

or skill for which English language proficiency is not required;<sup>13</sup>

- Consent and complaint forms;
- List of partners at a One-Stop Career Center and services provided;
- Letters containing important information regarding participation in a program or activity;
- Notices pertaining to the reduction, denial or termination of services or benefits and of the right to appeal such actions;
- Notices that require a response from beneficiaries;
- Information on the right to file complaints of discrimination;
- Information on the provision of services to individuals with disabilities;
- State wage and hour and safety and health enforcement and information materials;
- Notices advising LEP persons of the availability of free language assistance; and
- Other outreach materials.

Whether or not a document (or the information it provides and/or solicits) is "vital" may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner. For instance, a description of books contained in the resource room of a One-Stop Career Center would not generally be considered vital, whereas applications for Unemployment Insurance or information about safety and health requirements could be considered vital. Where appropriate, recipients are encouraged to create a plan for consistently determining, over time and across its various activities, what documents are "vital" to the meaningful access of the LEP populations they serve.

Classifying a document as vital or non-vital is sometimes difficult, especially in the case of outreach materials like brochures or other information on rights and services. Awareness of rights or services is an important part of "meaningful access." Lack of awareness that a particular program, right, or service exists may effectively deny LEP individuals

meaningful access. Thus, where a recipient is engaged in community outreach activities in furtherance of its programs or services, it should regularly assess the needs of the populations frequently encountered or affected by the program or service to determine whether certain critical outreach materials should be translated. Community organizations may be helpful in determining what outreach materials may be most helpful to translate. In addition, the recipient should consider whether translations of outreach material may be made more effective when done in tandem with other outreach methods, including utilizing the ethnic media, schools, faith-based and other community organizations to spread the message.

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

Into What Languages Should Documents be Translated? The languages spoken by the LEP individuals with whom the recipient has contact determine the languages into which vital documents should be translated. A distinction should be made, however, between languages that are frequently encountered by a recipient and less commonly-encountered languages. Many recipients serve communities in large cities or across the country or operate web-based, self-service systems as an adjunct to their in-person delivery systems that also have a regional or national reach. They regularly serve LEP persons who speak dozens and sometimes over 100 different languages. To translate all written materials into all of those languages is unrealistic. Although recent technological advances have made it easier for recipients to store and share translated documents, such an undertaking would incur substantial costs and require substantial resources. Nevertheless, well-substantiated claims of lack of resources to translate all vital documents into dozens of languages do not necessarily relieve a recipient of the obligation to translate those documents

into at least several of the more frequently-encountered languages and to set benchmarks for continued translations into the remaining languages over time. As a result, the extent of a recipient's obligation to provide written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis. Because translation is a one-time expense, consideration should be given to whether the upfront cost of translating a document (as opposed to oral interpretation) should be amortized over the likely lifespan of the document when applying this four-factor analysis. The length of a document's lifespan and the volume of new documents requiring translation may also be a factor in this determination. For example, in transaction-based self-service websites, such as labor exchange/job matching, the lifespan of a typical document such as a job order may only be 30 days and the volume of such documents may easily number 1,000 or more each day. In such circumstances, depending on the four factors, recipients might consider translating only certain portions of such documents and/or providing information in appropriate languages on how to obtain free language assistance, if the technology allows.

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

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

Translators should understand the expected reading level of the audience and, where appropriate, have

<sup>13</sup> Test translation raises technical testing issues and needs to be done in an appropriate manner if the test is to retain validity and reliability. Some tests are available in different languages. For example, the GED is available in Spanish and French, as well as English. So recipients may be able to check for the availability of tests in other languages from the test developer. Where no test is available in a language and translation is not immediately possible, it might be more appropriate to evaluate a LEP individual with another test or procedure that does not inappropriately implicate their limited English skills.

<sup>14</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.