

**SUMMARY:** The Department of the Interior (DOI or Department) publishes for public comment Interim Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (DOI Recipient LEP Guidance). The DOI Recipient LEP Guidance is issued pursuant to Title VI of the Civil Rights Act of 1964 and its implementing regulations and Executive Order 13166.

**DATES:** Written comments are invited from interested persons and organizations. Comments should be submitted to DOI on or before January 23, 2004. DOI's Recipient LEP Guidance will become final after the comment period. However, DOI will review all timely submitted comments, and determine what modifications, if any, are necessary to the policy guidance, and issue modifications if necessary.

**ADDRESSES:** Comments should be sent to: E. Melodee Stith, Director, Office for Equal Opportunity, U.S. Department of the Interior, 1849 C Street, NW., Mail Stop 5221, Washington, DC 20240, E-mail: [melodee\\_stith@ios.doi.gov](mailto:melodee_stith@ios.doi.gov), Phone: (202) 208-5693, FAX: (202) 208-6112.

**FOR FURTHER INFORMATION CONTACT:** Melvin C. Fowler, Civil Rights Staff Assistant, Office for Equal Opportunity, U.S. Department of the Interior, 1849 C Street, NW., Mail Stop 5221, Washington, DC 20240, E-mail: [Melvin\\_C\\_Fowler@ios.doi.gov](mailto:Melvin_C_Fowler@ios.doi.gov), Phone: (202) 208-3455, FAX: (202) 208-6112.

**SUPPLEMENTARY INFORMATION:** Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* (Title VI), and Title VI 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. Executive Order 13166 further directs that all such guidance documents be consistent with the compliance standards and framework detailed in Department of Justice Policy Guidance 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).

Because this Guidance also must adhere to the Federal-wide compliance standards and framework detailed in the model Department of Justice LEP

Guidance issued on June 18, 2002, DOI specifically solicits comments on the nature, scope, and appropriateness of the DOI-specific examples set out in this guidance explaining and/or highlighting how those Federal-wide guidelines are applicable to recipients of DOI financial assistance.

It has been determined that this guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553.

## Department of the Interior

### *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*

#### 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."

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 programs 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 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 assisted programs and activities.<sup>1</sup>

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.<sup>2</sup> These are the same criteria DOI will use in evaluating whether recipients are in compliance with Title VI and Title VI regulations.

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 Department plans to work with the Department of Justice to continue to provide assistance and guidance in this important area and to identify and share model plans, examples of best practices, and cost-saving approaches. 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

<sup>1</sup> The Department of the Interior 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 programs and identify 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.

<sup>2</sup> The policy guidance is not a regulation but rather a guide. Title VI and its implementing regulations require that recipients take reasonable 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.