel uncomfortable revealing or  
21 describing confidential information to a family member, friend, or member of the local  
22 community. In addition, such informal interpreters may have a personal connection to the LEP  
23 person or an undisclosed conflict of interest. For these reasons, when oral language services  
24 are necessary, recipients should generally offer competent interpreter services free of cost to the  
25 LEP person.

1 While issues of competency, confidentiality, and conflict of interest in the use of family members  
2 or friends often make their use inappropriate, the use of these individuals as interpreters may be  
3 an appropriate option where proper application of the four factors would lead to a conclusion that  
4 recipient-provided services are not necessary. An example of this might be utilizing tribal  
5 nations, or community groups to get the word out about notices for public meetings orally as  
6 well as preparing and disseminating written postings. There, the nature of the activity may be  
7 unlikely to implicate issues of confidentiality, conflict of interest, or the need for accuracy. In  
8 addition, the resources needed and costs of providing language services may be high. In such a  
9 setting, an LEP person's use of family, friends, or others may be appropriate.

10  
11 If the LEP person voluntarily chooses to provide his or her own interpreter, a recipient should  
12 consider whether a record of that choice and of the recipient's offer of assistance is appropriate.  
13 Where precise, complete, and accurate interpretations or translations of information and/or  
14 testimony are critical, or where the competency of the LEP person's interpreter is not  
15 established, a recipient might decide to provide its own, independent interpreter, even if an LEP  
16 person wants to use his or her own interpreter as well. Extra caution should be exercised when  
17 the LEP person chooses to use a minor as the interpreter. While the LEP person's decision  
18 should be respected, there may be additional issues of competency, confidentiality, or conflict of  
19 interest when the choice involves using children as interpreters. The recipient should take care  
20 to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible  
21 problems if the preferred interpreter is a minor child, and that the LEP person knows that a  
22 competent interpreter could be provided by the recipient at no cost.

#### 23 24 B. Written Language Services (Translation)

25  
26 Translation is the replacement of a written text from one language (source language) into an

1 equivalent written text in another language (target language).

2  
3 *What Documents Should be Translated?* After applying the four-factor analysis, a recipient may  
4 determine that an effective LEP plan for its particular program or activity includes the translation  
5 of vital written materials into the language of each frequently-encountered LEP group eligible to  
6 be served and/or likely to be affected by the recipient's program.

7  
8 Such written materials could include, for example:

- 9 • Notices advising LEP persons of free language assistance
- 10 • Written tests that do not assess English language competency, but test competency for  
11 a particular license, job, or skill for which knowing English is not required
- 12 • Applications to participate in a recipient's program or activity or to receive recipient  
13 benefits, grants, or services.

14  
15 Whether or not a document (or the information it solicits) is "vital" may depend upon the  
16 importance of the program, information, encounter, or service involved, and the consequence to  
17 the LEP person if the information in question is not provided accurately or in a timely manner.

18 Where appropriate, recipients are encouraged to create a plan for consistently determining, over  
19 time and across its various activities, what documents are "vital" to the meaningful access of the  
20 LEP populations they serve.

21  
22 Classifying a document as vital or non-vital is sometimes difficult, especially in the case of  
23 outreach materials like brochures or other information on rights and services. Awareness of  
24 rights or services is an important part of "meaningful access." Lack of awareness that a  
25 particular program, right, or service exists may effectively deny LEP individuals meaningful  
26 access. Thus, where a recipient is engaged in community outreach activities in furtherance of its

1 activities, it should regularly assess the needs of the populations frequently encountered or  
2 affected by the program or activity to determine whether certain critical outreach materials  
3 should be translated. Community organizations may be helpful in determining what outreach  
4 materials may be most helpful to translate. In addition, the recipient should consider whether  
5 translations of outreach material may be made more effective when done in tandem with other  
6 outreach methods, including utilizing the ethnic media, schools, religious, and community  
7 organizations to spread a message.

