

# **The Department of Health and Human Services**

## **LANGUAGE ACCESS PLAN 2013**

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## HHS LANGUAGE ACCESS POLICY AND IMPLEMENTATION<sup>1</sup>

### a. Goal

Each HHS **agency**<sup>2</sup> of the Department of Health and Human Services (HHS) shall provide access to timely, quality **language assistance services** to individuals with **limited English proficiency (LEP)**.

### b. Purpose and Authority

This plan establishes a strategy for ensuring meaningful access by individuals with LEP to HHS administered programs and activities in accordance with Executive Order 13166 (EO 13166), *Improving Access to Services For Persons With Limited English Proficiency*, issued August 11, 2000. The Order set two overarching goals for each federal agency: 1) improve access to federally funded programs and activities by persons with LEP;<sup>3</sup> and, 2) implement a system by which individuals with LEP can meaningfully access the agency's services consistent with, and without unduly burdening, the fundamental mission of the agency. With respect to the first goal, the Department issued the HHS *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*. HHS addressed the second goal by submitting to the Department of Justice HHS's *Strategic Plan for Improving Access to HHS Programs and Activities by Limited English Proficient (LEP) Persons* (2000 HHS **Language Access Strategic Plan**).

On February 17, 2011, the U.S. Attorney General (AG) issued a memorandum to agency heads, general counsels and civil rights heads entitled: *Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166* (AG Memo). The Memorandum requests that agencies take eight specific actions (Appendix C), including creating a language access working group to update agency Language Access Plans.<sup>4</sup> In accordance with the AG Memo, this FY 2013 HHS Language Access Plan (HHS Language Access Plan) outlines specific action steps for its staff divisions and operating divisions to include in their respective agency-specific plans to ensure Departmental language access goals and strategies are fully implemented. This plan also establishes long-term responsibilities for the HHS Language Access Steering Committee (Steering Committee) to ensure HHS and its divisions continuously improve access by individuals with LEP to HHS conducted programs and activities.

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<sup>1</sup> This directive is intended only to improve the internal management of the Department's language access program and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

<sup>2</sup> Terms that are bolded and underlined are included in the glossary in Appendix A.

<sup>3</sup> Under Title VI of the Civil Rights Act of 1964 and implementing regulation, failure of a recipient of federal financial assistance to take reasonable steps to provide meaningful access by persons with LEP to covered programs and activities could violate Title VI.

<sup>4</sup> Activities under the plan must also comply with The Plain Writing Act of 2010, which requires federal agencies to use plain writing for all public communication, especially public communication about benefits and services. The use of plain language in any language used to communicate with individuals with LEP will help ensure accurate, understandable interpretations and translations and support the overall goal of meaningful access.

Please note that, although this HHS Language Access Plan is established under authority of EO 13166 and applies to all HHS conducted programs and activities, some HHS conducted health programs and activities must also provide language assistance services in accordance with Section 1557 of The Patient Protection and Affordable Care Act. Questions related to Section 1557 should be directed to the Office for Civil Rights. Also, E O 13166 and the HHS Language Access Plan are intended only to improve the internal management of agencies of the executive branch and do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

c. Policy Statement

The policy of the Department is to provide individuals with limited English proficiency meaningful access to HHS conducted programs and activities for which they may be individually eligible to participate.

d. Plan Development and Implementation

The HHS Language Access Steering Committee is led by the Director of the Office for Civil Rights on behalf of the Secretary and is comprised of representatives from every HHS operational and staff division. The Steering Committee is responsible for updating the 2000 HHS Language Access Strategic Plan and overseeing development and implementation of agency-specific language access plans that incorporate and address all the elements and action steps in the HHS Language Access Plan.

Implementation includes distribution of the HHS Language Access Plan to all field and district offices as well as the development and implementation of agency-specific plans by every HHS staff and operational division. Implementation of agency-specific plans includes but is not limited to staff training, stakeholder consultation, self-assessment, adoption of effective methods for providing language assistance services, regularly improving practices for reaching and serving populations with LEP, and notifying external stakeholders about the availability of language assistance services through the web, social media, or other outreach initiatives.

The Steering Committee will meet biannually or as needed to develop and lead Department-wide language access initiatives and collaborations, including those designed to leverage resources and improve both HHS and recipient service to individuals with LEP. The Steering Committee will also monitor and evaluate progress and effectiveness in meeting HHS obligations under EO 13166 and share resources and effective practices for addressing training, translation, interpretation, and other critical language access issues across divisions.

