January 25 & February 2, 2023

Language Access During the COVID-19 Pandemic & Other Health Emergencies

Training for Recipients of Federal Financial Assistance

Please review a few housekeeping items:

- **Please mute your audio**. This helps avoid background noise and interruptions during the presentation. Click the microphone icon at the top right of the window. A line will appear across the microphone indicating that you are on mute.

- We will answer questions at designated Q&A stop points throughout the presentation.

  - You are welcome to type questions in the chat box throughout the webinar. We will keep track of the chat box so we can answer your questions.

- When we are talking or presenting, please write in the chat box and let us know if you can't see or hear something.

Agenda

I. Welcome and Introductions

II. Legal Background & Framework

III. Overview of Effective Practices & Things to Avoid

    1) Identifying LEP Populations

    2) Engaging with Community-Based Organizations

    3) Translation of Written Material

    4) Quality Assurance in Translation

    5) Interpretation

    6) Subrecipient Monitoring & Compliance

    7) Identification Requirements

IV. Additional Resources

V. Questions & Contact Info

Introductions

- U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL)
  - Rebekah Tosado – Section Chief, Antidiscrimination Group
  - Nicholas Bair – Policy Advisor
- Federal Emergency Management Agency (FEMA), Office of Equal Rights (OER)
  - Amanda Vallejo – Complaint Branch Chief, External Civil Rights Division
- U.S. Department of Health and Human Services (HHS), Office of Civil Rights (OCR)
  - David Hyams – Senior Advisor
  - Katherine Culliton-González – Senior Advisor

How comfortable are you with understanding your language access requirements under
Title VI of the Civil Rights Act of 1964?

On a scale from 1-5.
1 being not comfortable, 5 being very comfortable

Type in the Chat

Legal Background and Framework

Title VI of the Civil Rights Act of 1964 is a federal law that prohibits discrimination on the basis of race, color and national origin (including limited English proficiency) in programs and activities that receive federal financial assistance.

"No person in the United States 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."

42 U.S.C. § 2000d

National origin discrimination includes discrimination on the basis of limited English proficiency (LEP).

A person who is limited English proficient (LEP) is someone who does not speak English as their primary language and has a limited ability to read, speak, write, or understand English.

Overarching requirement: Recipients must take reasonable steps to ensure that LEP persons have **meaningful access** to their programs and activities.

Meaningful Access is language assistance that results in accurate, timely, and effective communication and is available at no cost to the LEP individual.

"If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continued Federal financial assistance or by any other means authorized by law."

6 C.F.R § 21.13 (DHS); 44 C.F.R § 7.12 (FEMA); 45 C.F.R. § 80.8 (HHS)

Conducting a Language Self-Assessment (The Four-Factor Analysis)

1. The **number or proportion of LEP persons** eligible to be served or likely to be encountered;

2. The **frequency with which LEP individuals** are encountered (and **what languages** they speak);

3. The **nature and importance** of the program, activity or service provided by the recipient to its beneficiaries; and

4. The **resources** available to the grantee/recipient and the costs of interpretation/translation services

Key Interactions to Consider

- Webpages

- Call centers or hotlines

- Social media

- Letters and texts

- Consent forms

- In-person communication (e.g., vaccine and testing sites)

Q & A

Any questions?

Please ask a question by typing it in the chat.