8  
9 Sometimes a document includes both vital and non-vital information. This may be the case  
10 when the document is very large. It may also be the case when the title and a phone number for  
11 obtaining more information on the contents of the document in frequently- encountered  
12 languages other than English is critical, but the document is sent out to the general public and  
13 cannot reasonably be translated into many languages. Thus, vital information may include, for  
14 instance, the provision of information in appropriate languages other than English regarding  
15 where a LEP person might obtain an interpretation or translation of the document.

16  
17 *Into What Languages Should Documents be Translated?* The languages spoken by the LEP  
18 individuals with whom the recipient has contact determine the languages into which vital  
19 documents should be translated. A distinction should be made, however, between languages  
20 that are frequently encountered by a recipient and less commonly-encountered languages.  
21 Many recipients serve communities in large cities or across the country. They regularly serve  
22 LEP persons who speak dozens and sometimes over 100 different languages. To translate all  
23 written materials into all of those languages is unrealistic. Although recent technological  
24 advances have made it easier for recipients to store and share translated documents, such an  
25 undertaking would incur substantial costs and require substantial resources. Nevertheless,  
26 well-substantiated claims of lack of resources to translate all vital documents into dozens of

1 languages do not necessarily relieve the recipient of the obligation to translate those documents  
2 into at least several of the more frequently-encountered languages and to set benchmarks for  
3 continued translations into the remaining languages over time. As a result, the extent of the  
4 recipient's obligation to provide written translations of documents should be determined by the  
5 recipient on a case-by-case basis, looking at the totality of the circumstances in light of the  
6 four-factor analysis. Because translation is a one-time expense, consideration should be given  
7 to whether the up-front cost of translating a document (as opposed to oral interpretation) should  
8 be amortized over the likely lifespan of the document when applying this four-factor analysis.

9

10 *Safe Harbor.* Many recipients would like to ensure with greater certainty that they comply with  
11 their obligations to provide written translations in languages other than English. Paragraphs (a)  
12 and (b) outline the circumstances that can provide a "safe harbor" for recipients regarding the  
13 requirements for translation of written materials. A "safe harbor" means that if a recipient  
14 provides written translations under these circumstances, such action will be considered strong  
15 evidence of compliance with the recipient's written-translation obligations.

16

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

25

26 Example: Even if the safe harbors are not used, if written translation of a certain document(s)

1 would be so burdensome as to defeat the legitimate objectives of its program, the translation of  
2 the written materials is not necessary. Other ways of providing meaningful access, such as  
3 effective oral interpretation of certain vital documents, might be acceptable under such  
4 circumstances.

5  
6 Safe Harbor Guides. The following actions will be considered strong evidence of compliance  
7 with the recipient's written-translation obligations:

8  
9 (a) The recipient provides written translations of vital documents for each eligible LEP  
10 language group that constitutes five percent or 1,000, whichever is less, of the population  
11 of persons eligible to be served or likely to be affected or encountered. Translation of  
12 other documents, if needed, can be provided orally; or

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

17  
18 These safe harbor provisions apply to the translation of written documents only. They do not  
19 affect the requirement to provide meaningful access to LEP individuals through competent oral  
20 interpreters where oral language services are needed and are reasonable.

21  
22 The NRC acknowledges that it provides assistance to a wide range of programs and activities  
23 serving different geographic areas with varying populations. Moreover, as noted above, the  
24 obligation to consider translations applies only to a recipient's vital documents having a  
25 significant impact on access rather than all types of documents used or generated by a recipient  
26 in the course of its activities. For these reasons, a strict reliance on the numbers or percentages

1 set out in the safe harbor standards may not be appropriate for all of the NRC's recipients and  
2 for all their respective programs or activities. While the safe harbor standards outlined above  
3 offer a common guide, the decision as to what documents should be translated should ultimately  
4 be governed by the underlying obligation under Title VI to provide meaningful access by LEP  
5 persons by ensuring that the lack of appropriate translations of vital documents does not  
6 adversely impact upon an otherwise eligible LEP persons ability to access its programs or  
7 activities.

8  
9 *Competence of Translators.* As with oral interpreters, translators of written documents should be  
10 competent. Many of the same considerations apply. However, the skill of translating is very  
11 different from the skill of interpreting, and a person who is a competent interpreter may or may  
12 not be competent to translate.

