**CONDUCTING A FOUR-FACTOR ANALYSIS**

1. **FACTOR ONE: The number or proportion of LEP persons served or encountered.**

* Determine the number and percentage of LEP persons within the jurisdiction or within the community(ies) served by recipient’s programs and activities.
* Utilize data sources that describe the number and percentage of people in various LEP/language populations within the appropriate geographic area:
* Use Census 2010 or American Community Survey (ACS) estimates for those in the jurisdiction who speak English less than very well: *See* C16004: “Age by Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over.”
* Search at American FactFinder: <http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t>
* Enter “English” or “Language” in the topics field. Enter “Denver County, Colorado” in the state, county, or place field.
* *See* DP02: “Selected Social Characteristics in the United States,” most recent five-year ACS data for “Language Spoken at Home.”
* *See* B06007: “Place of Birth by Language Spoken at Home and Ability to Speak English in the United States,” most recent five-year ACS data.
* *See* B16001: “Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over,” most recent five-year ACS data.
* Use data from local school system and community organizations.
* Use data from state and local governments.

1. **FACTOR TWO: Frequency of Contacts with LEP persons.**

* Consider recipient’s prior experiences with LEP encounters, including the frequency and resources needed to ensure meaningful access.
* Frequent contacts with people from one language group may require extensive assistance; less frequent contact with a different language group may require a different, less intense solution.
* Even recipients that serve LEP persons on an unpredictable or infrequent basis must use this analysis to determine what to do if an LEP individual seeks services.

1. **FACTOR THREE: Nature and importance of the program, activity, or service provided.**

* The more important/crucial the activity, information, service, or program, the more likely there is a need for language services.
* The greater the possible consequences of not providing language services to LEP persons, the more likely there is a need for language services.

1. **FACTOR FOUR: Resources available and costs to the recipient.**

* Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets.
* “Reasonable steps” to ensure meaningful access may no longer be reasonable if the costs substantially exceed the benefits.
* Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns.

**DEVELOPING A LANGUAGE ACCESS PLAN (LAP) OR IMPLEMENTATION PLAN**

1. **Adopting an LAP that Addresses the Needs Identified through the Four-Factor Analysis**

* A written LAP is helpful for proving compliance and ensuring meaningful access but is not required.
* In the absence of a written LAP, relevant staff members should be able to implement and articulate the LAP. Therefore, recipients must consider alternative ways to articulate the plan for providing meaningful access.
* The absence of a written LAP does not obviate the recipient’s obligation to ensure meaningful access by LEP persons.

1. **Elements of an LAP**

* An explanation of the results of the recipient’s four-factor analysis, including identification of the LEP populations most likely to require language assistance.
* A description of the method recipient will use to identify LEP persons that require language assistance. Language identification (“I speak”) cards invite LEP persons to identify their own language needs

*See* <http://www.lep.gov/ISpeakCards2004.pdf>.

* Recipients may maintain language records for LEP persons along with any usual records kept to document interactions with members of the public.
* Identification of the types of language assistance recipient will provide, including:
* The types of language assistance available within the community by provider, type of assistance, contact information, etc.;
* Instructions about how staff members can access the available language services;
* Instructions about how to respond to LEP callers;
* Instructions about how to respond to written communications from LEP persons; and
* Instructions about how to respond to LEP persons who have in-person contact with members of recipient’s staff.
* An explanation about how to ensure the competency of interpreters and translations services used
* A process for ensuring that recipient’s staff members:
* Are aware of the LEP policies and procedures;
* Are trained to work effectively with interpreters; and
* Know how to implement the LAP.
* A process to provide effective outreach to the LEP community by:
* Notifying LEP persons about the availability of free language assistance services;
* Providing notices in the correct language(s) to reach the jurisdiction’s LEP populations;
* Posting signs in common areas, offices, and anywhere else where recipient accepts applications for programs, services, or activities;[[1]](#footnote-1)
* Providing appropriate statements in outreach documents (including brochures, booklets, websites, etc.) that language services are available without cost;
* Informing LEP persons about language assistance services through non-profit/community organizations, local schools, faith-based organizations, etc.;
* Providing a telephone voice mail menu in the most common languages encountered;
* Publishing notices in/on local non-English media (i.e., newspapers, radio, and television stations).

