

DEPARTMENT OF VETERANS AFFAIRS**Guidance to Federal Financial Assistance Recipients: Providing Meaningful Access to Individuals Who Have Limited English Proficiency in Compliance With Title VI of the Civil Rights Act of 1964**

AGENCY: Department of Veterans Affairs.

ACTION: Notice and request for comments.

SUMMARY: In accordance with Executive Order 13166, Improving Access to Service for Persons with Limited English Proficiency (LEP), this notice requests comments on the Department of Veterans Affairs (VA) draft guidance on improving access for persons with limited English proficiency to VA assisted programs and activities. Executive Order 13166, requires each Federal agency that awards Federal financial assistance to publish in the **Federal Register** a notice containing Departmental guidance that assists recipients in complying with obligations under Title VI of the Civil Rights Act of 1964 and Title VI regulations to ensure meaningful access to Federally assisted programs and activities for LEP persons.

DATES: Comments must be received on or before July 10, 2003

ADDRESSES: Mail or hand-deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or fax comments to (202) 273-9026; or e-mail comments to OGCRegulations@mail.va.gov. Comments should indicate that they are submitted in response to "LEP Guidance". All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call 202 273-9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Tyrone Eddins, Office of Resolution Management (08), at (202) 501-2801; or Royce Smith, Office of General Counsel (024), at (202) 273-6374, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

SUPPLEMENTARY INFORMATION: The purpose of Executive Order 13166 is to eliminate, under Title VI, to the maximum extent possible, limited English proficiency (LEP) as an artificial barrier to full and meaningful participation by beneficiaries in all Federally assisted and Federally conducted programs and activities. The

purpose of this policy is to further clarify the responsibilities of recipients of Federal financial assistance from VA, and assist them in fulfilling their responsibilities to LEP persons, pursuant to Title VI and Title VI regulations. The policy guidance explains that to avoid discrimination against LEP persons on the ground of national origin, recipients must take reasonable steps to ensure that LEP persons have meaningful access to the programs, activities, benefits, services, and information those recipients provide, free of charge.

On March 14, 2002, the Office of Management and Budget (OMB) issued a Report To Congress titled "Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency." The report made several recommendations designed to minimize confusion and ensure that funds dedicated to LEP services will provide meaningful access for LEP individuals. One significant recommendation was the adoption of uniform guidance across all Federal agencies, with flexibility to permit tailoring to each agency's specific recipients.

In a memorandum to all Federal funding agencies, dated July 8, 2002, Assistant Attorney General Ralph Boyd of the Department of Justice's (DOJ) Civil Rights Division requested that agencies model their agency-specific guidance for recipients after Sections I-VIII of DOJ's June 18, 2002 guidance. Therefore, this proposed guidance is modeled after the language and format of DOJ's revised, final guidance, "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons", published June 18, 2002, 67 FR 41455.

Because this Guidance must adhere to the Federal-wide compliance standards and framework detailed in the model DOJ LEP Guidance issued on June 18, 2002, VA specifically solicits comments on the nature, scope and appropriateness of the VA specific examples set out in this guidance explaining and/or highlighting how those consistent Federal-wide compliance standards are applicable to recipients of Federal financial assistance through VA.

It has been determined that the guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.

The text of the complete guidance document appears below.

Approved: May 28, 2003.

Anthony J. Principi,
Secretary of Veterans Affairs.

Guidance on Executive Order 13166, Limited English Proficiency (LEP) Title VI Prohibition Against National Origin Discrimination In Federally Assisted Programs**I. Introduction**

Most individuals living in the United States read, write, speak and understand English. There are many individuals, however, for whom English is not their primary language. For instance, based on the 2000 census, over 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient (LEP). While detailed data from the 2000 census has not yet been released, 26% of all Spanish-speakers, 29.9% of all Chinese-speakers, and 28.2% of all Vietnamese-speakers reported that they spoke English "not well" or "not at all" in response to the 1990 census.

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by Federally funded programs and activities. The Federal Government funds an array of services that can be made accessible to otherwise eligible LEP persons. The Federal Government is committed to improving the accessibility of these programs and activities to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. Recipients should not overlook the long-term positive impacts of incorporating or offering English as Second Language (ESL) programs in parallel with language assistance services. ESL courses can serve as an important adjunct to a proper LEP plan. However, the fact that ESL classes are made available does not obviate the statutory and regulatory requirement to provide meaningful access for those who are not yet English proficient. Recipients of Federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services.¹

¹ VA recognizes that many recipients had language assistance programs in place prior to the issuance of Executive Order 13166. This guidance provides a uniform framework for a recipient to