13  
14 Particularly where vital documents are being translated, competence can often be achieved by  
15 use of certified translators. Certification or accreditation may not always be possible or  
16 necessary.<sup>9</sup> Competence can often be ensured by having a second, independent translator  
17 "check" the work of the primary translator. Alternatively, one translator can translate the  
18 document, and a second, independent translator could translate it back into English to check  
19 that the appropriate meaning has been conveyed. This is called "back translation."

20  
21 Translators should understand the expected reading level of the audience and, where  
22 appropriate, have fundamental knowledge about the target language group's vocabulary and  
23 phraseology. Sometimes direct translation of materials results in a translation that is written at a  
24 much more difficult level than the English language version or has no relevant equivalent

---

<sup>9</sup> For those languages in which no formal accreditation currently exists, a particular level of membership in a professional translation association can provide some indicator of professionalism.

1 meaning.<sup>10</sup> Community organizations may be able to help consider whether a document is  
2 written at a good level for the audience. Likewise, consistency in the words and phrases used to  
3 translate terms of art or other technical concepts helps avoid confusion by LEP individuals and  
4 may reduce costs. Creating or using already-created glossaries of commonly-used terms may  
5 be useful for LEP persons and translators and cost effective for the recipient. Providing  
6 translators with examples of previous accurate translations of similar material by the recipient,  
7 other recipients, or Federal agencies may be helpful.

8  
9 While quality and accuracy of translation services is critical, the quality and accuracy of  
10 translation services is nonetheless part of the appropriate mix of LEP services required. For  
11 instance, documents that are simple and have no significant consequence for LEP persons who  
12 rely on them may use translators that are less skilled than important documents with legal or  
13 other information upon which reliance has important consequences. The permanent nature of  
14 written translations, however, imposes additional responsibility on the recipient to ensure that the  
15 quality and accuracy permit meaningful access by LEP persons.

## 17 VII. Elements of Effective Plan on Language Assistance for LEP Persons

18  
19 After completing the four-factor analysis and deciding what language assistance services are  
20 appropriate, a recipient should develop an implementation plan to address the identified needs  
21 of the LEP populations they serve. Recipients have considerable flexibility in developing this

---

<sup>10</sup> For instance, there may be languages which do not have an appropriate direct translation of some terms and the translator should be able to provide an appropriate translation. The translator should likely also make the recipient aware of this. Recipients can then work with translators to develop a consistent and appropriate set of descriptions of these terms in that language that can be used again, when appropriate. Recipients will find it more effective and less costly if they try to maintain consistency in the words and phrases used to translate terms of art and legal or other technical concepts. Creating or using already-created glossaries of commonly used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous translations of similar material by the recipient, other recipients, or Federal agencies may be helpful.

1 plan. The development and maintenance of a periodically-updated written plan on language  
2 assistance for LEP persons (“LEP plan”) for use by recipient employees serving the public will  
3 likely be the most appropriate and cost-effective means of documenting compliance and  
4 providing a framework for the provision of timely and reasonable language assistance.  
5 Moreover, such written plans would likely provide additional benefits to a recipient’s managers in  
6 the areas of training, administration, planning, and budgeting. These benefits should lead most  
7 recipients to document in a written LEP plan their language assistance services, and how staff  
8 and LEP persons can access those services. Despite these benefits, certain recipients, such as  
9 recipients serving very few LEP persons and recipients with very limited resources, may choose  
10 not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate  
11 the underlying obligation to ensure meaningful access by LEP persons to a recipient’s program  
12 or activities. Accordingly, in the event that a recipient elects not to develop a written plan, it  
13 should consider alternative ways to articulate in some other reasonable manner a plan for  
14 providing meaningful access. Entities having significant contact with LEP persons, such as  
15 schools, religious organizations, community groups, and groups working with new immigrants  
16 can be very helpful in providing important input into this planning process from the beginning.

17

18 The following five steps may be helpful in designing an LEP plan and are typically part of  
19 effective implementation plans.

