

Limited English Proficiency (LEP)

Nondiscrimination Based on
National Origin

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Limited English Proficiency (LEP) - *Overview*

- **Executive Orders**
- **Guidance**
- **Language Assistance Plan Framework**
 - Needs Assessment
 - Written Language Assistance Plan
 - Staff Training
 - Community Outreach
 - Monitoring
- **Elements of an Assessment of Meaningful Services**
- **Governing Regulations**
- **Answers to Questions You Were Afraid to Ask**



LEP – *Executive Orders (EO)*

- *EO 13166, issued August 11, 2000 – Improving Access to Services for Persons with LEP*
(<http://www.usdoj.gov/crt/cor/Pubs/eolep.htm>)
- Designed to better enforce and implement an existing obligation: Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from discriminating based on national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP). The EO requires federal agencies that provide federal financial assistance to develop guidance to clarify those obligations for recipients of such assistance.

LEP - *Guidance*

- *DOT LEP Guidance issued January 22, 2001 –*
(<http://www.usdoj.gov/crt/cor/lep/dotlep.htm>)
“Guidance to Recipients on Special Language Service to Limited English Proficient Beneficiaries”
- This guidance clarifies responsibilities and assists DOT recipients in fulfilling their obligations to LEP persons



LEP – *Guidance* (continues)

DOT's guidance states that the ***main focus in evaluating a Title VI complaint based on LEP*** “will be whether a recipient has taken reasonable steps to eliminate barriers to meaningful communication with LEP individuals and to provide necessary services equivalent to those provided to people who are fully English proficient.”

DOT guidance determined that effective language assistance programs provides for compliance of this EO.

When investigating noncompliance, DOT will review the totality of circumstances to determine whether persons with LEP have meaningful access to participate effectively in programs/activities.

LEP – Language Assistance Plan Framework (*Needs Assessment*)

- Assess the language needs of the affected populations served
- Identify points of contact in the recipient program/activity where assistance may be necessary. Identify resources needed and make arrangements to access them efficiently
- Potential Data Sources: Census, local organizations, community groups, faith based groups, school districts, state refugee coordinators, etc.



LEP – Language Assistance Plan Framework – (*Written Language Assistance Plan*)

Develop a written plan to include policies/procedures for:

- Assessing the LEP language needs
- Provision of range of written and oral assistance options
- Periodic staff training
- Monitoring of the program



LEP – Language Assistance Plan Framework - (*Staff Training*)

Develop a plan by which all employees likely to meet persons with LEP are periodically trained on the policy, how to access services, how to work effectively with in person and telephone interpreters, and cultural and community relations sensitivity.



LEP – Language Assistance Plan Framework – *(Community Outreach)*

Undertake outreach efforts to ensure that individuals with LEP are aware of the availability of language assistance services free of charge (e.g., post signs in regularly encountered LEP languages in waiting areas and initial points of entry, translate application and instructional forms, include statements about free language assistance services in publications.)

LEP – Language Assistance Plan Framework – *(Monitoring)*

Conduct regular oversight of the program to ensure meaningful access to programs / activities. This may include assessing:

- current LEP demographics
- current LEP communication needs
- resource support of recipient's plan



LEP – Language Assistance Plan Framework – (*Monitoring*), continues

- success at meeting need of persons with LEP
- knowledge level of staff
- current viability of translation sources being used
- number of complaints, etc.



LEP – *Elements of an Assessment of Meaningful Services*

- Number and proportion of persons with LEP potentially served by the recipient’s program and the variety of languages spoken in the area
- Frequency with which persons with LEP are affected by the program/activity.
- Importance of the program/activity to persons with LEP. ***DOT’s guidance states “transportation is considered an essential service to participation in modern society.”***

LEP – *Elements of an Assessment of Meaningful Services (continues)*

- Resources available to the recipient and whether the recipient has budgeted for provision of special language services. The budget of the largest entity that supervises the recipient will be considered.
- Level of services provided to the general public and whether persons with LEP are excluded from services or provided a lower level of services.

LEP – *Governing Regulations*

- DOT issued Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries. This notice states that to have an effective LEP Program, recipients should provide regular employee training and monitor the program for effectiveness.
- We recommend that each airport provide employee training on all Title VI requirements including, how to access services for individuals with LEP, how to receive a complaint, and sensitivity training.

LEP – *Governing Regulations,* continues

- We recommend that each airport monitor their Title VI program and at a minimum periodically review the racial and ethnic data used to identify minority and disadvantaged communities and LEP individuals
- For a copy of DOT's guidance and additional information on LEP, visit the LEP website at <http://www.lep.gov>

LEP – Answers to Questions You Were Afraid to Ask

- **Q. *When is recipient responsible for the employment practices of its contractors, concessionaires, lessees, and subcontractors?***
- **A.** Under 49 CFR Part 21, the recipient is responsible for employment practices in two instances:
 - where the primary purpose of the Federal financial assistance received is to provide employment; or

LEP – Answers to Questions You Were Afraid to Ask, continues

- where the employment practices tend, on the grounds of race, color or national origin to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity of the recipient.

- Employment practices are included in the required grant assurances for a project receiving federal funding. This stems from EO 11246, EEO, and 41 CFR Part 60, regulations adopted by the DOL. More information can be found in AC150/5100-15A or with the DOL.

LEP – Answers to Questions You Were Afraid to Ask, continues

- **Q. *Is our airport responsible for discrimination by a fourth tier contractor?***
- **A.** All recipients are ultimately responsible for the actions of their contractors and subcontractors. This responsibility is found in the grant assurances. If a subcontractor is found in violation of the assurance, the FAA will require you to take action to resolve the matter with your contractor. Your lack of action may be considered noncompliance and result in enforcement action against the airport.

Questions?