1. **Types of Language Assistance**

* Oral interpretation and written translation services
* Bilingual or multilingual staff members
* Telephonic service line interpreters

1. **Oral Interpretation**

* Regardless of the number/percentage of LEP persons a recipient serves, recipients must make oral interpretation services available in some form. Reasonable forms of oral interpretation services may include:
* In-person or telephone service line interpreter.
* When selecting service providers, remember that quality and accuracy is critical to avoid serious consequences to the LEP person and to the recipient.
* Competency requires more than just self-identification as bilingual.
* Formal certification as an interpreter is not necessary but would serve as documentation of competency.
* Interpreters must understand and follow confidentiality and impartiality rules.
* Oral interpretation services need to be available in a timely manner:
* Timely means at a time and place that avoids the effective denial of the service, benefit, or right at issue, or an undue burden on or delay in important rights, benefits, or services to the LEP person.
* A recipient may not be providing meaningful access, for example, by having one bilingual staff person available only one day each week to provide language assistance if that results in delays for LEP persons that are greater than those for English-proficient persons.
* **USE OF FAMILY MEMBERS OR FRIENDS AS INTERPRETERS:**
* Recipients should not rely on an LEP person’s family members, friends, or other informal interpreters to provide meaningful access to important programs and activities.
* Recipients should take special care to ensure that family, legal guardians, caretakers, and other informal interpreters are appropriate in light of the circumstances and subject matter.
* Family members (especially children) may not be competent to provide quality and accurate interpretations.
* The recipient should exercise extra caution when the LEP person chooses to use a minor as an interpreter, taking care to ensure that the LEP person is aware of the possible problems, and that the LEP person knows that the recipient has other oral interpretation services available at no cost to the LEP person.

1. **Written Translation**

* Some LEP persons may not be able to read their native languages: Recipients may need to have back-up oral interpretation available.
* Interpreting and translating require different skills: A competent interpreter may or may not be competent to translate.
* Ensuring the Accuracy of Legal or Vital Documents
* VITAL DOCUMENTS:
* Create or define legally enforceable rights or responsibilities on the part of individual beneficiaries;
* Solicit important information required to establish or maintain eligibility to participate in a federally assisted program or activity; and
* Include:
* Intake forms;
* Applications;
* Consent forms;
* Leases;
* Rules of conduct;
* Complaint forms;
* Certification forms;
* Notices of public hearings; and
* Eviction notices, among others.
* To ensure the quality of written translations and oral interpretations, HUD encourages recipients to use professional interpreters and translators.
* Use professional translators to check translated documents for accuracy.
* BACK TRANSLATION: Use a second independent translator to translate the document back into English to ensure the correct meaning has been conveyed.
* Translators should understand the expected reading level of the audience.
* Providing translators with examples of past translations of similar materials may be useful.
* Check local laws to determine the validity of legal documents (i.e., contractual agreements, leases) that are not written in English: HUD recommends that recipients have tenants and buyers sign an English language lease or sales contract with the translated document provided to the LEP tenant or buyer marked “For Information Only.”
* SAFE HARBOR STANDARD FOR PROVIDING TRANSLATION OF VITAL DOCUMENTS:
* Recipients should provide written translation of vital documents for each eligible LEP language that constitutes 5% or 1,000 individuals, whichever is less, of the population of persons eligible for programs, activities, or services, or likely to be affected or encountered. Recipients may provide oral interpretation for non-vital documents.
* If 5% of the population of persons eligible or likely to be served or encountered is less than 50 individuals, the recipient may provide written notice in the primary language of the LEP group of the availability of free, competent oral interpretation of written materials.

**SUGGESTED LOW COST LANGUAGE ASSISTANCE RESOURCES**

* Technology: Telephonic and video conferencing interpretation services
* Sharing language assistance materials and services with other organizations
* Centralized interpreter and translator services
* Formalized use of qualified community volunteers
* Pooling resources and standardized documents
* Using qualified translators and interpreters to avoid duplicating efforts later
* Training bilingual staff members to act as interpreters and translators

**LEP REFERENCE MATERIALS**

* **Federal government LEP website:** [www.lep.gov](http://www.lep.gov)
* **Language Services Database:** <http://www.gsa.gov/Portal/gsa/ep/channelView.do?pageTypeId=8211&channelPage=/ep/channel/gsaOverview.jsp&channelId=-13004>.
* **Language identification (or “I speak”) cards:**

<http://www.lep.gov/ISpeakCards2004.pdf>

<http://www.usdoj.gov.crt/cor/13166.htm>

<http://www.lep.gov/ocjs_languagecard.pdf>

* **Language Assistance Tips and Tools:** <http://www.lep.gov/tips_tools_92104.pdf> or

<http://www.lep.gov/tips_tools_92104.htm>

1. *See* <http://www.ssa.gov/multilanguage/langlist1.htm>. [↑](#footnote-ref-1)