20

21 (1) Identifying LEP Individuals Who Need Language Assistance

22

23 The first two factors in the four-factor analysis require an assessment of the number or  
24 proportion of LEP individuals eligible to be served or encountered and the frequency of  
25 encounters. This requires recipients to identify LEP persons with whom it has contact.

26

1 One way to determine the language of communication is to use language identification cards (or  
2 “I speak cards”), which invite LEP persons to identify their language needs to staff. Such cards,  
3 for instance, might say “I speak Spanish” in both Spanish and English, “I speak Vietnamese” in  
4 both English and Vietnamese, etc. When records are normally kept of past interactions with  
5 members of the public, the language of the LEP person can be included as part of the record. In  
6 addition to helping employees identify the language of LEP persons they encounter, this process  
7 will help in future applications of the first two factors of the four-factor analysis. In addition,  
8 posting notices in commonly encountered languages notifying LEP persons of language  
9 assistance will encourage them to self-identify.

## 10 11 (2) Language Assistance Measures

12  
13 An effective LEP plan would likely include information about the ways in which language  
14 assistance will be provided. For instance, recipients may want to include information on at least  
15 the following:

- 16 • Types of language services available.
- 17 • How staff can obtain those services.
- 18 • How to respond to LEP callers.
- 19 • How to respond to written communications from LEP persons.
- 20 • How to respond to LEP individuals who have in-person contact with recipient staff.
- 21 • How to ensure competency of interpreters and translation services.

## 22 23 (3) Training Staff

24  
25 Staff should know their obligations to provide meaningful access to information and services for  
26 LEP persons. An effective LEP plan would likely include training to ensure that:

- Staff know about LEP policies and procedures.
- Staff having contact with the public are trained to work effectively with in-person and telephone interpreters.

Recipients may want to include this training as part of the orientation for new employees. It is important to ensure that all employees in public contact positions are properly trained.

Recipients have flexibility in deciding the manner in which the training is provided. The more frequent the contact with LEP persons, the greater the need will be for in-depth training. Staff with little or no contact with LEP persons may only have to be aware of an LEP plan. However, management staff, even if they do not interact regularly with LEP persons, should be fully aware of and understand the plan so they can reinforce its importance and ensure its implementation by staff.

#### (4) Providing Notice to LEP Persons

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

- Posting signs in intake areas and other entry points. When language assistance is needed to ensure meaningful access to information and services, it is important to provide notice in appropriate languages in intake areas or initial points of contact so that LEP persons can learn how to access those language services. For instance, signs in intake offices could state that free language assistance is available. The signs should be translated into the most common languages encountered. They should explain how to

1 get the language help.<sup>11</sup>

- 2 • Stating in outreach documents that language services are available from the agency.

3 Announcements could be in, for instance, brochures, booklets, and in outreach and  
4 recruitment information. These statements should be translated into the most common  
5 languages and could be “tagged” onto the front of common documents.

- 6 • Working with community-based organizations and other stakeholders to inform LEP  
7 individuals of the recipients' services, including the availability of language assistance  
8 services.

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

- 12 • Including notices in local newspapers in languages other than English.

- 13 • Providing notices on non-English-language radio and television stations about the  
14 available language assistance services and how to get them.

- 15 • Presentations and/or notices at schools and religious organizations.

## 16 17 (5) Monitoring and Updating the LEP Plan

18  
19 Recipients should, where appropriate, have a process for determining, on an ongoing basis,  
20 whether new documents, programs, services, and activities need to be made accessible for LEP  
21 individuals, and they may want to provide notice of any changes in services to the LEP public  
22 and to employees. In addition, recipients should consider whether changes in demographics,  
23 types of services, or other needs require annual reevaluation of their LEP plan. Less frequent  
24 reevaluation may be more appropriate where demographic services, and needs are more static.

---

<sup>11</sup> The Social Security Administration has made such signs available at [www.ssa.gov/multilanguage/langlist1.htm](http://www.ssa.gov/multilanguage/langlist1.htm). These signs could, for example, be modified for recipient use.