## HHS LANGUAGE ACCESS PLAN

This plan is aligned to the HHS service population demographics, accessibility goals and requirements established in the Patient Protection and Affordable Care Act, and directives included in EO 13166 as well as the AG Memo. Each of the seven original elements were analyzed and updated as necessary to respond to changes in demographics, HHS goals, policies and legislation. In addition to these updates, three new elements were added. The ten elements outlined and described in this plan establish practical goals, policies and action steps for HHS agencies to include in agency-specific plans and policies. The intention of this and the agency-specific plans is to provide meaningful access to individuals with LEP to HHS conducted programs and activities. Consistent with EO 13166, HHS agencies have flexibility to develop plans that address the specific circumstances of their programs, activities and resources. OCR will serve in a technical assistance role as needed to agencies needing help developing their plans to comply with EO 13166.

Within one year of the issuance of the HHS Language Access Plan, divisions shall develop and implement agency-specific language access plans and policies that incorporate and address the elements and action steps in the HHS Language Access Plan. Agencies shall submit their agency-specific plans to the HHS Language Access Steering Committee Chair. The Committee Chair will submit a report to the Secretary detailing agency progress with implementing their language access plans in accordance with the AG Memo.

Whenever possible and appropriate, the actions in this plan should be implemented in conjunction with other agency initiatives to increase access to health care and services, improving health quality, and reducing health and healthcare disparities, such as: HHS Action Plan to Reduce Racial and Ethnic Health Disparities; National Action Plan to Improve Health Literacy; National HIV/AIDS Strategy; and, the National Standards for Culturally and Linguistically Appropriate Services in Health and Health Care (CLAS Standards).

Although this plan is intended to promote effective communication between HHS components and individuals with LEP, agencies can apply many aspects of this plan to also ensure they are communicating effectively with persons with disabilities. HHS is responsible for enforcing the non-discrimination requirements under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act (ADA) of 1990 to protect persons from being discriminated against on the basis of their disability in the provision of benefits or services or the conduct of programs or activities. Section 504 applies to programs or activities that receive Federal financial assistance, and Title II of the ADA covers all of the services, programs, and activities conducted by public entities (state and local governments, departments, agencies, etc.), including licensing. HHS components should consult with OCR for assistance in providing communication assistance to persons with disabilities.

**ELEMENTS AND ACTION STEPS**

The Department's language access policy is defined in ten elements that are essential for any language access plan. The HHS Language Access Plan also identifies specific steps that HHS agencies must take to implement the Department's policy at the program level. HHS agencies have flexibility in how they apply the action steps to their programs and activities.

ELEMENT 1: Assessment: Needs and Capacity

ELEMENT 2: Oral Language Assistance Services

ELEMENT 3: Written Translations

ELEMENT 4: Policies and Procedures

ELEMENT 5: Notification of the Availability of Language Assistance at No Cost

ELEMENT 6: Staff Training

ELEMENT 7: Assessment: Access and Quality

ELEMENT 8: Stakeholder Consultation (New Element)

ELEMENT 9: Digital Information (New Element)

ELEMENT 10: Grant Assurance and Compliance (New Element)

**ELEMENT 1: Assessment: Needs and Capacity**

Each HHS agency will have in place processes to regularly identify and assess the language assistance needs of its current and potential customers, as well as the processes to assess the agency's capacity to meet these needs according to the elements of this plan.

**Description:**

HHS agencies must assess the language assistance needs of their current and potential customers in order to inform policy and processes necessary to implement language assistance services that increase access to their respective programs and services for all populations. This assessment may include identifying the non-English languages spoken by the population likely to be accessing the agency's services, and whether barriers – including literacy barriers – exist that hinder effective oral and written communication with individuals with LEP. Language data may be collected from various sources, including data from the Census Bureau, customer files, school systems, refugee/immigrant agencies or community agencies.

Each HHS agency must also assess its capacity to meet the needs of its current and potential customers in order to fulfill HHS's commitment to provide competent language assistance at no cost and in a timely manner to individuals with LEP. HHS agency self-assessments will also help ensure meaningful access to and an equal opportunity to participate fully in their services, activities, programs or other benefits administered by the agency. This includes ensuring effective communication between individuals with LEP and agency staff members and contractors.