1. Identifying LEP Populations

Effective Practices – Identifying LEP Populations

- Data from the U.S. Census Bureau
  - Language Use in the US: 2019
  - DOJ Language Access Map App
- Data from state/local governments
  - Pennsylvania Languages Map
  - City of Portland LEP Map
  - City of San Francisco Language Diversity Data
- Surveys of community-based organizations to identify LEP populations
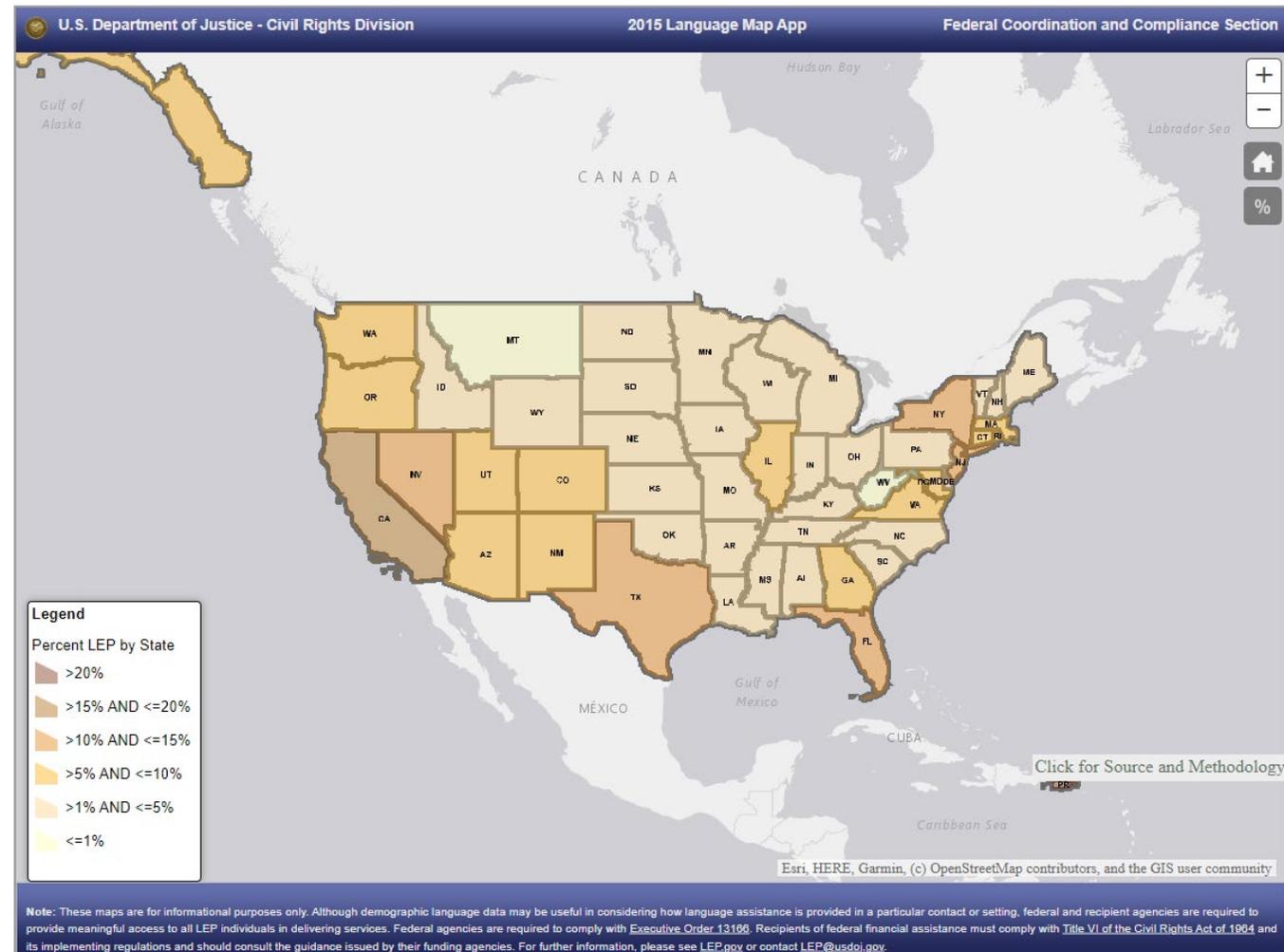
2. Engaging with Community-Based Organizations

Effective Practices – Engaging with Community-Based Organizations

- Convening periodic working groups or meetings with community-based organizations.

- Developing community engagement or outreach teams within your agency.

- Targeting community-based and faith-based organizations for partnerships or funding to implement community interventions unique to their communities.

- Partnering with community-based organizations to hold town hall or roundtable style discussions in locations where LEP persons may be geographically concentrated or isolated.

3. Translation of Written Material

Effective Practices – Translation of Written Material

- Identify the top or most common languages spoken by LEP populations in your state.

- Ensure that LEP persons know how to request print materials in other languages.

- Use multilingual tagline notices informing LEP persons of the availability of language assistance services (interpreters and translated materials) and how to request them if needed to understand the information on the platforms.

