

approximately 6.1 acres of land on Fort Loudoun Reservoir in Blount County, Tennessee, Tract No. XTFL-13.

7. Approval of recommendations resulting from the 65th Annual Wage Conference 2000—Construction Project Agreement (Hourly) Wage Rates.

8. Approval of recommendations resulting from the 65th Annual Wage Conference, 2000—Wage Rates of Annual Trades and Labor Employees and Teamsters.

9. Approval of negotiated revisions to General Agreement and related Memorandums of Understanding covering Annual Trades and Labor Employees.

For more information: Please call TVA Public Relations at (865) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898-2999. People who plan to attend the meeting and have special needs should call (865) 632-6000.

Dated: January 17, 2001.

Charles L. Young,

Assistant General Counsel, and Assistant Secretary.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST-2001-8696]

DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The United States Department of Transportation is publishing policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons.

DATES: This guidance is effective immediately. Comments must be submitted on or before March 23, 2001. DOT will review all comments and will determine what modifications to the policy guidance, if any, are necessary

ADDRESSES: Interested persons should submit written comments to Marc Brenman, Senior Policy Advisor, Office of Civil Rights, Department of Transportation, 400 7th St. SW., Washington, DC 20590, or marc.brenman@ost.dot.gov; comments may also be submitted by facsimile at 202-366-9371.

FOR FURTHER INFORMATION CONTACT: Marc Brenman, Office of Civil Rights,

400 7th St. SW., Washington, DC 20590. Telephone 202-366-1119; e-mail marc.brenman@ost.dot.gov; or David Tochen, Office of the General Counsel, 400 7th St. SW., Washington, DC 20590, 202-366-9153, e-mail david.tochen@ost.dot.gov.

Arrangements to receive the policy in an alternative format may be made by contacting the named individuals.

SUPPLEMENTARY INFORMATION: Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance.

The purpose of this policy guidance is to clarify the responsibilities of recipients of federal financial assistance from the U.S. Department of Transportation (DOT) ("recipients"), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. The policy guidance reiterates DOT's longstanding position that in order to avoid discrimination against LEP persons on the grounds of national origin, recipients must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide, free of charge.

The policy guidance includes an appendix. Appendix A summarizes DOT's Title VI regulations, as they apply to LEP persons.

Dated: January 16, 2001.

Ronald A. Stroman,

Director, Departmental Office of Civil Rights, Department of Transportation.

DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries

I. Background

On August 11, 2000, President Clinton signed Executive Order 13166, entitled "Improving Access to Services for Persons with Limited English Proficiency." 65 FR 50121 (September 16, 2000). On the same day, the Assistant Attorney General for Civil Rights issued a Policy Guidance Document titled "Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited English Proficiency" (hereinafter referred to as "DOJ LEP Guidance"), reprinted at 65 FR 50123 (September 16, 2000).

Executive Order 13166 requires Federal departments and agencies extending financial assistance to

develop and make available guidance on how recipients should, consistent with the DOJ LEP Guidance and Title VI of the Civil Rights Act of 1964, as amended, assess and address the needs of otherwise eligible limited English proficient persons seeking access to the programs and activities of recipients of federal financial assistance. The DOJ LEP Guidance, in turn, provides general guidance on how recipients can ensure compliance with their Title VI obligation to "take reasonable steps to ensure 'meaningful' access to the information and services they provide." DOJ LEP Guidance, 65 FR at 50124. The DOJ LEP Guidance goes on to provide,

[w]hat constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are the number or proportion of LEP persons in the eligible service population, the frequency with which LEP individuals come in contact with the program, the importance of the service provided by the program, and the resources available to the recipient.

Id. The DOJ LEP Guidance explains that the identification of "reasonable steps" to provide oral and written services in languages other than English is to be determined on a case-by-case basis through a balancing of all four factors.

The failure to assure that people who are not proficient in English can effectively participate in, and have meaningful access to, a Department of Transportation (DOT) financial assistance recipient's programs and activities may constitute national origin discrimination prohibited by Title VI and implementing regulations. Supreme Court precedent, and longstanding congressional provisions and federal agency regulations have repeatedly instructed that a nexus exists between language and national origin. As used throughout this Guidance, "DOT" is intended to include all the Department's operating administrations, components, and Secretarial offices.

This LEP Guidance addresses the key elements that DOT encourages its recipients to consider to ensure meaningful access to programs and activities by all people regardless of race or national origin. The purpose of the Guidance is to assist recipients in complying with their Title VI responsibilities to ensure that access to their programs or activities, normally provided in English, are accessible to LEP persons. The Guidance is consistent with the requirements of Executive Order 13166 and with the DOJ LEP Guidance.

During the development of this Guidance, DOT has ensured that stakeholders, such as LEP persons, their

representative organizations, recipients, and other appropriate individuals and entities have had an adequate opportunity to provide input. Additional input is welcome.

Large numbers of minorities in the United States are linguistically isolated. According to the 1990 U.S. Census, 31.8 million persons or 13% of the total U.S. population (ages 5 and above) speak a language other than English at home. Almost 2 million people do not speak English at all and 4.8 million people do not speak English well. The 1990 U.S. Census also found that various minority populations and subgroups are linguistically isolated: Approximately 4 million Hispanics; approximately 1.6 million Asians and Pacific Islanders; approximately 282,000 Blacks; and approximately 77,000 Native Americans and Alaska Natives. Of those who speak Spanish in the United States, 97% are Hispanic. Research indicates that the correlation between language and the national origin is also very high. As of 1989, 72.5% of Chinese Americans speak a language other than English at home. Comparable figures for other Asian Pacific Islander groups exist for Cambodians (81.9%), Vietnamese (80.7%), Laotians (77.4%), Thai (72.5%), Koreans (69.7%), Filipinos (59.9%), Indians (55.3%), and Japanese (40.5%).

School districts in many parts of the country are experiencing a substantial increase in the enrollment of national-origin-minority students who cannot speak, read, or write English well enough to participate meaningfully in educational programs without appropriate support services. There are approximately 3.5 million LEP students in the United States. The number of LEP students enrolled in public and nonpublic schools in the United States continues to increase each year. Between 1990 and 1997, the number of LEP students has risen by 57%. Most LEP students have parents whose skills in English are less than that of the students. The reported number of LEP students in K-12 public schools comprises 8% of the total public school enrollment in the United States. All states enroll LEP students. The states with the largest reported number of LEP students are California (1,381,383), Texas (513,634), and Florida (288,603). The states with the largest reported percentage of LEP students are Alaska (26%), New Mexico (24%), and California (22%). Since many public transportation providers also transport students to and from school, these figures are important.

In regard to one state alone, Pennsylvania ranks tenth among all

states in the numbers of foreign-born persons who reside within its borders. Many of these individuals come to the United States with limited English skills, and are at varying stages of learning the English language. In all, more than seven percent of Pennsylvania's residents speak a primary language other than English. It is estimated that Philadelphia alone is home to approximately 30,000 Vietnamese, 25,000 ethnic Chinese, 10,000 Cambodians, and 7,000 Laotians. According to the 1990 Census, approximately 54% of persons in Pennsylvania whose home language is an Asian language do not speak English very well.