Note: Each agency should determine whether a particular office or official should be responsible for conducting their needs and capacity assessments and whether the office or official responsible for Element 1 should also be responsible for Element 7.

The following steps illustrate the actions HHS agencies must take to implement Element 1 within their own program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for conducting annual assessments. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for another element.
- b. Annually consult internal experts, advocacy organizations, individuals with LEP, subject matter experts, and applicable research to determine effective practices for assessing and implementing language assistance needs of current and projected customers with respect to all public interface mechanisms, including but not limited to: marketing and outreach; technical assistance; face-to-face and over-the-phone customer service; clearinghouses; ombudsman activities; websites; and multilingual survey and other customer assessment instruments.

- c. Consult with internal experts to identify existing capacity to provide language assistance services, such as bilingual and multilingual staff qualified to serve as interpreters and the availability of contract interpreter and translation services.
- d. Identify gaps where language assistance services are inadequate to meet need and identify and take specific steps at all locations to enhance language assistance services.
- e. Use data resources, such as U.S. Census data (e.g., American Community Survey), when program-specific data is unavailable, to evaluate the extent of need for language assistance services in particular languages or dialects at the national and regional level.
- f. Modify existing satisfaction and other surveys of beneficiaries or customers, and other means of obtaining feedback on services delivered, to include collection of data, including at point of entry, on preferred language, English proficiency, and immigration trends as appropriate.
- g. Append language need assessments to agency-specific language access plans, including LEP data from customer satisfaction surveys and program reviews.
- h. Share needs and capacity data across programs and the Department as appropriate, including data identifying staff with expertise in delivering culturally and linguistically appropriate services to customers.
- i. Research new procedures and practices proven to enhance the provision of more efficient language assistance services and share such practices throughout the Department.

**ELEMENT 2: Oral Language Assistance Services**

Each HHS agency will provide oral language assistance (such as qualified interpreters or staff whose proficiency in non-English languages has been documented), in both face-to-face and telephone encounters, that addresses the needs identified in Element 1. Each HHS agency will establish a point of contact for individuals with LEP, such as an office, official, or phone number.

**Description:**

HHS agencies must provide oral language assistance services to ensure meaningful access to and an equal opportunity to participate fully in the services, activities, programs or other benefits administered by the HHS agency as described in Element 1. Language assistance may be provided through a variety of means, including qualified bilingual and multilingual staff, staff or contract interpreters (including telephonic interpretation), and interpreters from community organizations or volunteer interpreter programs. Agencies must ensure that the interpreters they use are qualified to provide the service and understand interpreter ethics and client confidentiality needs.

A single point of contact, such as an office or official, should coordinate oral language assistance services at each HHS agency so that agency staff can refer any and all customers to a designated person trained to obtain qualified interpreter services in a timely manner.

The following steps illustrate the actions HHS agencies must take to implement Element 2 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for developing a program that ensures individuals with LEP participating or attempting to participate in agency programs or activities are provided oral language assistance services in accordance with this plan. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for another element.
- b. Provide points of contact and phone numbers to ensure individuals with LEP can reach agency staff and managers who can communicate effectively with respect to agency programs and activities or provide them an interpreter at no cost.
- c. Devise criteria for assessing bilingual staff to determine ability to provide services in languages other than English and to provide competent interpreter services.
- d. Maintain a list of qualified bilingual and multi-lingual staff capable of providing competent interpreter services in languages other than English.
- e. Establish a list of all contacts and other resources available to the agency and qualified in providing direct, telephonic, or video oral language assistance to individuals with LEP seeking information on or access to agency programs and activities.

- f. Share oral language resources across programs and the Department as appropriate.
- g. Request that other departments share best practices to enhance oral language assistance and implement as appropriate in agency programs and activities.
- h. Consult with experts (internal or external) who are able to provide technical assistance to recipients, sub-recipients, contractors and others to ensure awareness about the obligation to take reasonable steps to provide meaningful access and share language assistance resources and effective practices.
- i. Identify positions appropriate for making bilingual skill a selection criterion for employment, include such criterion in the position description and job announcement, and determine applicants' language skills before making hiring decisions.

### ELEMENT 3: Written Translations

Each HHS agency will identify, translate and make accessible in various formats, including print and electronic media, vital documents in languages other than English in accordance with assessments of need and capacity conducted under Element 1.

