

assist DOL recipients in correctly applying the four-factor analysis to the wide range of services provided in their particular communities.

a. Permanent Versus Seasonal Populations

In assessing factor one, the number or proportion of LEP individuals, DOL recipients should consider any temporary but significant changes in a community's demographics. In many areas, resident populations change over time or according to season. For example, in some resort communities, populations swell during peak vacation periods, many times exceeding the number of permanent residents in the area. In other communities, primarily agricultural areas, transient populations of agricultural workers require increased workforce investment services during planting and harvest seasons. This dynamic demographic ebb and flow can also dramatically change the size and nature of the LEP community that is likely to come into contact with workforce entities. Thus, workforce entities may not want to limit their analysis to numbers and proportions of permanent residents.

Example: A rural community has a permanent population of 30,000, of which seven percent is Hispanic. Based on census data and on information from the contiguous school district, only 15 percent of the Hispanic population is estimated to be LEP. Thus, the total estimated permanent LEP population is 315 persons or approximately one percent of the total permanent population. Under the four-factor analysis, a workforce entity could reasonably conclude that the small number of LEP persons makes the translation of vital documents and/or employment of bilingual staff unnecessary. However, during the spring and summer planting and harvest seasons, the local population swells to 40,000 due to the influx of seasonal agricultural workers. Of this temporary population, about 75 percent is Hispanic and about 50 percent of that number is LEP. According to data supplied by the contiguous school district and a migrant worker community group, during the planting and harvest seasons, the community's LEP population increases to over ten percent of all residents. In this case, a DOL recipient should consider whether it is necessary to translate vital written documents into Spanish. In addition, the predictability of contact during those seasons makes it important for the community to review its interpretative services to ensure meaningful access for LEP individuals.

b. Target Audiences

For most workforce investment services, the target audience is defined in geographic rather than programmatic terms. However, some services may be targeted to reach a particular audience (e.g., out-of-school youth or migrant and seasonal farmworkers). Also, within the larger geographic area covered by a workforce entity, certain areas or neighborhoods may have concentrations of LEP persons. In these cases, even if the overall number or proportion of LEP individuals in the area is low, the frequency of contact may be higher for certain areas or

programs. Thus, the second factor, frequency of contact, should be considered in light of the specific program or the geographic area served.

Example: A community-based organization (CBO) is partnering with a local One-Stop Career Center to provide services to dislocated workers who have lost their jobs due to several recent textile plant closures. The LEP population of the community is estimated at only three percent. However, the LEP population of the workers dislocated by the closures is 35 percent, the vast majority of whom speak Vietnamese. As the target population for this CBO is confined to the dislocated workers, the number or proportion of LEP persons in the eligible service population would be calculated based on these workers. The applicable LEP factor would be the frequency with which LEP individuals come in contact with the program, which in this instance would involve a much higher percentage of LEP individuals than that of the general population. Further, because the Vietnamese LEP population is concentrated in one or two main areas of the town, the CBO should expect the frequency of contact with Vietnamese LEP individuals, in general, to be quite high in those areas, and it should apply the four-factor analysis accordingly with respect to the services it provides.

c. Importance of Service/Information

DOL recipients play a critical role in providing workforce services, income support, and health and safety training for many Americans. UI, health and safety services provided through the Occupational Safety and Health and Mine Safety and Health Administrations, information and enforcement of State and local wage and hour laws and other workers' rights enforcement issues taken on by recipients, and employment services rank high on the critical/non-critical continuum. However, this does not mean that information about all services and activities performed by workforce entities must be equally available in languages other than English. While clearly important to the ultimate success of the workforce investment system, certain activities do not have the same direct impact on the provision of core workforce investment services. The more important the program or activity or the greater the possible consequences of the contact for LEP individuals, the more likely language assistance services will be necessary.

Example: The Occupational Safety and Health Administration (OSHA) and Mine Safety and Health Administration (MSHA) provide grants to recipients to conduct safety and health training to individuals employed in many dangerous occupations, such as construction and mining. Much of the training involves learning how to take precautions to avoid accidents or injuries while on the job. Where individuals could sustain bodily harm if training is not provided in an understandable language, the need for appropriate communication is extremely high.

There may be some instances in which the four-factor analysis of a particular portion of a recipient's program or activity leads to the

conclusion that language services are not currently required. For instance, the four-factor analysis may not necessarily require that an advanced level computer course be given in languages other than English, if the language-related requirements for such an employment path is such that few, if any, LEP persons would benefit from the particular course even if it were made accessible to them and even if they are in the process of learning English (see Section V(3) above regarding such determinations), and if the other three factors also weigh against providing the service. However, a recipient may decide to provide other computer courses in languages other than English given demographics of the area and the potential benefit to the LEP population. Because the analysis is fact-dependent, the same conclusion may not be appropriate with respect to all computer courses or to other courses.

2. Applying the Four-Factor Analysis to the Full Spectrum of Services

While all workforce investment activities are important, the four-factor analysis requires some prioritizing so that language services are targeted where they are most needed depending on the nature and importance of the particular service provided. Workforce entities have a great deal of flexibility in determining how to best address outreach to their LEP populations. In order to determine what is reasonable under the four-factor analysis, consider that the obligation to provide language services increases where the importance of the activity is greater. Under this framework, critical areas for language assistance would include applications for UI or trade-related benefits and adjudications of issues regarding benefits. Systems for receiving and addressing complaints from the public are also important. Employment services are of great importance for persons who are not currently employed. Community outreach activities are hard to categorize and generally less critical than other activities unless barriers to participation (such as limited availability of language services) exist. With the importance of community partnerships and involvement, the four-factor analysis should be considered when evaluating the need for language services with respect to these programs.

a. Receiving and Responding to Requests for Assistance

Taking reasonable steps to provide meaningful access to workforce investment services will entail different things in different communities. For instance, in areas with significant LEP communities, some intake workers and claims examiners may need to be bilingual and capable of accurately interpreting in high stress situations. Recipients in areas with small LEP populations should still have a plan for serving persons who are LEP, which may involve a telephone interpretation service or include some other accommodation short of hiring bilingual staff. Signs and telephone voicemail systems should also be appropriate for the populations served.

Example: A One-Stop Career Center in a large city has bilingual staff that can interpret