Many welfare recipients wrestle with poor job skills, health problems, and lack of transportation, in addition to language barriers. Besides the social, cultural and linguistic barriers, which affect the delivery of adequate transportation services, there are other factors that contribute to the poor social service status of LEP persons. These factors include the following:

- Inadequate number of health care providers and other health care professionals skilled in culturally competent and linguistically appropriate delivery of services.
- Scarcity of trained interpreters at the community level.
- Deficiency of knowledge about appropriate mechanisms to address language barriers in transportation settings.
- Absence of effective partnerships between major mainstream provider organizations and LEP minority communities.
- Low economic status.
- Lack of insurance.
- Organizational barriers.

One recipient reported to DOT as follows, regarding the barriers people who are LEP face in transportation:

Language barriers prohibit people who are LEP from obtaining services and information relating to transportation services and programs. Because people who are LEP are not able to read instructions or correspondence written in English and may not understand verbal information, they often are not aware of regulatory requirements and legal implications of the services they seek. People who are LEP also do not have the ability to read variable message signs which alert them to dangerous driving conditions. When people who are LEP receive Orders or other legal documents, they often do not understand the contents of the correspondence and its implication to their daily lives. People who are LEP may not be able to take advantage of the transit system, which could affect their job and social opportunities. When their home or business property is acquired by the State DOT, they

may not be aware of or understand the benefits to which they are entitled. When individuals do not understand or read English, they are hampered in seeking employment opportunities.

It is essential that transportation providers, professionals, and other DOT recipients become informed about their diverse clientele from a linguistic, cultural and social perspective. These individuals should become culturally competent so they can encourage vulnerable LEP minority populations to access and receive appropriate transportation services with more knowledge and confidence.

Advantages to Recipients Other Than Providing Beneficiary Access to Special Language (Spillover Benefits)

Helping Prevent Complaints: DOT receives complaints from beneficiaries alleging that insufficient information has been provided by recipients to beneficiaries in the primary or home language of the beneficiaries. For example, in the current (as of the date of this guidance) Title VI administrative complaint, *West Harlem Environmental Action v. New York Metropolitan Transportation Authority and New York City Transit*, the complainants seek as a part of their requested relief, "Translating all notices about impending depot and bus parking lot developments into Spanish." Providing such services before complaints are filed may help forestall such complaints and create better relations with beneficiary groups.

Economic Benefits: Translations of public transportation service documents may assist tourists and help establish localities as thoughtful and appropriate sites for global trade and investment.

II. Definitions

Limited-English-Proficient Persons: Individuals with a primary or home language other than English who must, due to limited fluency in English, communicate in that primary or home language if the individuals are to have an equal opportunity to participate effectively in or benefit from any aid, service or benefit provided by the transportation provider or other DOT recipient.

Linguistically Isolated: This term is defined in the Census as the percentage of the persons in households in which no one over the age of 14 speaks English well, and is used as a direct measure of those persons with a severe language barrier, as distinct from those of foreign origin who speak English well. Those who are linguistically isolated may also be unable to benefit from transportation services and the services of other DOT

recipients, and therefore should receive attention from recipients as a high priority.

Federal financial assistance: The term Federal financial assistance to which Title VI applies includes but is not limited to grants and loans of Federal funds, grants or donations of Federal property, details of Federal personnel, or any agreement, arrangement or other contract which has as one of its purposes the provision of assistance.

Qualified interpreter: Qualified interpreter means an interpreter who is able to interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals with limited English skills. The interpreter should be able to interpret both receptively and expressively, using any necessary specialized vocabulary.

Non-English language relay service: A telecommunications relay service that allows persons with hearing or speech disabilities who use languages other than English to communicate with voice telephone users in a shared language other than English, through a communications assistant who is fluent in that language.

III. Legal Background

Title VI of the Civil Rights Act of 1964 and its implementing regulations prohibit recipients of federal financial assistance from discriminating on the basis of race, color, or national origin. In certain circumstances, failure to provide meaningful access to LEP persons is national origin discrimination. Most of the statements in this Guidance pertain to services provided by a recipient, rather than employment by the recipient. However, employment discrimination is covered by Title VI if the federal financial assistance is provided for the purpose of employment or if employment discrimination results in discrimination against program beneficiaries.

In order to avoid discrimination against LEP persons on the grounds of national origin, Title VI and the DOT Title VI regulations require recipients to take reasonable steps to ensure that LEP persons receive the language assistance necessary to afford them meaningful access to their programs and activities. A useful test of compliance with this guidance is to ask the question, "If we do not provide the service in question in a language a beneficiary understands, will the beneficiary still receive essentially the same benefit or service that we provide to others who are fluent in English?"

As discussed below, the framework for compliance with Title VI in this area is a flexible one, and DOT recognizes

that a "one-size-fits-all" approach is not satisfactory. For instance, some recipients may have different Title VI LEP concerns in communities affected by their programs and activities, and may have different amounts of resources available. DOT also recognizes that some recipients are already addressing Title VI LEP concerns through existing programs and activities. We have tried to include examples of these efforts under Section IX, entitled "Promising Practices/Best Practices." More examples are welcome.

Many recipients of Federal financial assistance recognize that the failure to provide language assistance to LEP persons may deny them vital access to programs or activities. The failure to remove language barriers can be attributed to many reasons ranging from ignorance of the fact that some members of the community are unable to communicate in English to intentional discrimination on the basis of national origin. While there is not always a direct relationship between an individual's language and national origin, language often serves as an identifier of national origin. As the Supreme Court observed in *Hernandez v. New York*,

[L]anguage elicits a response from others, * * * ranging from admiration and respect, to distance and alienation, to ridicule and scorn. Reactions of the latter type all too often result from or initiate racial hostility * * * It may well be, for certain ethnic groups and in some communities, that proficiency in a particular language, like skin color, should be treated as a surrogate for race under an equal protection analysis.

500 U.S. 352, 371 (1991). The significant discriminatory effects that result from the failure to provide language assistance to LEP persons, places the treatment of LEP individuals comfortably within the ambit of Title VI and DOT's implementing regulations.

In *Lau v. Nichols*, 414 U.S. 563 (1974), the Supreme Court recognized that, pursuant to Title VI, recipients of Federal financial assistance have an affirmative responsibility to provide LEP persons with a meaningful opportunity to participate in publicly funded programs. *Lau* involved a group of students of Chinese origin who did not speak English to whom the recipient provided the same services—an education provided solely in English—that it provided students who did speak English. The Court held that, under these circumstances, the school district's practice violated the Title VI prohibition against discrimination on the basis of national origin. The Court observed that "[i]t seems obvious that the Chinese-speaking minority receive fewer benefits than the English-speaking

majority from respondents' school system which denies them a meaningful opportunity to participate in the educational program—all earmarks of the discrimination banned by" the Title VI regulations. Courts have applied the doctrine enunciated in *Lau* both inside and outside of the educational context. It has been considered in contexts as varied as what languages drivers' license tests must be given in, to whether material relating to unemployment benefits must be provided in a language other than English.

