

problems and solutions, including standards and procedures for using their members as interpreters.

In identifying language assistance measures, recipients should avoid relying on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities. However, where LEP persons so desire, they should be permitted to use, at their own expense, an interpreter of their own choosing (whether a professional interpreter, family member, or friend) in place of or as a supplement to the free language services expressly offered by the recipient. But where a balancing of the four factors indicate that recipient-provided language assistance is warranted, the recipient should take care to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that a competent interpreter could be provided by the recipient at no cost.

The use of family and friends as interpreters may be an appropriate option where proper application of the four factors would lead to a conclusion that recipient-provided language assistance is not necessary. An example of this might be a bookstore or cafeteria associated with a library or archive. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for technical accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or other informal ad hoc interpreters may be appropriate.

As noted throughout this guidance, IMLS award recipients have a great deal of flexibility in addressing the needs of their constituents with limited English skills. That flexibility does not diminish, and should not be used to minimize, the obligation that those needs be addressed. IMLS recipients should apply the four factors outlined above to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons. By balancing the number or proportion of people with limited English skills served, the frequency of their contact with the program, the importance and nature of the program, and the resources available, IMLS awardees' Title VI obligations in many cases will be satisfied by making available oral language assistance or

commissioning translations on an as-requested and as-needed basis. There are many circumstances where, after an application and balancing of the four factors noted above, Title VI would not require translation. For example, Title VI does not require a library to translate its collections, but it does require the implementation of appropriate language assistance measures to permit an otherwise eligible LEP person to apply for a library card and potentially to access appropriate-language materials through inter-library loans or other reasonable methods. The IMLS views this policy guidance as providing sufficient flexibility to allow the IMLS to continue to fund language-dependent programs in both English and other languages without requiring translation that would be inconsistent with the nature of the program. Recipients should consult Section VI of the June 18, 2002 DOJ LEP Guidance for Recipients, 67 FR at 41461–41464 or <http://www.lep.gov>, for additional clarification on the standards applicable to assessing interpreter and translator competence, and for determining when translations of documents vital to accessing program benefits should be undertaken.

The key to ensuring meaningful access for people with limited English skills is effective communication. A library or museum can ensure effective communication by developing and implementing a comprehensive language assistance program that includes policies and procedures for identifying and assessing the language needs of its LEP constituents. Such a program should also provide for a range of oral language assistance options, notice to LEP persons of the right to language assistance, periodic training of staff, monitoring of the program and, in certain circumstances, the translation of written materials.

Each recipient should, based on its own volume and frequency of contact with LEP clients and its own available resources, adopt a procedure for the resolution of complaints regarding the provision of language assistance and for notifying the public of their right to and how to file a complaint under Title VI. State recipients, who will frequently serve large numbers of LEP individuals, may consider appointing a senior level employee to coordinate the language assistance program and to ensure that there is regular monitoring of the program.

V. Compliance and Enforcement

Executive order 13166 requires that each federal department or agency extending federal financial assistance

subject to Title VI issue separate guidance implementing uniform Title VI compliance standards with respect to LEP persons. Where recipients of federal financial assistance from IMLS also receive assistance from one or more other federal departments or agencies, there is no obligation to conduct and document separate but identical analyses and language assistance plans for IMLS. IMLS, in discharging its compliance and enforcement obligations under Title VI, looks to analyses performed and plans developed in response to similar detailed LEP guidance issued by other federal agencies. Recipients may rely upon guidance issued by those agencies.

IMLS's regulations implementing Title VI contain compliance and enforcement provisions to ensure that a recipient's policies and practices overcome barriers resulting from language differences that would deny LEP persons an equal opportunity to participate in and access to programs, services and benefits offered by IMLS. See 45 CFR part 1110. The agency will ensure that its recipient entities fulfill their responsibilities to LEP persons through the procedures provided for the Title VI regulations.

The Title VI regulations provide that IMLS will investigate (or contact its State recipient of funds to investigate, if appropriate) whenever it receives a complaint, report or other information that alleges or indicates possible noncompliance with Title VI. If the investigation results in a finding of compliance, IMLS will inform the recipient in writing of this determination, including the basis for the determination. If the investigation results in a finding of noncompliance, IMLS must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance, and must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, the IMLS will secure compliance through (a) the suspension of termination of Federal assistance after the recipient has been given an opportunity for an administrative hearing, (b) referral to the Department of Justice for injunctive relief or other enforcement proceedings, or (c) any other means authorized by federal, state, or local law.

Under the Title VI regulations, the IMLS has a legal obligation to seek voluntary compliance in resolving cases and cannot seek the termination of funds until it has engaged in voluntary compliance efforts and has determined