#### Description:

HHS agencies must provide written translations to ensure meaningful access to and an equal opportunity to participate fully in the services, activities, programs or other benefits administered by the agency as described in Element 1. Given the disparate activities and areas of focus within the Department, a universal threshold has not been established. However, it is incumbent upon each agency to determine for its programs and activities what constitutes vital documents, such as applications, and implement a translation strategy.

Because agencies will translate vital documents based on their respective assessments of need and capacity, different translation strategies will result for different agencies. However, all vital documents, regardless of language, should be easy to understand by target audiences. Matters of plain language and literacy should be considered for all documents, including vital documents before and after the translation process.

The following steps illustrate the actions HHS agencies must take to implement Element 3 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

#### Action Steps:

- a. Designate an office or official responsible for developing a program that ensures individuals participating or attempting to participate in agency programs or activities are provided written language assistance services in accordance with the agency's needs, capacity assessment and this plan. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element.
- b. Identify materials already available in non-English languages, make such resources known among all agency programs as appropriate, consider offering in audio format and revising as needed to ensure quality and **plain language**, and ensure new translations are accurate.
- c. Provide points of contact and phone numbers to ensure agency staff and managers can arrange for document translation when necessary to improve access to agency programs and activities as agency resources allow.
- d. Identify vital documents (as defined in Appendix A) and budget resources for translating such documents in accordance with the agency's translation program, based on its assessment of need and capacity. Identify documents used in areas where the program regularly encounters languages other than English in serving its customers and take steps to provide translation in those non-English languages.
- e. Use the services of qualified, professional translators.

**ELEMENT 4: Policies and Procedures**

Each HHS agency will develop, implement and regularly update written policies and procedures that ensure individuals with LEP have **meaningful access** to agency programs and activities.

**Description:**

HHS agencies must establish and maintain an infrastructure to implement and improve language assistance services within the agency. The results of the assessment from Element 1 should be used to inform the development of policies and procedures appropriate for the agency and the current and potential individuals with LEP they serve.

The following steps illustrate the actions HHS agencies must take to implement Element 4 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for developing and implementing written language access policies and procedures and ensuring each element of the HHS Language Access Plan is implemented in their agency's respective programs and activities. The designated office or official will regularly monitor the efficacy of services provided and share effective practices with other agencies. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element. These offices and officials should coordinate with the Plain Writing Act officials in each HHS agency.
- b. Develop policies and procedures for receiving and addressing language assistance concerns or complaints from customers with LEP of HHS-conducted activities and establish policies and procedures to improve services.
- c. Share policies and procedures, highlighting those that might be more effective or efficient if adopted on a Department-wide basis, with the Steering Committee in response to its annual request for information so this information can be compiled and shared among the HHS offices or officials responsible for developing and implementing language access programs.
- d. Share language access practices that might be more effective or efficient if adopted by more than one Department with the Federal Interagency Working Group on LEP.

**ELEMENT 5: Notification of the Availability of Language Assistance at No Cost**

Each HHS agency, in accordance with agency needs and capacity and in plain language, will proactively inform individuals with LEP that language assistance is available at no cost.

**Description:**

HHS agencies are responsible for taking steps to ensure meaningful access to their programs, including notifying current and potential customers with LEP about the availability of language assistance at no cost. Notification methods may include multilingual posters, signs and brochures, as well as statements on application forms and informational material distributed to the public, including electronic forms such as agency websites, **taglines** in English, written documents, etc. The results from the Element 1 assessment should be used to inform the agency on the languages in which the notifications should be translated.

The following steps illustrate the actions HHS agencies must take to implement Element 5 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for developing and implementing an agency strategy for notifying individuals with LEP who contact the agency or are being contacted by the agency, that language assistance is available to them at no cost. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element.
- b. Distribute and make available resources, such as the Department's *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (HHS LEP Guidance) and Federal Plain Language Guidelines, directly and over the Internet to all current grantees, providers, contractors and vendors. In addition provide technical assistance necessary to make recipients aware that language assistance services that are provided in order to comply with Title VI of the Civil Rights Act of 1964 (Title VI) must be provided at no cost to those in need of language assistance services.
- c. Utilize various methods and networks, including public service announcements, non-English media and community-and faith-based resources, to ensure that the agency's target audiences<sup>5</sup> are aware that language assistance services are provided at no cost to them. In addition find opportunities to inform individuals with LEP that the HHS LEP Guidance is also available in languages other than English.
- d. Develop and prominently display appropriate language taglines on vital documents, web pages currently available in English only, technical assistance and outreach material, as well as other documents notifying target audiences that language assistance is available at no cost and how it can be obtained.