Most recently, and in a transportation context, the Eleventh Circuit in *Sandoval v. Hagan*, 197 F.3d 484 (11th Cir. 1999) *petition for certiorari granted*, *Alexander v. Sandoval*, 121 S.Ct. 28 (Sept. 26, 2000) (No. 99-1908) held that the State of Alabama's policy of administering a driver's license examination only in English was a facially neutral practice that had a disproportionate adverse effect on the basis of national origin, in violation of Title VI. The Court specifically noted the nexus between language policies and potential discrimination based on national origin. That is, in *Sandoval*, the vast majority of individuals who were adversely affected by Alabama's English-only driver's license examination policy were of foreign descent. It is interesting to note that the State produced *no* evidence at trial that non-English speakers pose greater highway safety risks than English speakers.

The Title VI regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Thus, a recipient's policies or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have a disproportionate adverse effect on LEP persons' ability to access programs and services. Accordingly, it is useful for recipients to examine their policies and practices to determine whether they adversely affect LEP persons disproportionately. This LEP Guidance provides a legal framework to assist recipients in conducting such assessments.

Title VI prohibits discrimination in any program or activity that receives Federal financial assistance. What constitutes a program or activity covered by Title VI was clarified by Congress when the Civil Rights Restoration Act of 1987 (CRRRA) was enacted. The CRRRA provides that, in most cases, when a recipient receives Federal financial assistance for a

particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the Federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the Federal assistance is used only by one part.

The Department of Justice is the principal federal agency for coordinating Title VI requirements. The obligation on the part of recipients to address the language needs of beneficiaries has been a long-standing part of its Title VI coordination policies. See 28 CFR 42.405(d)(1) (1976). Moreover, other federal agencies have adopted Title VI enforcement policies that the denial of benefits to non-English speakers may result in a disparate impact based on national origin in violation of Title VI. For example, inability to drive a car adversely affects individuals in the form of lost economic opportunities, social services, and other quality of life pursuits.

State or local "English-Only" laws

State and local laws may provide additional obligations to serve LEP individuals, but such laws cannot compel recipients of federal financial assistance to violate Title VI. For instance, given our constitutional structure, state or local "English-only" laws do not relieve an entity that receives federal funding from its responsibilities under federal anti-discrimination laws. State and local entities with "English-only" laws are certainly not required to accept federal funding—but if they do, they have to comply with Title VI and its implementing regulations, including their prohibition against national origin discrimination by recipients of federal assistance. Failing to make federally assisted programs and activities accessible to individuals who are LEP will, in certain circumstances, violate Title VI.

In *Sandoval v. Hagan*, the Court of Appeals for the Eleventh Circuit found that Alabama's "English-Only policy" had a significant disparate impact on foreign-born individuals, and imposed significant adversity on individuals by excluding otherwise qualified drivers from obtaining licenses. It enjoined the continued use of the "English-Only policy" and ordered Alabama to submit a plan for compliance. People with licenses can get to work in places not served by public transportation and earn better wages. The inability to drive also may stand in the way of satisfying other important needs, such as the need to get emergency medical attention,

particularly in rural areas not served by public transportation. Additionally, driver's licenses are the most common form of identification in this country; without one, it is difficult to take part in the life of the community—opening a bank account, cashing a check, getting a library card, etc. For these many reasons, the inability of LEP persons to obtain driver's licenses presents serious problems.

IV. Ensuring Meaningful Access to LEP Persons

Title VI and its regulations require recipients to take reasonable steps to ensure "meaningful" access to DOT recipients' programs and activities. The key to providing meaningful access to LEP persons is to ensure that recipients and LEP beneficiaries can communicate effectively and act appropriately based on that communication. Thus, DOT recipients should take reasonable steps to ensure that LEP persons are given adequate information, are able to understand that information, and are able to participate effectively in recipient programs or activities, where appropriate. As the demographics of the United States continue to change and the proportion of LEP communities and populations continue to grow, a recipient's challenge (as well as DOT's challenge) will be to develop linguistically appropriate and effective methods of communication with LEP persons within the usual, tight resource constraints.

A. Assessment of Meaningful Access

DOT's main focus when evaluating a Title VI complaint based on allegations of national origin discrimination against LEP persons will be whether a recipient has taken reasonable steps to eliminate barriers to meaningful communication with LEP individuals and to provide necessary services equivalent to those provided to people who are fully English proficient. What "reasonable steps" should be taken will depend upon a number of factors. These factors include the following:

- The number and proportion of LEP persons potentially served by the recipient's programs or activities, and the variety of languages spoken in the recipient's service area:

The recipient should consider the number or proportion of people who will be excluded from participation in programs or activities without efforts to remove language barriers. Programs and activities that affect a few or even one LEP person are subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities to obtain services. Nevertheless, the steps

that are reasonable for a recipient whose programs or activities affect one LEP person a year may be different than those expected from a recipient whose program or activity affects many LEP persons on a regular basis. However, DOT encourages even those recipients whose programs or activities affect very few LEP persons on an infrequent basis to consider reasonable steps for involvement of LEP persons and to plan for situations in which LEP persons will be affected under the program or activity in question. This plan need not be intricate; it may be as simple as having certain public notices translated into a language other than English, providing an interpreter under certain conditions, or making available technological solutions such as a telephone language line.

- The frequency with which LEP individuals are affected by the program or activity:

The frequency with which LEP persons are affected by the programs or activities is also important. DOT encourages recipients to take into account the frequency with which the recipient's program or activity may affect LEP persons in its service area and to have the flexibility to tailor its actions to those needs. For example, if the recipient knows that there is a large LEP community that exists and that community is often impacted by the recipient's programs and activities, it may want to regularly translate notices of public hearings and post them in areas where LEP individuals will see them. DOT encourages recipients to use communication methods likely to reach the affected community (e.g., insert information with utility bills, place public service announcements on local radio shows, place notices on bulletin boards in grocery stores, houses of worship, community newspapers and community centers). In the notices, you can provide the option of translation services at public hearings if individuals contact you by a certain date. This way, if no one responds you do not expend valuable resources when no actual need for translation services exists.

Notices and information that are generally available to the public should be made available to substantial LEP populations. For example, weather and road condition telephone lines and websites should be available in translation. In areas with severe weather, such notices will probably rise to the level of safety issues, and therefore require the higher level of service described elsewhere in this guidance.

- The importance of the effect of the recipient's program or activity on LEP

persons, bearing in mind that transportation is considered an essential service to participation in modern society:

The importance of the effects of the recipient's program or activity on LEP persons has a direct bearing on the reasonableness of steps taken to ensure meaningful participation. DOT encourages you to take more vigorous steps where the denial or delay of access may have more crucial implications than in situations that are not as crucial to one's day-to-day activities. For example, the obligations of federally-assisted health, emergency, hazardous materials, and safety efforts differ from those of a Federally-assisted program where safety or health is not at stake. DOT encourages you to consider the importance of the participation in the program or activity to individuals both immediately and in the long-term, as well as synergistic effects. In a study done in 1995, all Emergency Medical Services (EMS) personnel who participated referred to language as a principal challenge in effectively working with Hispanic community members. In addition, many recently arrived Hispanics are not accustomed to using the telephone to access emergency medical services. Such circumstances justify greater efforts by recipients to educate LEP individuals, as discussed elsewhere in this Guidance. In addition, inability to access public transportation may adversely affect ability to obtain health care, education, and jobs.