  - Example: *"ATTENTION: If you speak or read [insert language], language assistance services, free of charge, are available to you. Email [insert email] or call 1-xxx-xxx-xxxx."*

Translation of Vital Information & Documents

- What is a Vital Document?
  - Contains information that is critical for obtaining the services and/or benefits or is required by law.
  - Includes information displayed on webpages, digital platforms, or devices.
- Translate when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively.
  - For many larger documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety.
- Vital documents can include:
  - Applications
  - Consent and complaint forms
  - Notices of rights
  - Notices advising LEP persons of the availability of free language assistance
  - Letters or notices that require a response from the beneficiary or client

4. Quality Assurance in Translation

Effective Practices – Quality Assurance in Translation

- Translated materials are <u>reviewed, proofread, and edited by qualified translators</u>.
- Usability testing
  - A process where LEP users test a website or digital service for ease of use.
  - During a typical usability test session, LEP participants will try to complete specific tasks while observers watch, listen, and take notes.
  - The goal of usability testing is to collect data, identify features or components that are useful to LEP audiences, and identify any usability problems that need to be addressed to improve access for LEP users.
- Guides that offer general frameworks and approaches for running a usability test include:
  - 18F Methods: <u>Usability Testing</u>, <u>Prototyping</u>
  - Usability.gov: <u>Usability Testing</u>, <u>Running a Usability Test</u>
  - Digital.gov: <u>Usability Testing </u>(Video), <u>Government Usability Case Studies</u>

Use of Automated or Machine Translation Tools

- Machine translation applications or software convert written text from one language to another without the involvement of a qualified human translator.

- Machine translation can reduce the accuracy or change the meaning of posted information when read in translated form.

- Machine translation may not "see" tables, images that contain text, menu items, and headers as content that requires translation.

Use of Automated or Machine Translation Tools (continued)

- In addition, since the machine-translated content is not on the website, it cannot be found by placing non-English terms in a search engine.

- If your organization utilizes machine translation software, the organization should have a human translator proofread all content containing vital information before posting to ensure the accuracy of the translated information.

- Website content that is translated and checked by qualified human translators is more likely to be accurate and locatable by LEP users.

Any questions?

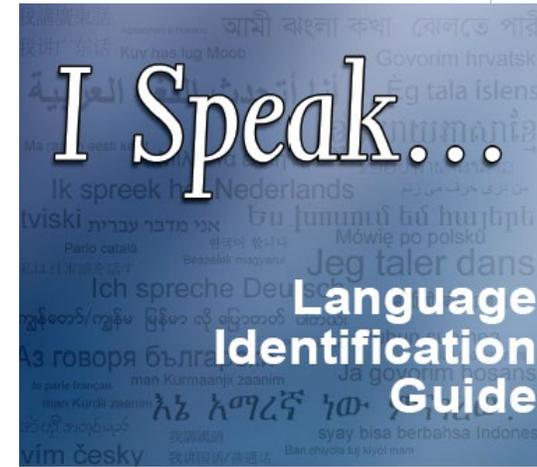**Please ask a question by typing it in the chat.**

5. Interpretation

Effective Practices – Interpretation

- A first step in providing effective interpretation is accurately identifying the language of the person with LEP.
    - Do not assume the primary language based on the country of origin; some persons may speak an indigenous language or another language altogether.
- Interpretation is a skill. A qualified interpreter has received training and has been assessed in the skills of interpretation and should have knowledge of the ethical issues of interpretation.
- A bilingual person may learn to become a translator or an interpreter but is not automatically qualified by virtue of their language abilities.
- Be sure to screen interpreters to eliminate a potential conflict of interest.
    - Absent emergency or extremely time-sensitive circumstances, family members should generally not be used to provide interpretation.

DHS "I Speak" Guide

6. Subrecipient Monitoring & Compliance

Subrecipient Monitoring: Definition and Obligations

- **What is a Subrecipient?**

  - A Subrecipient is a non-Federal entity that receives a subaward from a recipient to carry out part of a Federal award.

- **What are the obligations of a Subrecipient?**

  - Subrecipients have the same obligations as the primary recipient to comply with applicable civil rights requirements and should follow the recipient's' procedures regarding the submission of civil rights information.

- **What are the obligations of the Primary Recipient?**

  - The primary recipient is responsible for the subrecipient's compliance with applicable civil rights laws. The primary recipient should monitor the activities of the subrecipient to ensure compliance with these laws.

Effective Practice – Developing a subrecipient monitoring plan

1. A description of the **types of data and information** the recipient will collect from subrecipients as part of the monitoring program.

