

fundamental knowledge about the target language group's vocabulary and phraseology. Sometimes direct translation of materials results in a translation that is written at a much more difficult level than the English language version or has no relevant equivalent meaning.<sup>15</sup> Community organizations may be able to help consider whether a document is written at a good level for the audience. Likewise, consistency in the words and phrases used to translate terms of art, legal, or other technical concepts helps avoid confusion by LEP individuals and may reduce costs. Creating or using already-created glossaries of commonly-used terms may be useful for LEP persons and translators and cost effective for the recipient. Providing translators with examples of previous accurate translations of similar material by the recipient, other recipients, or federal agencies may be helpful.

The quality and accuracy of language services is part of the appropriate analysis of LEP services required. For instance, documents that are simple and have no legal or other consequence for LEP persons who rely on them may use translators that are less skilled than important documents with legal or other information upon which reliance has important consequences (including, *e.g.*, information or documents of DOL recipients regarding the provision of income security benefits, such as UI, and health and safety training). The permanent nature of written translations, however, imposes additional responsibility on the recipient to ensure that the quality and accuracy permit meaningful access by LEP persons.

## VII. Elements of an Effective Plan on Language Assistance for LEP Persons

After completing the four-factor analysis and deciding what language assistance services are appropriate, a recipient should develop an implementation plan to address the

identified needs of the LEP populations they serve.<sup>16</sup> Recipients have considerable flexibility in developing this plan. A written plan, while not a requirement, can be an important tool for a recipient. The development and maintenance of a periodically-updated written plan on language assistance for LEP persons ("LEP plan") for use by recipient employees serving the public will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. Moreover, such written plans would likely provide additional benefits to a recipient's managers in the areas of training, administration, planning, and budgeting. These benefits should lead most recipients to document in a written LEP plan their language assistance services and how staff and LEP persons can access those services. Despite these benefits, certain DOL recipients, such as recipients serving very few LEP persons and recipients with very limited resources, may choose not to develop a written LEP plan. However, the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities. Accordingly, in the event that a recipient elects not to develop a written plan, it should consider alternative ways to articulate in some other reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, faith-based organizations, community groups, and groups working with new immigrants, can be very helpful in providing important input into this planning process from the beginning.

The following five elements may be helpful in designing a LEP plan and are typically part of an effective implementation plan.

### (1) Identifying LEP Individuals Who Need Language Assistance

The first two factors in the four-factor analysis require an assessment of the number or proportion of LEP individuals eligible to be served or encountered and the frequency of encounters. This requires a recipient to

identify LEP persons with whom it has contact.

One way to determine the language of communication is to use language identification cards (or "I speak cards"), which invite LEP persons to identify their language needs to staff. Such cards, for instance, might read "I speak Spanish" in both Spanish and English, "I speak Vietnamese" in both English and Vietnamese, etc. To reduce costs of compliance, the federal government has made a set of these cards available on the Internet. The Census Bureau "I speak cards" can be found and downloaded at <http://www.usdoj.gov/crt/cor/13166.htm>. When records are normally kept of past interactions with members of the public, the language of the LEP person can be included as part of the record. In addition to helping employees identify the language of LEP persons they encounter, this process will help in future applications of the first two factors of the four-factor analysis. In addition, posting notices in commonly encountered languages notifying LEP persons of the availability of language assistance will encourage them to self-identify.

Recipients should also consider circumstances in which, although the participant and/or beneficiary can communicate effectively in English, assistance may be needed when interacting with other pertinent individuals. For example, if a youth under the age of eighteen needs a parent's signature to participate in a summer employment program, language assistance may be necessary to provide information and obtain the necessary permission. Recipients should also be aware of external circumstances that may impact the number of persons (LEP or otherwise) seeking government assistance. For example, recipients may experience an ebb and flow of persons working in agricultural jobs depending on the season, the success of harvest, and other factors such as weather (droughts or floods). Changes in the economy may disproportionately force low-income individuals (as LEPs tend to be) to turn to government programs for assistance.

### (2) Language Assistance Measures

An effective LEP plan would likely include information about the ways in which language assistance will be provided. For instance, recipients may want to include information on at least the following:

- Types of language services available;
- How staff can obtain those services;
- How to respond to LEP callers;

<sup>15</sup> For instance, there may be languages that do not have an appropriate direct translation of some programmatic or legal terms and the translator should be able to provide an appropriate translation. The translator should likely also make the recipient aware of this. Recipients can then work with translators to develop a consistent and appropriate set of descriptions of these terms in the language that can be used again, when appropriate. Recipients will find it more effective and less costly if they try to maintain consistency in the words and phrases used to translate terms of art and legal or other technical concepts. Creating or using already-created glossaries of commonly used terms may be useful for LEP persons and translators and cost-effective for the recipient. Providing translators with examples of previous translations of similar material by the recipient, other recipients, or federal agencies may be helpful.

<sup>16</sup> Certain recipients of DOL financial assistance are required, per 29 CFR 37.54, to establish and adhere to a Methods of Administration (MOA). Per the regulations, MOAs must be in writing, reviewed and updated every two years as required by Section 37.55, and, at a minimum, describe how the state programs and recipients have satisfied the requirements of regulations, including those found at Sections 37.35 and 37.42.