1 One good way to evaluate the LEP plan is to seek feedback from the community.

2

3 In their reviews, recipients may want to consider assessing changes in:

- 4 • Current LEP populations in service area or population affected or encountered.
- 5 • Frequency of encounters with LEP language groups.
- 6 • Nature and importance of activities to LEP persons.
- 7 • Availability of resources, including technological advances and sources of additional
- 8 resources, and the costs imposed.
- 9 • Whether existing assistance is meeting the needs of LEP persons.
- 10 • Whether staff knows and understands the LEP plan and how to implement it.
- 11 • Whether identified sources for assistance are still available and viable.

12

13 In addition to these five elements, effective plans set clear goals, management accountability,  
14 and opportunities for community input and planning throughout the process.

15

#### 16 VIII. Voluntary Compliance Effort

17

18 The goal for Title VI and Title VI regulatory enforcement is to achieve voluntary compliance. The  
19 requirement to provide meaningful access to LEP persons is enforced and implemented by the  
20 NRC through the procedures identified in the Title VI regulations. These procedures include  
21 complaint investigations, compliance reviews, efforts to secure voluntary compliance, and  
22 technical assistance.

23

24 The Title VI regulations provide that the NRC will investigate whenever it receives a complaint,  
25 report, or other information that alleges or indicates possible noncompliance with Title VI or its  
26 regulations. If the investigation results in a finding of compliance, the NRC will inform the

1 recipient in writing of this determination, including the basis for the determination. The NRC  
2 uses voluntary mediation to resolve most complaints. However, if a case is fully investigated  
3 and results in a finding of noncompliance, the NRC must inform the recipient of the  
4 noncompliance through a Letter of Findings that sets out the areas of noncompliance and the  
5 steps that must be taken to correct the noncompliance. It must attempt to secure voluntary  
6 compliance through informal means. If the matter cannot be resolved informally, the NRC must  
7 secure compliance through the termination of Federal assistance after the recipient has been  
8 given an opportunity for an administrative hearing and/or by referring the matter to a DOJ  
9 litigation section to seek injunctive relief or pursue other enforcement proceedings. The NRC  
10 engages in voluntary compliance efforts and provide technical assistance to recipients at all  
11 stages of an investigation. During these efforts, the NRC proposes reasonable timetables for  
12 achieving compliance and consult with and assist recipients in exploring cost-effective ways of  
13 coming into compliance. In determining a recipient's compliance with the Title VI regulations,  
14 the NRC's primary concern is to ensure that the recipient's policies and procedures provide  
15 meaningful access for LEP persons to the recipient's programs and activities.

16  
17 While all recipients must work toward building systems that will ensure access for LEP  
18 individuals, the NRC acknowledges that the implementation of a comprehensive system to serve  
19 LEP individuals is a process and that a system will evolve over time as it is implemented and  
20 periodically reevaluated. As recipients take reasonable steps to provide meaningful access to  
21 federally assisted programs and activities for LEP persons, the NRC will look favorably on  
22 intermediate steps recipients take that are consistent with this Guidance, and that, as part of a  
23 broader implementation plan or schedule, move their service delivery system toward providing  
24 full access to LEP persons. This does not excuse noncompliance but instead recognizes that  
25 full compliance in all areas of a recipient's activities and for all potential language minority groups  
26 may reasonably require a series of implementing actions over a period of time. However, in

1 developing any phased implementation schedule, recipients should ensure that the provision of  
2 appropriate assistance for significant LEP populations or with respect to activities having a  
3 significant impact on the health, safety, legal rights, or livelihood of beneficiaries is addressed  
4 first. Recipients are encouraged to document their efforts to provide LEP persons with  
5 meaningful access to federally assisted programs and activities.

6

7 In determining a recipient entity's compliance with Title VI, the NRC's primary concern is to  
8 ensure that the entity's policies and procedures overcome barriers resulting from language  
9 differences that would deny LEP persons a meaningful opportunity to participate in and access  
10 programs, services, and benefits. A recipient entity's appropriate use of the methods and  
11 options discussed in this policy Guidance is viewed by the NRC as evidence of that entity's  
12 willingness to comply voluntarily with its Title VI obligations.

13

14