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<sup>5</sup> Including hard to reach communities which may not be part of an organization's traditional outreach, including refugees and American Indian Tribes and Alaska Natives.

- e. Highlight the availability of consumer-oriented materials in plain language and languages other than English on Department websites and ensure such materials inform individuals with LEP about available language assistance services.

**ELEMENT 6: Staff Training**

Each HHS agency will commit resources and provide employee training as necessary to ensure management and staff understand and can implement the policies and procedures of this plan and their respective agency Language Access Plan. Agency-designed training will help ensure all HHS employees understand the importance of and are capable of providing effective communication to individuals with LEP in all their programs and activities.

**Description:**

In order to ensure HHS employees understand the importance of and are capable of providing both oral and written language assistance services in all their programs and activities to individuals with LEP, agencies must designate an office or official to establish and maintain an infrastructure to help staff implement and improve language assistance services within the agency. In addition, a designated office or official can regularly monitor the efficacy of services and training provided and share effective practices with other agencies. Each agency should determine which staff members should receive training in the related policies, procedures, and provision of language assistance services. All agency staff should be notified that their agency provides language assistance and informed on how to contact the designated office or official.

The following steps illustrate the actions HHS agencies must take to implement Element 6 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for developing, implementing, and committing resources necessary to train agency designated employees to implement this plan and their respective agency plans. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element.
- b. Develop, make available, and disseminate training materials that will assist management and staff in procuring and providing effective communication for individuals with limited English proficiency.
- c. Train management and staff on the policies and procedures of the agency-specific language assistance program, on proven language assistance practices, and in the use of resources available in each agency and program to provide language assistance to persons with LEP in a timely manner.
- d. Train agency staff who communicate with HHS-funded entities about the requirements of Title VI and offer training resources to promote awareness of the HHS LEP Guidance.
- e. Train appropriate staff on when and how to access and utilize oral and written language assistance services, how to work with interpreters and translators, how to convey complex information using plain language, and how to communicate effectively and respectfully with individuals with limited English proficiency.
- f. Train appropriate staff on how to commission and assure the quality of translation.

**ELEMENT 7: Assessment: Access and Quality**

Each HHS agency will regularly assess the accessibility and quality of language assistance activities for individuals with limited English proficiency, maintain an accurate record of language assistance services, and implement or improve LEP outreach programs and activities in accordance with customer need and agency capacity.

**Description:**

To increase availability and quality of language assistance services, agencies must designate an office or official to establish an infrastructure to assess and evaluate the language assistance services within the agency on an ongoing basis. In addition, a designated office or official can regularly monitor the efficacy of services provided to individuals with LEP. Areas of evaluation should include customer waiting lines, customer satisfaction, quality of written translations, utilization of appropriate communication channels, and the accessibility and quality of language assistance services provided.

The following steps illustrate the actions HHS agencies must take to implement Element 7 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for developing and maintaining an accurate record of a program that regularly assesses and takes necessary steps to improve and ensure the quality and accuracy of language assistance services provided to individuals with LEP. Implement methods for measuring improvements in language access in individual programs and take steps to ensure that such information is collected in a manner that increases comparability, accuracy and consistency across programs. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element.
- b. Review and address complaints received from individuals with LEP with respect to language assistance services and products or other services provided by the agency, in a timely manner.
- c. Identify best practices for continuous quality improvement regarding agency language assistance activities. Share such practices with the Steering Committee, which may offer them as guidance to HHS components, grantees, contactors and recipients as appropriate.
- d. Implement methods for measuring improvements in language access in individual programs and take steps to ensure that such information is collected in a manner that increases comparability, accuracy, and consistency across programs.
- e. Identify and disseminate data to the Steering Committee to help other HHS components facilitate organization-wide learning and coordination, collaboration on high impact outreach, or developing cross-cutting audience-appropriate messaging to mutual customer communities.

**ELEMENT 8: Stakeholder Consultation (New Element)**

Each HHS agency will consult with stakeholder communities, in accordance with this and other federal policies,<sup>6</sup> to identify language assistance needs of individuals with LEP, implement appropriate language access strategies to ensure individuals with LEP have meaningful access in accordance with assessments of customer need and agency capacity, and evaluate progress on an ongoing basis.

