

Persons with Limited English Proficiency,” published on August 16, 2000, at 65 FR 50123, and the DOJ LEP Guidance issued on June 18, 2002, and published on June 18, 2002, at 67 FR 41457.

III. Who Is Covered?

HUD’s regulation, 24 CFR part 1, “Nondiscrimination in Federally Assisted Programs of the Department of Housing and Urban Development—Effectuation of Title VI of the Civil Rights Act of 1964,” requires all recipients of federal financial assistance from HUD to provide meaningful access to LEP persons. Pursuant to Executive Order 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in this LEP Guidance are to additionally apply to the programs and activities of federal agencies, including HUD. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of HUD assistance include, for example:

- State and local governments;
- Public housing authorities;
- Assisted housing providers;
- Profit and nonprofit organizations;

and

- Other entities receiving funds directly or indirectly from HUD.

Subrecipients likewise are covered when federal funds are passed through from one recipient to a subrecipient (e.g., Entitlement Community Development Block Grant, State Block Grant, State Community Development Block Grant, and HOME Recipients’ subrecipients are covered).

Coverage extends to a recipient’s entire program or activity, (i.e., to all parts of a recipient’s operations). This is true even if only one part of the recipient receives the federal assistance.

Example: HUD provides assistance to a state government’s Department of Community Development to improve a particular public facility. All of the operations of the entire state Department of Community Development—not just the particular facility—are covered. However, if a federal agency were to decide to terminate federal funds based on noncompliance with Title VI or its regulations, only funds directed to the particular program or activity that is out of compliance would be terminated (42 U.S.C. 2000d–1). Finally, some recipients operate in jurisdictions in which English has been declared the official language. Nonetheless, these recipients continue to be subject to federal non-discrimination requirements, including those

applicable to the provision of federally-assisted services to LEP persons.

IV. Who Is a Limited English Proficient Individual?

Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be LEP, entitled to language assistance with respect to a particular type of service, benefit, or encounter. Examples of populations likely to include LEP persons who are encountered and/or served by HUD recipients and should be considered when planning language services include, but are not limited to:

- Persons who are seeking housing assistance from a public housing agency or assisted housing provider or are current tenants in such housing;
- Persons seeking assistance from a state or local government for a rehabilitation grant for their home;
- Persons who are attempting to file a housing discrimination complaint with a local Fair Housing Assistance Program grantee;
- Persons who are seeking supportive services to become first-time homebuyers;
- Persons seeking housing related social services, training, or any other assistance from HUD recipients; and
- Parents and family members of the above.

V. How Does a Recipient Determine the Extent of Its Obligation To Provide LEP Services?

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the grantee/recipient and costs. As indicated above, the intent of this Guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, small local governments, or small nonprofits.

After applying the four-factor analysis, a recipient may conclude that different language assistance measures are sufficient for the different types of programs or activities in which it

engages. For instance, some of a recipient’s activities will be more important than others and/or have greater impact on or contact with LEP persons, and thus may require more in the way of language assistance. The flexibility that recipients have in addressing the needs of the LEP populations they serve does not diminish, and should not be used to minimize, the obligation that those needs be addressed. HUD recipients should apply the following four factors to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons.

A. The Number or Proportion of LEP Persons Served or Encountered in the Eligible Service Population

One factor in determining what language services recipients should provide is the number or proportion of LEP persons from a particular language group served or encountered in the eligible service population. The greater the number or proportion of these LEP persons, the more likely language services are needed. Ordinarily, persons “eligible to be served, or likely to be directly affected, by” a recipient’s program or activity are those who are served or encountered in the eligible service population. This population will be program-specific, and includes persons who are in the geographic area that has been approved by HUD as the recipient’s jurisdiction or service area. However, where, for instance, a public housing project serves a large LEP population, the appropriate service area for LEP services is most likely the public housing project neighborhood, and not the entire population served by the public housing agency. Where no service area has previously been approved, the relevant service area may be that which is approved by state or local authorities or designated by the recipient itself, provided that these designations do not themselves discriminatorily exclude certain populations. Appendix A provides examples to assist in determining the relevant service area. When considering the number or proportion of LEP persons in a service area, recipients should consider LEP parent(s) when their English-proficient or LEP minor children and dependents encounter the recipient.

Recipients should first examine their prior experiences with LEP encounters and determine the breadth and scope of language services that were needed. In conducting this analysis, it is important to include language minority