- The resources available to the recipient, and whether the recipient has budgeted for provision of special language services:

Resources of a recipient may be a factor in determining the level and kind of language services it should provide. Larger recipients with more resources will have more language service responsibilities than smaller recipients with few resources. DOT will use a reasonableness standard in evaluating whether a recipient's efforts are sufficient. Where excessive cost is proffered by a recipient as a reason for not undertaking necessary special language services, DOT will evaluate the situation on a case-by-case basis. DOT's evaluation will include a consideration of the totality of the recipient's circumstances, including the size of the budget of the largest organizational entity which supervises the work of the program, project or activity that directly receives DOT financial assistance. For example, for a unit of a state department of transportation, the budget of the entire state DOT will be used as a point of reference. Other considerations will include those listed elsewhere in this

Guidance, such as the size of the LEP population needing services, the degree to which such populations have been historically excluded from services, the availability of less costly alternative service modalities, whether the costs can be amortized over time or are a one-time expense, whether services can be phased in to avoid excessive cost in any one year, the possibility of alternate sources of funds to pay for the necessary services, whether the services are required in response to complaints or law suits, and how long the recipient has been on notice that the special language services should be provided. Note that Title VI has been in existence since 1964, and that recipients have been on notice that discrimination on the basis of national origin has been prohibited since then.

- The level of services provided to fully English proficient people;
- Whether LEP persons are being excluded from services, or being provided a lower level of services:

Only under rare circumstances could this exclusion be justified, and the burden of proving the need for the exclusion would be very high. Example 1: The recipient provides no services to a neighborhood where LEP people live, while providing services to a neighborhood where fully English proficient people live. Example 2: Several years ago, a job access program funded by DOT's Federal Transit Administration stated in its brochures that eligible applicants must "speak English." Note that the prohibition on exclusion due to national origin would also apply to situations where a recipient excluded a beneficiary from bringing an interpreter to a meeting, test, or other formal situation with the recipient. Although DOT discourages reliance by recipients on beneficiary-supplied interpreters, if the beneficiary desires to use one, and the recipient does not supply an interpreter, the recipient should permit his/her use. DOT recognizes that issues of security of testing are sometimes thought to arise when an non-recipient-supplied interpreter translates for a beneficiary. These issues are the responsibility of the recipient. If security is felt to be a potential problem by a recipient, the recipient bears the burden of supplying the interpreter.

- Whether the recipient has adequate justification for restrictions, if any, on special language services or speaking languages other than English:

Such justifications would be accepted only in rare circumstances. Assertions of safety justifications would generally not be accepted unless accompanied by statistical and/or scientific causality

studies and evidence showing a positive correlation between limited English proficiency and crash and death/injury rates at rates substantially higher than would be expected due to chance.

There is no one-size fits all solution for Title VI compliance with respect to LEP persons. When investigating a Title VI complaint, DOT will assess language assistance allegations on a case-by-case basis, and will afford considerable flexibility to recipients to determine precisely how to fulfill this obligation. DOT will focus on the end result—whether recipients have taken the necessary steps to ensure that LEP persons have meaningful access to participate in their programs and activities, and whether those services are being provided so that LEP persons have an equal opportunity to benefit from recipients' services.

V. Compliance and Enforcement

The recommendations outlined in this Guidance are not intended to be exhaustive. Recipients should establish and implement policies and procedures for providing language assistance sufficient to fulfill their Title VI responsibilities and provide LEP persons with meaningful access to services. DOT enforces Title VI as it applies to recipients' responsibilities to LEP persons through the procedures provided for in DOT's Title VI regulations (49 CFR Part 21, see Appendix A), and in appropriate DOT operating administration regulations. These procedures include complaint investigations, compliance reviews, alternative dispute resolution, efforts to secure voluntary compliance and technical assistance.

DOT's Title VI regulations provide that the agency will investigate whenever it receives a complaint, report or other information that alleges or indicates possible noncompliance with Title VI. If the investigation results in a finding of compliance, DOT will inform the recipient and the complainant in writing of this determination, including the basis for the determination. If the investigation results in a finding of noncompliance, DOT 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, and must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, DOT must secure compliance through (a) the termination of Federal assistance after the recipient has been given an opportunity for an administrative hearing, (b) referral to DOJ for injunctive relief or other

enforcement proceedings, or (c) any other means authorized by law.

As the Title VI regulations set forth in the Appendix indicate, DOT has a legal obligation to seek voluntary compliance in resolving cases and cannot seek the termination of funds until it has engaged in voluntary compliance efforts and has determined that compliance cannot be secured voluntarily. During these efforts to secure voluntary compliance, DOT consults with and assists recipients entities in exploring cost effective ways of coming into compliance, by sharing information on potential community resources, by increasing awareness of emerging technologies, by sharing information on how other recipients entities have addressed the language needs of diverse populations, and by proposing reasonable timetables for achieving compliance.

Whenever possible, DOT provides recipients with technical assistance upon request and an opportunity to come into voluntary compliance with Title VI prior to initiating formal enforcement proceedings. In determining a recipient's compliance with Title VI, the Departmental Office of Civil Rights' (DOCR) primary concern is to ensure that the recipient's policies and procedures allow LEP persons to overcome language differences that result in barriers and have a meaningful opportunity to participate in and access programs, services and benefits to the same extent as fully English proficient persons. A recipient's appropriate use of the methods and options discussed in this policy guidance will be viewed by DOCR as evidence of a recipient's willingness to comply voluntarily with its Title VI obligations.

Further, when reviewing any claim of discrimination, DOT considers the severity of the adverse impact on LEP persons, the egregiousness or pervasiveness of any adverse action taken by a recipient, and whether the recipient has shown an intent to discriminate.

Assurance Forms

When organizations apply for DOT financial assistance, they submit an assurance with their applications that they will comply with the requirements of DOT's regulations implementing Title VI with respect to their programs and activities. When they receive DOT financial assistance, they accept the obligation to comply with DOT's Title VI implementing regulations. These assurances should be understood to include provision of services to national origin minority persons who are limited English proficient.

VI. Framework for Language Assistance

DOT has determined that effective language assistance programs usually address each of the elements described below. The failure to incorporate or implement one or more of these elements does not necessarily indicate noncompliance with Title VI. When investigating Title VI complaints, DOT will review the totality of the circumstances to determine whether LEP persons have had meaningful access to participate effectively in a recipient's programs and activities.

1. Needs Assessment

A recipient should conduct a thorough assessment of the language needs of the population and communities affected by the recipient.

The first key to ensuring meaningful access to LEP persons is to assess the language needs of the affected population and communities served, through application of the analysis described elsewhere in this Guidance. Ways to assess language needs include identifying the non-English languages used in communities affected by the recipient, estimating how many people speak each language, where they live, and how well they are currently accessing services provided to those who are fully English proficient. After identifying LEP communities, DOT encourages recipients to consider any barriers to communication with these communities. It is possible that, in certain instances, the results of the assessment may indicate that, although LEP communities are affected by the programs and activities, there are no barriers to communication with these communities, because they are bilingual, for instance, or do not need or want translation services.

