

This policy guidance clarifies responsibilities, under existing law, of recipients of Federal financial assistance from the Department of Veterans Affairs (VA) to provide meaningful access to LEP persons. The purpose is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from Federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin discrimination. This policy guidance clarifies existing legal requirements for LEP persons by providing a description of the factors recipients should consider in fulfilling their responsibilities to LEP persons.<sup>2</sup> These are the same criteria VA will use in evaluating whether recipients are in compliance with Title VI and Title VI regulations.

As with most government initiatives, this requires balancing several principles. While this Guidance discusses that balance in some detail, it is important to note the basic principles behind that balance. First, we must ensure that Federally assisted programs aimed at the American public do not leave some behind simply because they face challenges communicating in English. This is of particular importance because, in many cases, LEP individuals form a substantial portion of those encountered in Federally assisted programs. Second, we must achieve this goal while finding constructive methods to reduce the costs of LEP requirements on small businesses, small local governments, or small non-profits that receive Federal financial assistance.

There are many productive steps that the Federal Government, either collectively or as individual grant agencies, can take to help recipients reduce the costs of language services without sacrificing meaningful access for LEP persons. Without these steps, certain smaller grantees may well

choose not to participate in Federally assisted programs, threatening the critical functions that the programs strive to provide. To that end, the VA, in conjunction with the Department of Justice (DOJ), plans to continue to provide assistance and guidance in this important area. In addition, the VA plans to work with DOJ, recipients, and LEP persons to identify and share model plans, examples of best practices, and cost-saving approaches and to explore how language assistance measures, resources and cost-containment approaches developed with respect to its own Federally conducted programs and activities can be effectively shared or otherwise made available to recipients, particularly small businesses, small local governments, and small non-profits. An interagency working group on LEP has developed a Web site, <http://www.lep.gov>, to assist in disseminating this information to recipients, Federal agencies, and the communities being served.

Many commentators have noted that some have interpreted the case of *Alexander v. Sandoval*, 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to Federally assisted programs and activities. The Department of Justice and the VA have taken the position that this is not the case, and will continue to do so. Accordingly, we will strive to ensure that Federally assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

VA is comprised of three distinct benefits administrations: Veterans Health Administration (VHA), Veterans Benefits Administration (VBA) and National Cemetery Administration (NCA). Each of these administrations has programs that provide Federal financial assistance to recipients. Each has existing Title VI program responsibilities that are administered independent of each other.

VHA administers several programs and activities that receive Federal financial assistance from the VA. With more than 163 VA medical centers nationwide, VHA manages one of the largest health care systems in the United States. VA medical centers within a Veterans Integrated Service Network (VISN) work together to provide efficient, accessible health care to veterans in their areas. VHA also conducts research and education and provides emergency medical preparedness.

VBA is responsible for ensuring compliance in proprietary, non-college

educational institutions approved to train veterans and/or their beneficiaries. VBA also provides benefits and services to veterans and their beneficiaries through more than 50 VA regional offices. Some of the benefits and services provided by VBA include compensation and pension, education, loan guaranty, and insurance.

NCA provides Federal assistance to States to establish, expand, or improve state owned or established veterans cemeteries. The State Cemetery Grants Program (SCGP) provides these services to eligible state veterans cemeteries. NCA is responsible for providing burial benefits to veterans and eligible dependents. The delivery of these benefits involves operating 120 national cemeteries in the United States and Puerto Rico, providing headstones and grave markers worldwide, administering the State Cemetery Grants program that complements the national cemeteries, and administering the Presidential Memorial Certificate Program, which provides certificates bearing the President's signature to the next of kin of honorably discharged, deceased veterans.

## II. Legal Authority

Section 601 of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, provides that no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Section 602 authorizes and directs Federal agencies that are empowered to extend Federal financial assistance to any program or activity to effectuate the provisions of [section 601] \* \* \* by issuing rules, regulations, or orders of general applicability. 42 U.S.C. 2000d-1.

VA regulations implementing Title VI, provide in 38 CFR at part 18.3(b) that

(1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on grounds of race, color, or national origin:

(i) Deny an individual any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to an individual, which is different, or is provided in a different manner, from that provided to others under the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or facilities which will be provided under any such program, or the class of individuals to whom, or the situations in which such services,

integrate, formalize, and assess the continued vitality of these existing and possibly additional reasonable efforts based on the nature of its program or activity, the current needs of the LEP population it encounters, and its prior experience in providing language services in the community it serves.

<sup>2</sup> This policy guidance is not a regulation but rather a guide. Title VI and its implementing regulations require that recipients take responsible steps to ensure meaningful access by LEP persons. This guidance provides an analytical framework that recipients may use to determine how best to comply with statutory and regulatory obligations to provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are limited English proficient.