

SUPPLEMENTARY INFORMATION: The purpose of this policy guidance is to further clarify the responsibilities of recipients of Federal financial assistance from GSA and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and GSA implementing 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, services, and information those recipients provide, free of charge.

GSA's guidance for recipients was originally published on January 17, 2001, and became effective immediately. (See 66 FR 4026.) That document, like the following guidance, was based on policy guidance issued by the Department of Justice entitled "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency." (See 65 FR 50123, August 16, 2000.)

On February 20, 2002, the GSA re-published its recipient guidance for additional public comment. (See 67 FR 7692.) Comments representing 24 different organizations were received, and the following guidance was developed after review and consideration of those comments. Prior comments on the original guidance need not be re-submitted.

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 best advance 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 DOJ's Civil Rights Division requested that agencies model their agency-specific guidance for recipients after sections I through VIII of DOJ's June 18, 2002, guidance. Therefore, this 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 on June 18, 2002, 67 FR 41455.

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 as an attachment to this notice.

Dated: July 1, 2003.

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Associate Administrator, Office of Civil Rights.

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, or "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 a 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

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. The purpose of this policy guidance is to assist recipients in fulfilling their responsibilities to provide meaningful access to LEP persons under existing law. 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.² These are the same criteria GSA will use in evaluating whether recipients are in compliance with Title VI and Title VI regulations.

In a memorandum to all Federal funding agencies, dated July 8, 2002, Assistant Attorney General Ralph Boyd of the U.S. 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 guidance is modeled after the language and format of the 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. The DOJ's role under Executive Order 13166 is unique. The Order charges DOJ with responsibility for providing LEP Guidance to other Federal agencies and for ensuring consistency among each agency-specific guidance. Consistency among Federal agencies is particularly important. Inconsistency or contradictory guidance could confuse

¹ GSA recognizes that many recipients had language assistance programs in place prior to the issuance of Executive Order 13166. This policy guidance provides a uniform framework for a recipient to 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 populations it encounters, and its prior experience in providing language services in the community it serves.

² The 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 ensure meaningful access to the benefits, services, information, and other important portions of their programs and activities for individuals who are limited English proficient.