An approach may be developed to identify geographic areas where LEP communities live using existing resources such as census data, data from local organizations and community groups, faith-based groups that provide services in languages other than English, immigrant aid organizations, state refugee coordinators, non-English media outlets, and school district LEP statistics. The latter are particularly valuable, since all school districts are required to maintain data on LEP students and provide necessary special language services. It is important to collaborate with community groups and other appropriate stakeholders to develop the criteria for identifying geographic areas. Once the areas are identified, the recipient can work with the affected communities and stakeholders to determine their language

assistance needs. The recipient may also choose to identify actual or potential populations within a particular service area or area of responsibility.

Specifically, DOT encourages recipients to identify linguistically isolated populations or job sites in which LEP persons represent a significant proportion of the workforce (e.g., manual labor, hotel cleaning, food preparation, auto supplies, etc.) Transportation entities in particular should be aware of the potential difficulties LEP people may have in public transportation from home to work, health facilities, schools, shopping, faith-based facilities, day-care, and leisure activities. New immigrants to the United States from non-English speaking countries may be especially in need of special language services. Note that Title VI of the Civil Rights Act of 1964 covers "people in the United States." Thus, recipients may generally not refuse to provide services to non-citizens, regardless of immigration status.

Identifying the points of contact in the program or activity where language assistance is likely to be needed, identifying the resources that will be needed to provide effective language assistance, identifying the location and availability of these resources, and identifying the arrangements that should be made to access these resources in a timely manner are important factors to ensure effective provision of services.

2. Written Language Assistance Plan

Recipients should develop and implement written language assistance plans that will ensure meaningful opportunities for LEP persons to access their programs and activities and effectively participate in them.

A recipient can help ensure effective communication with LEP persons by developing and implementing a comprehensive, written language assistance plan. Such a plan should include policies and procedures for identifying and assessing the language needs of LEP persons, and provide for a range of written and oral language assistance options, periodic training of staff, actual provision of services, and monitoring of the program. DOT encourages recipients to consider the transportation needs of the LEP community affected by the recipient's programs and activities while developing this plan. The factor analysis set forth in this Guidance should be the starting point for identifying areas in which language services are needed.

DOT encourages recipients to consider one or more of the following

ideas as they develop language assistance plans:

- Assigning primary responsibility for development and implementation of the plan to an appropriate manager or supervisor.
 - Preparing a written summary of results from the needs assessment (discussed above).
 - Identifying actions already being taken and existing tools that can be used to provide meaningful access to LEP individuals, and how well they work.
 - Creating an inventory of existing materials that have been translated into other languages to assist LEP individuals.
 - Regularly updating the inventory of translated materials.
 - Drafting a plan that is specific and detailed, yet flexible enough to respond to existing or potential needs over an appropriate time period (*i.e.*, five years).
 - Ensuring that translation arrangements have quality control (*i.e.*, mechanisms are in place to ensure that the translation accurately and appropriately conveys the substance of what is contained in the written materials).
 - Distributing the names of organizational contacts who will respond to inquiries and requests regarding access to programs and activities by LEP individuals, in appropriate media and publications.
 - Addressing the appropriate mix of written and oral language assistance to ensure effective communication with the LEP population.
- A plan should generally include:
- Who is responsible for each step.
 - When each step is expected to be completed. (Generally speaking, the more vital the service, the sooner it should be provided.)
 - What standards and criteria are to be applied to measure the effectiveness of each step.
 - What resources will be devoted to each step.
 - How the recipient will document implementation of each step.

3. Staff Training

Recipients should ensure that staff understand the recipient's language assistance policy and are capable of carrying it out.

The success of recipients' LEP/Title VI activities will depend on the staff's knowledge, credibility, and actions. DOT encourages recipients to disseminate the recipient's policy to all employees likely to have contact with LEP persons and to periodically train employees. Effective training, which includes cultural and community relations sensitization, is one way to

ensure that there is not a gap between your policies and procedures and the actual practices of employees who interact with LEP persons. Effective training ensures that employees are knowledgeable and aware of LEP policies and procedures, can work effectively with in-person and telephone interpreters, and understand the dynamics of interpretation between beneficiaries, providers and interpreters. It is important that this training be part of the orientation for new employees and all employees in beneficiary contact positions should be properly trained. Given the high turnover rate among some types of employees, a recipient may find it useful to maintain a training registry that records the names and dates of employees' training.

4. Provision of Special Language Assistance

Recipients must actually provide necessary services to LEP persons.

Most important to any LEP plan is to actually provide the necessary services. Actual provision of services includes notification of the availability of services. A vital part of an effective compliance program includes having effective methods for notifying LEP persons regarding their right to language assistance and the availability of such assistance free of charge. These methods include but are not limited to:

- Use of language identification cards that allow LEP beneficiaries to identify their language needs to staff and for staff to identify the language needs of applicants and clients. To be effective, the cards (*e.g.*, "I speak cards") should invite the LEP person to identify the language he/she speaks. This identification can be recorded in the LEP person's file, if the recipient keeps such files on beneficiaries.
- Posting and maintaining signs in regularly encountered non-English languages in waiting rooms, reception areas and other initial points of entry. In order to be effective, these signs should inform applicants and beneficiaries of their right to free language assistance services and invite them to identify themselves as persons needing such services.

- Translation of application forms and instructional, informational and other written materials into appropriate non-English languages by competent translators. For LEP persons whose language does not exist in written form, assistance should be provided from an interpreter to explain the contents of the document. LEP persons may need assistance, for example, however, in filling out forms such as those for transit half-fare benefits or paratransit

eligibility under the Americans with Disabilities Act.

- Uniform procedures for timely and effective telephone communication between staff and LEP persons. This should include instructions for English-speaking employees to obtain assistance from interpreters or bilingual staff when receiving calls from or initiating calls to LEP persons, and
- Inclusion of statements about the services available and the right to free language assistance services, in appropriate non-English languages, in brochures, booklets, outreach and recruitment information and other materials that are routinely disseminated to the public.

5. Monitoring

Recipients should conduct regular oversight of their language assistance programs to ensure that LEP persons can meaningfully access their programs and activities. It is also important that recipients regularly monitor their language assistance programs by assessing the following:

- Current LEP demographics of the population that is affected by the recipient's programs and activities.
- Current communication needs of LEP communities.
- Whether the recipient's plan is adequately supported so that it has a realistic chance of success.
- Whether existing assistance is meeting the needs of LEP persons.
- Whether recipient staff are knowledgeable about policies and procedures and how to implement them.
- Whether sources of, and arrangements for, assistance are still current and viable.
- Whether the plan is periodically evaluated and revised, as necessary. Note that recipients are required to modify their plans and programs of service if they prove to be unsuccessful after a legitimate trial.
- Number and type of grievances and complaints received by the recipient or against the recipient by DOJ or DOT, alleging lack of provision of services due to limited English proficiency.

One way to evaluate the language assistance program is to seek and obtain feedback from the communities served. DOT believes that compliance with the Title VI language assistance obligation is most likely met when a recipient continuously monitors its program and makes modifications where necessary, including meeting public participation requirements under other initiatives such as environmental justice.

VII. Ways of Providing Language Services

Once the recipient has determined that language services are needed, there are three main ways of providing those services: oral interpretation; written translation; and alternate, non-verbal methods. The following provides information on these three methods.

