

investigations, compliance reviews, efforts to secure voluntary compliance, and technical assistance.

The Title VI regulations provide that HUD will investigate whenever it receives a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI or its regulations. The Office of Fair Housing and Equal Opportunity is responsible for conducting the investigation to ensure that recipients are in compliance with civil rights related programs requirements. If the investigation results in a finding of compliance, HUD will inform the recipient in writing of this determination, including the basis for the determination. HUD uses voluntary methods to resolve most complaints. However, if a case is fully investigated and results in a finding of noncompliance, HUD must inform the recipient of the noncompliance through a "Letter of Findings" that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance. It must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, HUD must secure compliance through the termination of federal assistance after the HUD recipient has been given an opportunity for an administrative hearing and/or by referring the matter to a DOJ litigation section to seek injunctive relief or pursue other enforcement proceedings. HUD engages in voluntary compliance efforts and provides technical assistance to recipients at all stages of an investigation. During these efforts, HUD proposes reasonable timetables for achieving compliance and consults with and assists recipients in exploring cost-effective ways of coming into compliance. In determining a recipient's compliance with the Title VI regulations, HUD's primary concern is to ensure that the recipient's policies and procedures provide meaningful access for LEP persons to the recipient's programs and activities.

While all recipients must work toward building systems that will ensure access for LEP persons, HUD acknowledges that the implementation of a comprehensive system to serve LEP persons is a process and that a system will evolve over time as it is implemented and periodically reevaluated. As recipients take reasonable steps to provide meaningful access to federally-assisted programs and activities for LEP persons, HUD will look favorably on intermediate steps recipients take that are consistent with this Guidance, and that, as part of a broader implementation plan or

schedule, move their service delivery system toward providing full access to LEP persons. This does not excuse noncompliance but instead recognizes that full compliance in all areas of a recipient's activities and for all potential language minority groups may reasonably require a series of implementing actions over a period of time. However, in developing any phased implementation schedule, HUD recipients should ensure that the provision of appropriate assistance for significant LEP populations or with respect to activities having a significant impact on the housing, health, safety, legal rights, or livelihood of beneficiaries is addressed first. Recipients are encouraged to document their efforts to provide LEP persons with meaningful access to federally-assisted programs and activities.

IX. Application to Specific Types of Recipients

Appendix A of this Guidance provides examples of how the meaningful access requirement of the Title VI regulations applies to HUD-funded recipients. It further explains how recipients can apply the four factors to a range of situations to determine their responsibility for providing language services in each of these situations. This Guidance helps recipients identify the population they should consider when determining the extent and types of services to provide. For instance, it gives examples on how to apply this guidance in situations like:

- Holding public meetings on the Consolidated Plans for Community Planning and Development Programs (CDBG, HOME, Housing Opportunity for Persons With AIDS (HOPWA), and Emergency Shelter Grants (ESG));
- Interviewing victims of housing discrimination;
- Helping applicants to apply for public housing units;
- Explaining lease provisions; and
- Providing affirmative marketing housing counseling services.

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Appendix A: Application of Limited English Proficiency (LEP) Guidance for HUD Recipients

Introduction

A wide range of entities receives federal financial assistance through HUD. HUD provides assistance to the following types of recipients, among others: assisted housing providers; public housing agencies; state and local governments; nonprofit organizations, including housing counseling agencies and

grassroots community-based and faith-based organizations; state and local fair housing agencies; and providers of a variety of services. All HUD-funded recipients are required to certify to nondiscrimination and affirmatively furthering fair housing, either through the Office of Community Planning and Development's (CPD's) Consolidated Plan, (24 CFR 91.225 (a)(1) and (b)(6), 91.325(a)(1), 91.425(a)(i)); the public housing agency plans processes (24 CFR 903.7(o)); or the certifications required in the competitive programs funded through the Super Notice of Funding Availability (SuperNOFA). [Note: HUD publishes the SuperNOFA on an annual basis. The non-discrimination and the affirmative furthering fair housing requirements are found in the General Section of the SuperNOFA]. The website for the SuperNOFA is: <http://www.hud.gov/library/bookshelf18/supernofa/index.cfm>. This LEP Guidance does not change current civil rights related program requirements contained in HUD regulations.

This Appendix provides examples of how HUD recipients might apply the four-factor analysis described in the general guidance. The Guidance and examples in this Appendix are not meant to be exhaustive and may not apply in some situations. CPD's citizen participation plan requirement, in particular, specifically instructs jurisdictions that receive funds through the Consolidated Plan process to take appropriate actions to encourage the participation of " * * * non-English speaking persons * * *" (24 CFR 91.105(a)(2)(ii), 91.115(a)(2)). Such recipients may, therefore, have processes in place to address the needs of their LEP beneficiaries that already take into consideration the four-factor analysis and meet the Title VI and regulatory requirements described in this Guidance.

This Guidance does not supplant any constitutional, statutory, or regulatory provisions that may require LEP services. Rather, this Guidance clarifies the Title VI and regulatory obligation to address, in appropriate circumstances and in a reasonable manner, the language assistance needs of LEP persons beyond those required by the Constitution or by statutes and regulations other than Title VI and the Title VI regulations.

Tribes and tribally-designated housing entities (TDHEs) are authorized to use federal housing assistance made available under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA, 25 U.S.C. 4101–4212) for low-income housing programs or activities for the specific benefit of tribal members or other Native Americans. Programs or activities funded in whole or in part with federal assistance made available under NAHASDA are exempt from Title VI and Title VIII of the Civil Rights Act of 1968. Although Title VI may not apply to housing programs undertaken by these entities under NAHASDA, this Guidance may be a helpful technical assistance tool in determining whether and to what degree language assistance may be appropriate to ensure meaningful access by otherwise eligible low-income Native Americans.

For many members of the public, exposure to housing and social service programs