



Office of the Attorney General

Washington, D.C. 20530

February 17, 2011

MEMORANDUM FOR: HEADS OF FEDERAL AGENCIES, GENERAL COUNSELS,
AND CIVIL RIGHTS HEADS

FROM: THE ATTORNEY GENERAL 

SUBJECT: Federal Government's Renewed Commitment to Language Access
Obligations Under Executive Order 13166

Executive Order 13166¹ was issued in August of 2000 and this memorandum reaffirms its mandate. The Executive Order has two primary parts. First, it directs each federal agency to develop and implement a system by which limited English proficient (LEP) persons can meaningfully access the agency's services. Second, it directs each agency providing federal financial assistance to issue guidance to recipients of such assistance on their legal obligations to take reasonable steps to ensure meaningful access for LEP persons under the national origin nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, and implementing regulations.

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. Events such as the H1N1 influenza pandemic, Hurricanes Katrina and Rita, the Gulf oil spill, and the 2010 Decennial Census highlight the need for federal agencies to ensure language access both in their own activities, as well as in those of the recipients of federal financial assistance.

Despite the legal and public service obligations that compel federal agencies and recipients to ensure language access, a 2006 language access survey of the federal government revealed significant variations in the extent to which federal agencies are aware of, and in compliance with, principles of language access. This conclusion is buttressed by an April 2010 Government Accountability Office (GAO) report on language access at federal agencies. That report offers concrete suggestions, some of which are incorporated in this memorandum, for improving our efforts to comply with Executive Order 13166. Further, federal interagency language access conferences held over the last few years reveal that, while the federal government as a whole has taken commendable strides toward providing language access in

¹ 65 Fed. Reg. 50,121 (Aug. 16, 2000).

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certain areas, the implementation of comprehensive language access programs remains uneven throughout the federal government and among recipients of federal financial assistance, especially in the face of limited resources and personnel.

In an effort to secure the federal government's full compliance with Executive Order 13166, and under the Department of Justice's (DOJ's) coordination authority conferred by Executive Order 12250, I request that your agency join DOJ in recommitting to the implementation of Executive Order 13166 by undertaking the following action items:

- (1) Establish a Language Access Working Group that reflects your agency's organizational structure and is responsible for implementing the federally conducted and federally assisted provisions of the Executive Order.
- (2) Evaluate and/or update your current response to LEP needs by, among other things, conducting an inventory of languages most frequently encountered, identifying the primary channels of contact with LEP community members (whether telephonic, in person, correspondence, web-based, etc.), and reviewing agency programs and activities for language accessibility.
- (3) Establish a schedule to periodically evaluate and update federal agency LEP services and LEP policies, plans, and protocols. As an initial step, within six months after the date of this memorandum, submit updated LEP plans and an anticipated time frame for periodic reevaluation of LEP plans and related documents to the Federal Coordination and Compliance Section (previously named the Coordination and Review Section) of DOJ's Civil Rights Division.
- (4) Ensure that agency staff can competently identify LEP contact situations and take the necessary steps to provide meaningful access.
- (5) Notify the public, through mechanisms that will reach the LEP communities you serve, of your LEP policies, plans, and procedures, and LEP access-related developments. Provide a link to materials posted on your website to the Federal Coordination and Compliance Section so that it can be posted on LEP.gov.
- (6) When considering hiring criteria, assess the extent to which non-English language proficiency would be necessary for particular positions or to fulfill your agency's mission.
- (7) For written translations, collaborate with other agencies to share resources, improve efficiency, standardize federal terminology, and streamline processes for obtaining community feedback on the accuracy and quality of professional translations intended for mass distribution.
- (8) For agencies providing federal financial assistance, draft recipient guidance. Note that such assistance is broadly defined to include not only financial grants, but also equipment, property, rental below fair market value, training, and other forms of assistance. Agencies that have not already done so should issue recipient guidance on compliance with language access obligations, and submit that guidance to the Federal Coordination and Compliance Section of DOJ's Civil Rights Division within six months after the date of this memorandum. Agencies that have determined that they do not provide federal financial assistance and, therefore, do

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not need to issue recipient guidance, should include a statement of this determination when transmitting the federally conducted language access plan.² Federal funding agencies should also regularly review recipient compliance, and provide vigorous technical assistance and enforcement action in appropriate cases.

DOJ's Civil Rights Division, in cooperation with the Federally Conducted Committee of the Interagency Working Group on Limited English Proficiency, will undertake periodic monitoring of these action items through follow-up language access surveys of the type distributed in 2006. Agencies should expect the first of these follow-up surveys in 2011.

For your convenience, the addendum to this memorandum contains a variety of useful information, including links to resources and further guidance on some of the action items outlined above. Should you require further technical assistance or support in implementing the goals of Executive Order 13166, please do not hesitate to contact Christine Stoneman, Special Legal Counsel, or Bharathi Venkatraman, Attorney, at the Federal Coordination and Compliance Section, at (202) 307-2222. Thank you for your continued commitment to ensuring that federal resources and services are available and accessible to the LEP community and the public as a whole.

² Agencies disputing coverage under the Executive Order's provision relating to federally conducted programs and activities should file with the Department a report indicating the basis for disputing coverage, the number of contacts they have had with LEP individuals, the frequency of such contacts, and the nature and importance of such contacts. The report should capture phone contacts, in person contacts, correspondence, and any other interactions with LEP individuals (including via agency websites). Finally, the report should describe the standards such agencies are using to determine LEP status.

