

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-4878-N-01]****Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons****AGENCY:** Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.**ACTION:** Notice.**SUMMARY:** HUD is publishing proposed "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (Guidance) as required by Executive Order 13166, which addresses assistance to recipients of federal financial assistance who have limited English proficiency.**DATES:** *Comment Due Date:* January 20, 2004.**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.**FOR FURTHER INFORMATION CONTACT:** Pamela D. Walsh, Director, Program Standards Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Room 5226, 451 Seventh Street SW., Washington, DC 20410-2000, telephone (202) 708-2904 (this is not a toll-free number). Hearing- or speech-impaired individuals may access the telephone number listed in this section through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.**SUPPLEMENTARY INFORMATION:** Under Title VI of the Civil Rights Act of 1964 (Title VI) and implementing regulations, recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP). Executive Order 13166, reprinted at 65 FR 50121 (August 16, 2000), directs each federal agency that extends assistance subject to the requirements of Title VI to publish

guidance for its respective recipients clarifying that obligation. Because this guidance (42 U.S.C. 2000d) (Title VI) must adhere to the federal-wide compliance standards and framework detailed in the model LEP Guidance of the Department of Justice (DOJ) issued on June 18, 2002, HUD specifically solicits comments on the nature, scope, and appropriateness of the HUD-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 HUD.

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 seven 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 percent of all Spanish speakers, 29.9 percent of all Chinese speakers, and 28.2 percent of all Vietnamese speakers reported that they spoke English "not well" or "not at all" in response to the 1990 census.

Language for LEP persons 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 programs, services, and activities 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 programs, services, and activities. HUD 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 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.

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 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 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. 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 provide meaningful access to the benefits, services, information, and other important portions of their programs and activities for LEP individuals. These are the same criteria HUD will use in evaluating whether recipients are in compliance with Title VI and Title VI regulations.

As with most government initiatives, guidance on LEP 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, HUD 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, HUD must achieve this goal while finding constructive methods to reduce the costs of LEP