**Description:**

Agencies can obtain important information and insight from stakeholder communities. This information may be critical for conducting the assessments of need, capacity and accessibility under Elements 1 and 7. Stakeholders can provide agencies with qualitative and first-hand data on the needs of their current and potential individuals with LEP.

The term “stakeholder” should always include beneficiaries but also be viewed more broadly to include recipients of federal financial assistance, vendors, advocacy organizations, and representatives from a broad cross section of the language access community, including individuals with disabilities, etc. Also, agencies might use studies, reports or other relevant material produced by stakeholders as forms of stakeholder input.

Consultations can take many forms, from gathering information through town-hall style webcasts, conference calls, letters and in person meetings with stakeholder advocacy groups to posting information to agency websites for public comment.

The following steps illustrate the actions HHS agencies must take to implement Element 8 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for identifying opportunities to include stakeholders in the development of policies and practices that enhance access to agency programs and activities. Consult stakeholder communities to assess the accessibility, accuracy, cultural appropriateness and overall quality of HHS language assistance services. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element.
- b. Share HHS and agency Language Access Plans and resources with stakeholders and solicit feedback. Incorporate stakeholder input in HHS and agency Language Access Plans, as appropriate and consistent with this plan.
- c. Post agency Language Access Plans and resources on agency websites in accessible formats, and in multiple languages, as resources allow.

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<sup>6</sup> See HHS Tribal Consultation Policy at: <http://www.hhs.gov/iea/tribal/tribalconsultation/>

**ELEMENT 9: Digital Information (New Element)**

Each HHS agency will develop and implement specific written policies and procedures to ensure that, in accordance with assessments of LEP needs and agency capacity, digital information is accessible by communities in need of language services.

**Description:**

To help ensure individuals with LEP have access to digital information, are aware of and can obtain important program information, and use language assistance services when conducting business with HHS, it is essential to designate an office or official responsible for and capable of establishing and maintaining an infrastructure that effectively distributes information online in a manner that ensures meaningful access by individuals with LEP. In addition, a designated office or official can regularly monitor the efficacy and quality of services provided including ease of use and ease of access by individuals with LEP.

The following steps illustrate the actions HHS agencies must take to implement Element 9 within their own agency, program and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for developing and implementing an agency strategy for making its publicly available online information, including electronic records or databases used or funded by the agency, accessible to individuals with LEP in accordance with assessments of need and capacity. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element.
- b. Prominently display links on the agency's English language website to documents that are also available for viewing or downloading in languages other than English.
- c. Use and promote the resources on [www.lep.gov](http://www.lep.gov) by providing links to the LEP.gov website on agency and program websites.
- d. Explore opportunities to leverage social media to increase awareness and utilization by individuals with LEP of agency programs, activities, language assistance services, and products available in non-English languages.

**ELEMENT 10: Grant Assurance and Compliance (New Element)**

Each HHS granting agency will ensure that grant recipients understand and comply with their obligations under civil rights statutes and regulations enforced by HHS related to language access.

**Description:**

All HHS grantees must sign a form assuring that they will comply with federal civil rights laws; however, recipients generally do not fully understand their legal obligations under these laws. HHS program reviews present opportunities for reviewers to determine whether their recipients are operating in compliance with both program and civil rights regulations. Experience with several granting agencies indicates that staff training, site visit protocols, and adding civil rights guidance in grant announcements, requirements and policies can help ensure recipients of HHS assistance meet their program and civil rights obligations. To ensure grant applicants better appreciate their civil rights obligations and that HHS program staff can help identify instances when recipients need technical assistance to comply with the laws, an office or official must be designated to establish and maintain an infrastructure for adding civil rights guidance in grant material and train agency program staff on how to incorporate civil rights questions into their site visit protocols. In addition, a designated office or official can monitor and improve training and site visit protocols as needed.

The following steps illustrate the actions HHS agencies must take to implement Element 10 within their own agency, program, and activities. HHS agencies have flexibility in how these steps are implemented.