**SUPPLEMENT TO THE ATTORNEY GENERAL'S MEMORANDUM
TO FEDERAL AGENCIES ON EXECUTIVE ORDER 13166 COMPLIANCE**

SPECIFICS OF IMPLEMENTATION FOR THE ACTION ITEMS:

- (1) *Action Item:* Each agency should establish a Language Access Working Group that reflects its organizational structure and is responsible for implementing the federally conducted and federally assisted provisions of the Executive Order.

Specifics: The Working Group should be chaired by an LEP Coordinator who reports to a designee of the Secretary (or to a designee of a Secretary-level official in charge of the agency). The Working Group should be comprised of individuals from multiple components or operational subdivisions of the agency, and should include members from field offices, as appropriate. Members of the Working Group should be responsible for identifying barriers to language access, consulting with stakeholders, formulating strategies and responses to overcome the barriers to meaningful language access, ensuring consistency within the agency on its federally assisted enforcement activities. They also should be accountable for implementation. Staff should also be apprised of the agency's Language Access Working Group and its mission.

- (2) *Action Item:* Each agency should evaluate and/or update its current response to LEP needs by, among other things, conducting an inventory of languages most frequently encountered, identifying the primary channels of contact with LEP community members (whether telephonic, in person, correspondence, web-based, etc.), and reviewing agency programs and activities for language accessibility.

Specifics: Agencies may need to update program operations, services provided, outreach activities, and other mission-specific activities to reflect current language needs. Further, each agency should ensure that its in-house and contract language services, directory of translated documents, signs, and web-based services meet current language needs.

- (3) *Action Item:* Each agency should establish a schedule to periodically evaluate and update agency LEP services and LEP policies, plans, and protocols. As an initial step, updated LEP plans and an anticipated time frame for periodic reevaluation of LEP plans and related documents should be submitted within six months after the date of this memorandum to the Federal Coordination and Compliance Section of the Department of Justice's (DOJ's) Civil Rights Division.

Specifics: Requested information can be sent to the Federal Coordination and Compliance Section at 950 Pennsylvania Avenue, NW (NW Bldg), Washington, D.C. 20530, Attention: Christine Stoneman and Bharathi Venkatraman. You may also email information to christine.stoneman@usdoj.gov or bharathi.a.venkatraman@usdoj.gov. Note that an agency's contemplated schedule should not serve to bar the agency from conducting more frequent

inventories/reinventories of languages encountered to ensure that agency services are meeting current language needs and demands.

- (4) *Action Item:* Agencies should ensure that staff can competently identify LEP contact situations and take the necessary steps to provide meaningful access.

Specifics: Agency staff should be able to, among other tasks, identify LEP contact situations, determine primary language of LEP individuals, and effectively utilize available options to assist in interpersonal, electronic, print, and other methods of communication between the agency and LEP individuals.

- (5) *Action Item:* Agencies should notify the public, through mechanisms that will reach the LEP communities it serves, of its LEP policies and LEP access-related developments.

Specifics: Examples of methods for publicizing LEP access information include, but are not limited to, posting on agency websites, issuing print and broadcast notifications, providing relevant information at “town hall” style meetings, and issuing press releases. Agencies should consult with their information technology specialists, civil rights personnel, and public affairs personnel to develop a multi-pronged strategy to achieve maximum and effective notification to LEP communities.

- (6) *Action Item:* When considering hiring criteria, agencies should assess the extent to which non-English language proficiency would be necessary for particular positions or to fulfill an agency’s mission.

Specifics: Determine whether the agency would benefit from including non-English language skills and competence thresholds in certain job vacancy announcements and position descriptions.

- (7) *Action Item:* For written translations, collaborate with other agencies to share resources, improve efficiency, standardize federal terminology, and streamline processes for obtaining community feedback on the accuracy and quality of professional translations intended for mass distribution.

Specifics: Agencies should actively participate in the Interagency Working Group’s efforts to develop collaborations and clearinghouse options to produce high quality and effective translations. While improving efficiency is a priority, ensuring the quality of translations is equally, if not more, important. As such, agencies should avoid pursuing free translations from community groups. Rather, community input can serve to ensure that professional translations meet community needs and are appropriate to the audience.

- (8) *Action Item:* For agencies providing federal financial assistance, draft recipient guidance.

Specifics: Agencies should refer to the DOJ Recipient Guidance document and LEP.gov, both of which are referenced in the Resources section below, for templates. Agencies should submit their recipient guidance documents for review and approval to the Federal Coordination and Compliance Section of DOJ's Civil Rights Division, at 950 Pennsylvania Avenue, NW (NW Bldg), Washington, D.C. 20530, Attention: Christine Stoneman and Bharathi Venkatraman. You may also email agency recipient guidance to christine.stoneman@usdoj.gov or bharathi.a.venkatraman@usdoj.gov.

RESOURCES:

Executive Order 13166:

<http://www.justice.gov/crt/cor/Pubs/eolep.pdf>

DOJ LEP Guidance:

<http://www.justice.gov/crt/cor/lep/DOJFinLEPFRJun182002.php>

Website of the Federal Interagency Working Group on LEP:

<http://www.lep.gov>

Top Tips from responses to the 2006 language access survey of federal agencies:

http://www.lep.gov/resources/2008_Conference_Materials/TopTips.pdf

The 2006 Language Access Survey:

http://www.lep.gov/resources/2008_Conference_Materials/FedLangAccessSurvey.pdf

GSA Language Services Schedule:

<http://www.gsa.gov/portal/content/104610>

I Speak Language Identification flashcards:

<http://www.lep.gov/ISpeakCards2004.pdf>

LEP rights brochure:

http://www.lep.gov/resources/lep_aug2005.pdf