2. A description of **training and technical assistance** materials provided to subrecipients on understanding and meeting their civil rights requirements.

3. A list of **criteria for selecting subrecipients** for a compliance review (e.g., size of entity, number or type of complaints, type of program, results of last review, etc.).

4. A **description of the types of compliance reviews** (e.g., desk audit or onsite review).

5. The **procedures for scheduling compliance reviews**.

Elements of a subrecipient monitoring plan

6. A **compliance review instrument** (e.g., checklist) for agency staff to use in conducting a review or for monitoring subrecipient civil rights compliance.

7. A **description of records** that will be reviewed in a compliance review (e.g., policies and procedures, participation records, demographic data).

8. The **uniform standards for documenting compliance reviews** including written guides, templates, and forms (e.g., compliance review notification, documenting of selection criteria, report of findings and recommendations).

9. The plan for **training** to staff on planning and conducting compliance reviews.

10. The **procedures for handling instances of non-compliance** and how compliance is defined.

11. The **designation of responsibilities and procedures** for monitoring corrective actions.

7. Identification Requirements

ID and Disparities:

- Requiring identification to obtain vaccination can lead to undue fears of immigration enforcement, and it can disparately impact racial and ethnic minorities.
- It is very important to the public health that any person is able to receive COVID vaccines and similar emergency-related health care and human services.

DHS Statement on Equal Access to COVID-19 Vaccines and Vaccine Distribution Sites: February 1, 2021, …DHS and its Federal government partners fully support equal access to the COVID-19 vaccines and vaccine distribution sites for undocumented immigrants. It is a moral and public health imperative to ensure that all individuals residing in the United States have access to the vaccine… DHS Statement on Equal Access to COVID-19 Vaccines and Vaccine Distribution Sites | Homeland Security

Effective Practices – ID and Public Health Emergencies

- [Guidance to Federal Financial Assistance Recipients Regarding Title VI and the Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons - Summary](#)

  - Share information about eligibility requirements translated into the most prevalent languages spoken in the affected areas, including to what extent, if any, immigration restrictions may affect eligibility of some family members.

  - Provide training and publish and provide statements reminding recipients, including first responders and benefits providers, of the prohibition on discrimination and to not inquire about immigration status unless necessary for determining an individual's eligibility for a particular public benefit.

- Prohibition on requiring proof of health insurance information or government issued identification.

Any questions?

Please ask a question by typing it in the chat.

Additional Resources: DHS CRCL & FEMA OER

- [Civil Rights Resources for Recipients of DHS Financial Assistance | Homeland Security](#)

- [DHS Language Access Guidance for Recipients of Department Financial Assistance](#)

- **DHS:** [Language Access Resources](#) including:

  - "I Speak" language identification materials

  - For DHS Recipients: Developing a Language Access Plan

  - Language Access Webinar materials

- **FEMA:** [Civil Rights COVID-19 Vaccine Checklist](#)

Additional Resources: HHS

- **HHS Bulletin**: Civil Rights Protections Prohibiting Race, Color and National Origin Discrimination During COVID-19: Application of Title VI of the Civil Rights Act of 1964

- **HHS Bulletin**: Ensuring the Rights of Persons with Limited English Proficiency in Health Care During COVID-19

- Language Access Plan Worksheet

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

Additional Resources: U.S. Department of Justice, Civil Rights Division

- **DOJ, DHS, HHS, and other Agencies**: Guidance to State and Local Governments and Other Federally Assisted Recipients Engaged in Emergency Preparedness, Response, Mitigation, and Recovery Activities on Compliance with Title VI of the Civil Rights Act of 1964

- Tips and Tools for Reaching Limited English Proficient Communities in Emergency Preparedness, Response, and Recovery

- LEP.gov maintained by the Federal Coordination and Compliance Section in the Civil Rights Division

  - Translation and Interpretation Procurement Series (TIPS)

- Improving Access to Public Websites and Digital Services for Limited English Proficient Persons, Limited English Proficient Committee of the Federal Title VI Interagency Working Group

Q & A

Any questions?

Please click on the Hand icon in the menu bar to ask a question or type it in the chat.

Contact Us

DHS Office for Civil Rights and Civil Liberties
TitleVILanguageAccess@hq.dhs.gov

FEMA Office of Equal Rights
FEMA-EqualRights@fema.dhs.gov

HHS Office of Civil Rights
OCRMail@hhs.gov