A. Oral Language Interpretation

In designing an effective language assistance program, a recipient develops procedures for obtaining and providing trained and competent interpreters and other oral language assistance services, in a timely manner, by taking some or all of the following steps:

- Hiring bilingual staff who are trained and competent in the skill of interpreting.
- Hiring staff interpreters who are trained and competent in the skill of interpreting.
- Contracting with an outside interpreter service for trained and competent interpreters.
- Arranging formally for the services of voluntary community interpreters who are trained and competent in the skill of interpreting.
- Arranging/contracting for the use of a telephone language interpreter service.

Bilingual Staff—Hiring bilingual staff for beneficiary contact positions facilitates participation by LEP persons. However, where there are a variety of LEP language groups in a recipient's service area, this option may be insufficient to meet the needs of all LEP applicants and clients. Where this option is insufficient to meet these needs, the recipient should provide additional and timely language assistance. Bilingual staff should be trained and should demonstrate competence as interpreters.

Staff Interpreters—Paid staff interpreters are especially appropriate where there is a frequent and/or regular need for interpreting services. These persons should be competent and readily available.

Contract Interpreters—The use of contract interpreters may be an option for recipients that have an infrequent need for interpreting services, have less common LEP language groups in their service areas, or need to supplement their in-house capabilities on an as needed basis. Such contract interpreters should be readily available and competent.

Community Volunteers—Use of community volunteers may provide recipients with a cost-effective method for providing interpreter services. However, experience has shown that to

use community volunteers effectively, recipients should ensure that formal arrangements for interpreting services are made with community organizations so that these organizations are not subjected to *ad hoc* requests for assistance. In addition, recipients should ensure that these volunteers are competent as interpreters and understand their obligation to maintain client confidentiality. Additional language assistance should be provided where competent volunteers are not readily available during all hours of service.

Telephone Interpreter Lines—A telephone interpreter service line may be a useful option as a supplemental system, or may be useful when a recipient encounters a language that it cannot otherwise accommodate. Such a service often offers interpreting assistance in many different languages and usually can provide the service in quick response to a request. However, recipients should be aware that such services may not always have readily available interpreters who are familiar with the terminology peculiar to the particular program or service. It is important that a recipient not offer this as the only language assistance option except where other language assistance options are unavailable (e.g., in a rural area visited by a LEP beneficiary who speaks a language that is not usually encountered in the area).

B. Translation of Written Materials

An effective language assistance program ensures that written materials that are routinely provided in English to applicants, clients and the public are available in regularly encountered languages other than English. It is particularly important to ensure that vital documents, such as applications, consent forms, letters containing important information regarding participation in a program (such as a cover letter outlining conditions of participation in a paratransit program), notices pertaining to the reduction, denial or termination of services or benefits or that require a response from beneficiaries, notices advising LEP persons of the availability of free language assistance, and other outreach materials be translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be directly affected by the recipient's program. Materials with a "gatekeeper" function, such as those concerning the necessity for insurance and licensure, should be translated. Notices for the public should be published in the primary non-English language media serving the recipient's

service area. However, note the emphasis elsewhere in this document on exploring non-verbal/non-language-based approaches to communication. Warning signs should be posted in the languages spoken by people likely to encounter the signs.

Services such as public safety, police, and law enforcement that might result in the diminution of personal freedom, in fines and penalties, in loss of driving privileges, or in "points" on driving records, are subject to a high burden on the recipient that provides such services, in terms of timeliness and quality of translation of key documents. Many DOT recipients are engaged in such services—such as state departments of public safety, state motor vehicle departments, transit and railroad police, and airport security. More complete guidance for such special language services by law enforcement personnel is available through the Department of Justice.

It is important to ensure that written materials routinely provided by a recipient in English also are provided in regularly encountered languages other than English. It is particularly important to ensure that vital documents are translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the recipient's program or activity. A document will be considered vital if it contains information that is critical for obtaining federal services and/or benefits, or is required by law. Vital documents include, for example: applications; consent and complaint forms; notices of rights and disciplinary action; notices advising LEP persons of the availability of free language assistance; and written tests that do not assess English language competency, but rather competency for a particular license, job, or skill for which English competency is not required; and letters or notices that require a response from the beneficiary or client. For instance, if a complaint form is necessary in order to file a claim with an agency, that complaint form would be vital. Non-vital information includes documents that are not critical to access such benefits and services.

Vital documents should be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively. For many larger documents, translation of vital information contained within the document will suffice and the documents need not be translated in their entirety.

It may sometimes be difficult to draw a distinction between vital and non-vital documents, particularly when considering outreach or other documents designed to raise awareness of rights or services. Though meaningful access to a program requires an awareness of the program's existence, DOT recognizes that it would be impossible, from a practical and cost-based perspective, to translate every piece of outreach material into every language. Title VI does not require this of recipients. Nevertheless, because in some circumstances lack of awareness of the existence of a particular program may effectively deny LEP individuals meaningful access, it is important to continually survey/assess the needs of eligible service populations to determine whether certain critical outreach materials should be translated into other languages.

DOT's National Highway Traffic Safety Administration (NHTSA) has found that direct translation of safety pamphlets and brochures that have been developed in English into a non-English language often results in an inferior or inappropriate product due to the many dialects and linguistic styles of foreign languages and because the materials were not designed to originally focus on a particular dialect-speaking audience. A better approach is to develop the materials in the language and dialect in which they are intended to be used. Also, involving the target community in review of the final brochure or product can eliminate inappropriate word choice and increase the effectiveness of the messages. Community group involvement can also provide a ready means of distribution of the materials

C. Use of Alternative Communication Methods and Devices:

To alleviate the concerns of recipients, and to reduce cost, DOT encourages recipients to explore use of methods and devices that do not use language. For example, use of pictograms, symbol signs, standard symbolic signs (SMS's), diagrams, color-coded warnings, illustrations, graphics, and pictures can be considered. A major example of the use of such methods in transportation infrastructure is the laminated plastic safety information cards in the seat back pouches on commercial airliners. These cards communicate a great deal of important safety information using very few words in any language. Schematic maps can similarly quickly communicate large amounts of information without words. Standard symbols such as are used on international roads and at the Olympics can be used. Use of such non-verbal

methods will also help alleviate problems of communication for those who are illiterate or partially literate, those who are too young to read, and those with hearing impairments. Use of symbol signs may help elderly drivers as well, since signing in highway work areas raises sign legibility issues for older drivers. It may be noted that there is overlap between older drivers and those who are more likely to be LEP in some subpopulations, such as the Navajo. Symbol signs and pictograms also benefit globalization of trade and travel.

Example 1. "Transportation engineers world-wide are moving toward the use of symbol signs in place of word signs because they are easier for people to comprehend in a shorter amount of time. Easily recognized symbols also accommodate people who cannot read English." (Irvine, California, Traffic Research and Control Center (ITRAC))

Example 2. "Universal design considerations also offer the potential to benefit persons with a cognitive disability. For example, standardized symbols, pictures, and color coding offer benefits to persons with a cognitive disability. If written information is provided, the messages should be short and clear. Repetition of symbols and information also helps reduce the difficulty of remembering information." (Transport Canada, "Technologies for travelers with sensory or cognitive disabilities (TP 13247E)")

A Federal Highway Administration (FHWA) study reached these conclusions about symbol signs:

Minimize symbol complexity by using very few details.

