

identifying populations for whom outreach is needed and who would benefit from the recipient's programs and activities were language services provided.

*(2) The Frequency With Which LEP Individuals Come in Contact With the Program*

Recipients should assess, as accurately as possible, the frequency with which they have or should have contact with a LEP individual from different language groups seeking assistance. The more frequent the contact with a particular language group, the more likely that enhanced language services in that language are needed. The steps that are reasonable for a recipient that serves a LEP person on a one-time basis will be very different than those expected from a recipient that serves LEP persons daily. It is also advisable to consider the frequency of different types of language contacts. For example, frequent contacts with Spanish-speaking people who are LEP may require certain assistance in Spanish. Less frequent contact with different language groups may suggest a different and less intense solution. If a LEP individual accesses a program or service on a daily basis, a recipient has greater duties than if the same individual's program or activity contact is unpredictable or infrequent. But even recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if a LEP individual seeks services, benefits, or information under the program in question. This plan need not be intricate. It may be as simple as being prepared to use one of the commercially available telephonic interpretation services to obtain immediate interpreter services. In applying this standard, recipients should take care to consider whether appropriate outreach to LEP persons could increase the frequency of contact with LEP language groups.

*(3) The Nature and Importance of the Program Activity, or Service Provided by the Program*

The more important the activity, information, service, or program or the greater the possible consequences of the contact to the LEP individuals, the more likely language services are needed. The obligations to provide language assistance services to residents of a community near a raging wildfire or other environmental emergency, to a person who is suspected of a crime committed in a park, or to an ill or injured park visitor, differ from obligations to individuals seeking to

enroll in a voluntary conservation class. A recipient needs to determine whether denial or delay of access to benefits, services, warnings, or information could have serious or even life-threatening implications for the LEP individual. Decisions by a Federal, State, or local entity to make an activity compulsory, such as particular educational programs, essential licenses, or the communication of *Miranda* rights, can serve as strong evidence of the program's importance.

*(4) The Resources Available to the Recipient and Costs*

A recipient's level of resources and the costs that would be imposed on it may have an impact on the nature of the steps it should take. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, "reasonable steps" may cease to be reasonable where the costs imposed substantially exceed the benefits.

Resource and cost issues, however, can often be reduced by technological advances; the sharing of language assistance materials and services among and between recipients, advocacy groups, and Federal assistance agencies; and reasonable business practices. Where appropriate, training bilingual staff to act as interpreters and translators, information sharing through industry groups, telephonic and video conferencing interpretation services, pooling resources and standardizing documents to reduce translation needs, using qualified translators and interpreters to ensure that documents need not be "fixed" later and that inaccurate interpretations do not cause delay or other costs, centralizing interpreter and translator services to achieve economies of scale, using universally understood pictorial signs, or the formalized use of qualified community volunteers, for example, may help reduce costs.<sup>8</sup> Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns. Large entities and those entities serving a significant number or proportion of LEP persons should ensure that their resource limitations are well-substantiated before using this factor as a reason to limit language assistance. Such recipients may find it useful to be able to articulate, through documentation or in some other

reasonable manner, their process for determining that language services would be limited based on resources or costs.

**VI. How Language Assistance Services Should Be Provided**

This four-factor analysis necessarily implicates the "mix" of LEP services required. Recipients have two main ways to provide language services: Oral interpretation either in person or via telephone interpretation service (hereinafter "interpretation") and written translation (hereinafter "translation"). Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons to access through commercially available telephonic interpretation services. Written translation, likewise, can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in other cases, the LEP individual may be referred to another office of the recipient for language assistance.

The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. For instance, fire departments or other emergency services located near an Indian reservation may need immediate oral interpreters available and should give serious consideration to hiring some bilingual staff. (Of course, many fire departments may have already made such arrangements.) In contrast, there may be circumstances where the importance and nature of the activity and number or proportion and frequency of contact with LEP persons may be low and the costs and resources needed to provide language services may be high—such as in the case of a voluntary general public tour of a park—in which pre-arranged language services for the particular service may not be necessary. Regardless of the type of language service provided, quality and accuracy of those services can be critical in order to avoid serious consequences to the LEP person and to the recipient. Recipients have substantial flexibility in determining the appropriate mix.

**VII. Selecting Language Assistance Services**

When selecting a language service, it is important to consider the quality and accuracy of such service in order to avoid serious consequences to the LEP person and the recipient.

<sup>8</sup> Small recipients with limited resources may find that entering into a bulk telephonic interpretation service contract will prove cost effective.