**Action Steps:**

- a. Designate an office or official responsible for developing and implementing written policies and procedures for incorporating civil rights information into its grant announcements, requirements, policy, etc., especially obligations under Title VI. Agencies can determine whether it is appropriate for this element to be implemented by the same office or official responsible for implementing another element.
- b. Share policies and procedures, highlighting those that might be more effective or efficient if adopted on a Department-wide basis, with the Steering Committee in response to its annual request for information so this information can be compiled and shared among the HHS offices or officials responsible for developing and implementing language access programs.
- c. Ensure agency program staff can make current and prospective recipients of agency funds aware of their obligations under federal civil rights statutes and regulations, especially obligations under Title VI with respect to LEP accessibility, including ensuring persons with LEP can utilize language access services.
- d. Add civil rights compliance language and guidance to each grant-making agency's program outreach materials to the extent feasible, including recommending that recipients implement language access plans to ensure compliance by program staff, sub-recipients, and contractors.

Example:

Recipients of federal financial assistance must not discriminate on the basis of race, color, national origin, disability, age, and in some cases sex or religion. The HHS Office for Civil Rights provides guidance to grantees in complying with civil rights laws that prohibit discrimination. [www.hhs.gov/ocr/civilrights/understanding/index.html](http://www.hhs.gov/ocr/civilrights/understanding/index.html).

HHS provides guidance to recipients of federal financial assistance on meeting the legal obligation to take reasonable steps to provide meaningful access to persons with limited English proficiency. [www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html](http://www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html).

Recipients must ensure their contractors and sub-recipients also comply with federal civil rights laws.

Ensure agency program staff, when conducting program reviews of their recipients, can make inquiries into whether the funded programs and activities are operated in compliance with Title VI and other civil rights laws enforced by HHS, and steer recipients to the HHS LEP Guidance.

- e. Develop grantee-oriented materials explaining grantee responsibilities for compliance with federal civil rights statutes and regulations with links to relevant guidance and civil rights complaint forms in multiple languages.
- f. Provide and promote links to resources and technical assistance documents on the grant-making agency's program website(s).

Appendix A	Definitions
Agency	Agency refers to HHS Operating Divisions (such as CDC, FDA or NIH) and Staff Divisions (such as the Office for Civil Rights or the Office of the Assistant Secretary for Public Affairs). Operating Divisions focus on specific programs and activities as authorized by Congress. Staff Divisions are part of the Office of the Secretary and serve in a coordinating role for the Department.
Applicant	Any person who inquires about or submits an application for public assistance benefits under any program or service.
Bilingual/Multilingual Staff	A staff member who has proficiency in English and at least one other language, has been assessed for professional interpreting skills and can use specialized terminology necessary for effective communication. A staff member who only has a rudimentary familiarity with a language other than English shall not be considered Bilingual/Multilingual Staff.
Contractor	Any entity that performs work or provides services on behalf of an agency or division under a contractual agreement with reimbursement.
Digital Information	Information, as defined in OMB Circular A-130, which the government produces and provides digitally to help individuals access HHS conducted programs and activities for which they are individually eligible to participate. OMB Circular A-130 defines digital information as any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual forms.
Interpreter	An individual who has been assessed for professional skills, demonstrates a high level of proficiency in at least two languages, and has the appropriate training and experience to render a message spoken or signed in one language into a second language and who abides by a code of professional ethics.
Language Access	Is achieved when individuals with LEP can communicate effectively with HHS employees and contractors and participate in HHS programs and activities.
Language Assistance	All oral and written language services needed to assist individuals with LEP to communicate effectively with HHS staff and contractors and gain meaningful access and an equal opportunity to participate in the services, activities, programs, or other benefits administered by HHS.

	programs, or other benefits administered by HHS.
Participant	Any person who has applied for and is receiving public assistance benefits or services under any HHS program or service.
Plain Language	Plain language as defined in the Plain Writing Act of 2010 is writing that is "clear, concise and well organized."
Preferred Language	The language that an LEP individual identifies as the preferred language that he or she uses to communicate effectively.
Sub-recipient	An entity that, on behalf of and in the same manner as a recipient of federal financial assistance, provides services to and has contact with applicants to and participants in a program administered by a recipient of federal financial assistance, but does not include an individual applicant or participant who is a beneficiary of the program.
Taglines	Brief messages that may be included in or attached to a document. Taglines in languages other than English can be used on documents written in English that describe how individuals with LEP can obtain translation of the document or an interpreter to read or explain the document.
Translation	Involves conveying meaning from written text in one language to written text in another language.
Translator	An individual who has been assessed for professional skills, demonstrates a high level of proficiency in at least two languages, and has the appropriate training and experience to render a written message into a second language and who abides by a code of professional ethics.
Vital Document	Include, but are not limited to: critical records and notices as part of emergency preparedness and risk communications; online and paper applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits; letters or notices pertaining to the reduction, denial, or termination of services or benefits that require a response from an individual with LEP; written tests that evaluate competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of language assistance services for individuals with LEP at no cost to them.