Maximize the distance between symbol sign elements.

Use representational rather than abstract symbols.

Use solid rather than outline figures for designs.

Standardize the design of arrowheads, human figures, and vehicles. Retain maximum contrast between the symbol and the sign background.

Use of pictograms in dynamic signs can be considered. These are in use in Europe. Regulatory speed limit messages are presented using a number in a red circle, which is analogous to the European static speed limit sign. Other symbol messages presented to drivers in dynamic message signs include congestion, snow, and diversion (detour) directions. Research is underway to develop additional symbols for inclusion in the European standards for traffic control devices. Two specific conditions for which symbols are being explored are "fog" and "accident."

Example: NHTSA, 49 CFR Parts 571 and 575, Consumer Information Regulations: Utility Vehicle Label; Final Rule, Federal

Register, March 9, 1999 (Volume 64, Number 45) "The rule requires the label's header to have an alert symbol (a triangle containing an exclamation point) followed by the statement "WARNING: Higher Rollover Risk" in black text on a yellow background. The following three statements must appear below the header in the center of the label: "Avoid Abrupt Maneuvers and Excessive Speed," "Always Buckle Up," and "See Owner's Manual For Further Information." The rule specifies that the label must contain two pictograms: one showing a tilting utility vehicle on the left of the label, and the other showing a seated vehicle occupant with a secured three-point belt system on the right. The pictograms and the statement must be in black on a white background." The label was revised from 77 words to 19 words and two pictograms. Permission was granted to companies to produce the label with both the required English words and a translation into other languages. Labels have been produced with French and Spanish translations.

There are opportunities for higher technology approaches, such as use of multimedia pictograms, holograms, photographs, looped videotapes, embedded picture instructions to represent destinations and instructions, information kiosks with multiple languages, courtesy telephones at stations linked to a central number with translators, and voice recognition.

VIII. Application of this Guidance for DOT Recipients

Grievance or Complaint Procedures

Generally, a recipient should maintain a written and publicly known grievance or complaint procedure available to members of the public, so that LEP persons can bring alleged problems with lack of services to the recipient's attention for resolution. DOT encourages recipients to resolve such problems at the lowest level possible and encourages use of alternate dispute resolution. Grievance and complaint procedures should be prompt and equitable while obeying generally accepted elements of due process. However, they need not be overly formal. Existing grievance or complaint procedures can be used if they are modified as necessary to clarify their availability for use with LEP disputes and are made available in languages used in the community service area.

LEP Community Outreach and Education

It may be useful for the recipient to have an established, formal linkage between a minority community-based organization and a transportation provider or infrastructure entity. The linkage can be confirmed by a signed agreement between the applicant and linkage organizations which specifies in

detail the roles and resources that each entity will bring to the project, and states the duration and terms of the linkage. The document can be signed by an individual with the authority to represent the community-based organization (e.g., president, chief executive officer, executive director).

Comprehensive outreach includes the following:

- Use of ethnic media, such as radio, television, newspapers, magazines and websites.
- Use of faith-based organizations, such as temples, mosques and churches.
- Work with community-based organizations at the local (city or county) level that provide social services, health care, classes, etc. to target LEP communities.
- Outreach to schools with substantial enrollments of LEP children.
- Ensure that translated materials provide referrals to telephone numbers or websites that are linguistically accessible (i.e., a flyer in Vietnamese should refer the caller to a hotline with Vietnamese-speaking workers).
- Nontraditional channels, such as day care centers and Headstart programs.
- Forming community groups led by a trained lay educator (a promotore or promotora) to enable adults to discuss issues and learn from each other.

The content of community outreach is important. For example, DOT has been told by a coalition of Southeast Asian-American advocacy groups that many people in their communities lack basic information about transportation services. The information needs include safety and security information, such as what may not be carried on airplanes and questions that will be asked at the ticket counter. Knowledge about public participation opportunities in transportation planning is needed. This area should especially be addressed by metropolitan planning organizations (MPOs).

DOT encourages partnerships among federal recipients and other human services organizations. How these can work is shown in the following example. "Expand existing loan programs that assist welfare recipients in purchasing cars and increase accessibility to public transportation. Counties should expand existing programs or create new programs that lend money to welfare recipients and other low-income families to purchase cars. Counties should also explore savings accounts that enable recipients to save for purchasing their own cars, without jeopardizing their financial eligibility for welfare cash aid. ERA also recommends that counties partner with

transportation agencies to translate transportation information and resources into other languages." (Equal Rights Advocates [ERA's] Immigrant Women and Welfare study)

Transportation Planning

Recipients' transportation plans should identify how the needs of LEP persons will be met where a significant number of such persons can be reasonably expected to need transportation services.

Numerical Thresholds

DOT has determined that it will not specify numerical or percentage thresholds for LEP populations that need to be served by recipients. Generally, the larger the number or percent of LEP beneficiaries within a recipient's service area who speak a particular primary or home language, the more thorough, intensive, and speedy the special language services should be. The extent of the service area will in part determine the number or percent of the covered population. For example, the service area of state departments of transportation will generally be considered to be the entire state. The service area of a metropolitan planning organization will be the geographic area for which the MPO provides surface transportation planning services. International airports serve a very broad geographical area, and may be presented with special problems in dealing with a large number of languages. Such difficulties will be taken into consideration by DOT, but it is expected that such transportation providers will know a great deal of demographic information about their users. Similar reasoning applies to national networks like AMTRAK. Note that the population includes those who may potentially be served by the recipient, rather than just those who are presently being served. This is to reach those who are not presently receiving adequate or equitable services from the recipient, but might receive such services if the recipient were to provide special language services to them. DOT recommends that recipients become aware of the changing demographics of their service areas, especially in terms of increasing numbers and percents of languages used, so that recipients can prepare for future service needs.

Emergency Services

DOT funds a number of first responder, emergency, public safety, and hazardous materials services. Because of the safety and health aspects of these services, the need for special language services delivered without

noticeable delay by recipients are heightened. Workers in these areas render vitally important services whose very nature requires quick action to protect public safety and health; quick assessment of a situation, often based on input from community members on the spot; the establishment of a close relationship with the client or patient that is based on empathy, confidence and mutual trust; and direction to affected people that must be carried out with specificity to be effective. Such relationships depend heavily on the free flow of communication between professional and client. This essential exchange of information is difficult when the two parties involved speak different languages; it may be impeded further by the presence of an unqualified third person who attempts to serve as an interpreter.

Some safety, emergency, and hazardous materials service providers have sought to bridge the language gap by encouraging LEP clients to provide their own interpreters as an alternative to the agency's hiring of qualified bilingual employees or interpreters. Persons of limited English proficiency must sometimes rely on their minor children to interpret for them during safety incidents. Alternatively, these beneficiaries/clients may be required to call upon neighbors or even strangers they encounter at the site of the incident to act as interpreters or translators.

These practices have severe drawbacks and may violate Title VI of the Civil Rights Act of 1964. In each case, the impediments to effective communication and adequate service are formidable. The beneficiary's untrained "interpreter" is often unable to understand the concepts or official terminology he or she is being asked to interpret or translate. Even if the interpreter possesses the necessary language and comprehension skills, his or her mere presence may obstruct the flow of emergency information to the provider.