## **Appendix B: Executive Order 13166**

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

### **Section 1: Goals**

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

### **Section 2: Federally Conducted Programs and Activities**

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

### **Section 3: Federally Assisted Programs and Activities**

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

**Section 4: Consultations**

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

**Section 5: Judicial Review**

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,  
August 11, 2000

<http://www.justice.gov/crt/lep/13166/eolep.htm>

## Appendix C: Federal Government's Renewed Commitment to Language Access

In an effort to secure the federal government's full compliance with Executive Order 13166, and under the Department of Justice's (DOJ's) coordination authority conferred by Executive Order 12250, I request that your agency join DOJ in recommitting to the implementation of Executive Order 13166 by undertaking the following action items:

1. Establish a Language Access Working Group that reflects your agency's organizational structure and is responsible for implementing the federally conducted and federally assisted provisions of the Executive Order.
2. Evaluate and/or update your current response to LEP needs by, among other things, conducting an inventory of languages most frequently encountered, identifying the primary channels of contact with LEP community members (whether telephonic, in person, correspondence, web-based, etc.), and reviewing agency programs and activities for language accessibility.
3. Establish a schedule to periodically evaluate and update federal agency LEP services and LEP policies, plans, and protocols. As an initial step, within six months after the date of this memorandum, submit updated LEP plans and an anticipated time frame for periodic reevaluation of LEP plans and related documents to the Federal Coordination and Compliance Section (previously named the Coordination and Review Section) of DOJ's Civil Rights Division.
4. Ensure that agency staff can competently identify LEP contact situations and take the necessary steps to provide meaningful access.
5. Notify the public, through mechanisms that will reach the LEP communities you serve, of your LEP policies, plans, and procedures, and LEP access-related developments. Provide a link to materials posted on your website to the Federal Coordination and Compliance Section so that it can be posted on LEP.gov.
6. When considering hiring criteria, assess the extent to which non-English language proficiency would be necessary for particular positions or to fulfill your agency's mission.
7. For written translations, collaborate with other agencies to share resources, improve efficiency, standardize federal terminology, and streamline processes for obtaining community feedback on the accuracy and quality of professional translations intended for mass distribution.
8. For agencies providing federal financial assistance, draft recipient guidance. Note that such assistance is broadly defined to include not only financial grants, but also equipment, property, rental below fair market value, training, and other forms of assistance. Agencies that have not already done so should issue recipient guidance on compliance with language access obligations, and submit that guidance to the Federal Coordination and Compliance Section of DOJ's Civil Rights Division within six months after the date of this memorandum. Agencies that have determined that they do not provide federal financial assistance and, therefore, do not need to issue recipient guidance, should include a statement of this determination when transmitting the federally conducted language access plan.<sup>2</sup> Federal funding agencies should also regularly review recipient compliance, and provide vigorous technical assistance and enforcement action in appropriate cases.

## Appendix D: Language Access Related Resources

- **Federal Interagency Working Group on Limited English Proficiency (LEP) Website**  
<http://www.lep.gov/>
- **Federal Plain Language Guidelines**  
<http://www.plainlanguage.gov/howto/guidelines/index.cfm>
- **Health Literacy Online: A Guide to Writing and Designing Easy-to-Use Health Websites**  
<http://www.health.gov/communication/literacy/#tools>
- **The Interagency Language Roundtable (ILR) Website**  
<http://www.govtilr.org/>
- **National Action Plan to Improve Health Literacy**  
<http://www.health.gov/communication/hlactionplan/>
- **Office of Minority Health**  
HHS Action Plan to Reduce Racial and Ethnic Health Disparities  
<http://minorityhealth.hhs.gov/npa/>
- **Office of Minority Health, Think Cultural Health**  
National CLAS Standards  
Cultural and Linguistic Policy and Education Initiatives  
<https://www.thinkculturalhealth.hhs.gov/>