When these types of circumstances are encountered, the level and quality of safety and emergency services available to LEP persons stand in stark conflict to Title VI's promise of equal access to federally assisted programs and activities. Services denied, delayed or provided under adverse circumstances have serious and sometimes life threatening consequences for a LEP person and may constitute discrimination on the basis of national origin, in violation of Title VI. Accommodation of these language differences through the provision of effective language assistance will promote compliance with Title VI.

Signage

Signage along highways presents a very difficult LEP topic, due to the large number of signs, the cost of changing them, and limitations on space on the sign. Nevertheless, at least one state department of transportation has reported that some LEP persons may not have the ability to read variable message signs that alert them to dangerous driving conditions. Due to the life-saving potential, and subject to technical and scientific study as to its viability regarding message length and time, DOT recommends that recipients explore the possibility of either using pictorial or symbol messages or translating messages into frequently encountered languages on variable message signs that report dangerous driving conditions.

Regarding multilingual signage, a county long range transportation plan has noted, "Intermodal multilingual referrals and advertising of customer services should be developed. This can include visual, auditive, and print information on how to use the various modes. Appropriate multilingual signage for modes (e.g., bus stops, mode shares, etc.) could be developed and implemented with international symbol signs. Buses could include next stop digital displays inside the bus and/or tone auditory cues for the visually impaired." (Bernalillo County, New Mexico, Long Range Transportation Plan, 1993) As discussed elsewhere in this Guidance, non-verbal methods can be considered, such as reducing the amount of text (e.g. "Glover Park," "Massachusetts Avenue," "Addison Road", etc.) and replacing it with numbers, letters, or colors (e.g. D2, L6, Blue Line).

Literacy

Recipients should be sensitive to literacy levels of LEP consumers and clients. Some immigrants and refugees come from pre-literate societies and are not literate in their native language, let alone English, or are not literate for other reasons. However, note that literacy is not covered by Title VI. It makes good sense to consider literacy issues when covering LEP issues, because in some cases, the solutions are the same. See the discussion above about using symbol signs, pictograms, and illustrations. Other solutions include the following:

- Contract and work with community-based organizations to review translated materials for appropriateness of language.
- Use focus groups to test messages and language appropriateness,

especially if documents are being translated for the first time.

- Be aware that written translations may not be effective for some communities but that there are alternative mechanisms such as the use of audio or video tapes to provide information.

How does low literacy, non-literacy, use of non-written languages, blindness and deafness among LEP populations affect the responsibilities of recipients? Effective communication in any language requires an understanding of the literacy levels of the eligible populations. Where a LEP person has a limited understanding of important matters or cannot read, access to the program is complicated by factors not directly related to language. Under these circumstances, a recipient should provide transportation and related services information to the same extent that it would provide such information to English-speakers. Similarly, a recipient should assist LEP individuals who cannot read in understanding written materials as it would non-literate English-speakers. A non-written language precludes the translation of documents, but does not affect the responsibility of the recipient to communicate the vital information contained in the document or to provide notice of the availability of oral translation according to the size of that language group.

Special Language Services Should be Locally Focused

Language issues are sometimes local issues, due to matters of usage, dialect, and local preference. Recipient programs of special language services should be designed carefully to accommodate local usage and should be field tested with different local language populations to make appropriate corrections to ensure effective communication. Materials in both English and the primary or home language are generally preferred by non-English speaking groups, but use of English only may sometimes be more appropriate, especially if preferred by the community being served. To account for differences in literacy levels and to make materials more attractive, interesting and likely to be used, the use of photographs and illustrations is recommended. The keys are effectiveness, usability, and transmission of information.

Charging for Special Language Services

Recipients should not impose a charge or a fee for special language services to LEP persons.

Separation for Purposes of Provision of Special Language Services

There may be times when it is most efficient for the recipient to provide special language services separately to people who speak a particular non-English language. However, the program design should not separate these beneficiaries beyond the extent necessary to achieve the goals of the recipient's program of services. Methods that do not segregate should be used whenever possible.

Puerto Rico

Much of Puerto Rico's official business is conducted in Spanish. Therefore, recipients located in Puerto Rico or doing business there should, wherever possible, translate documents into Spanish.

Low-Frequency and Unusual or Unexpected Languages

When an individual with limited English skills—who does not speak a language spoken by a "significant number or proportion of the population"—seeks services or information from the recipient, the recipient should then make reasonable efforts to meet the particularized needs of that individual. Such efforts may include, but are not limited to, using a telephone language line, locating and temporarily employing a qualified interpreter who can communicate in the appropriate language. As technology advances, various options for complying with the requirements of this section, such as computerized and/or on-line translation services, are becoming increasingly available to recipients, and the cost of these options is decreasing.

An Asian-Pacific Islander health care advocacy group commented in this way on how transportation can present a barrier to health care for those who speak an unusual language for their location: "Removal of barriers such as transportation: It is important to ensure that there are systems established to address barriers such as transportation and portability in order to ensure that geographic location does not prevent patients from accessing care. [Medical Care Organizations] need to ensure that coverage for enabling transportation is included in the benefits package. Medicaid enrollees often need to access services in other counties. This is particularly important for patients in rural communities, for migrants and for limited English speaking populations. Limited English speaking persons may need to travel a great distance to see a provider who speaks their language." ("Making Managed Care Work for Asian

& Pacific Islanders: An Action Agenda for APIA Communities,” Dong Suh, MPP, Policy Analyst, (415) 954-9966, (415) 954-9999 (fax) or e-mail: dsuh@apiahf.org.)

Surveys

Customer and service surveys by recipients and their contractors, including ones conducted by telephone, should include the ability to obtain information from LEP households and individuals. Given the large number and percent of LEP individuals in the U.S., a general survey would not be regarded as complete without the participation of people who are LEP. For example, NHTSA’s semi-annual Motor Vehicle Occupant Safety Survey identified areas of seat belt and car seat safety where people of Hispanic origin differ from the non-Hispanic population. In the 1998 survey, 44% of Hispanic respondents strongly or somewhat agreed with the statement “I would feel self-conscious around my friends if I wore a seat belt and they did not,” as opposed to just 15% of non-Hispanics. This information was used to tailor public information and education to the needs and attitudes of the targeted audience.

IX. Promising Practices/Best Practices

The following examples are provided as illustrations of the responses of some recipients to the need to provide services to LEP persons. Although interesting and useful, their listing here does not constitute endorsement by DOT, which will evaluate recipients’ situations on a case-by-case basis using the factors described elsewhere in this Guidance.

Language Banks—In several parts of the country, both urban and rural, community organizations and providers have created community language banks that train, hire and dispatch competent interpreters to participating organizations, reducing the need to have on-staff interpreters for low demand languages. These language banks are frequently nonprofit and charge reasonable rates. This approach is particularly appropriate where there is a scarcity of language services or where there is a large variety of language needs.

Language Support Office—A state social services agency has established an “Office for Language Interpreter Services and Translation.” This office tests and certifies all in-house and contract interpreters, provides agency-wide support for translation of forms, client mailings, publications and other written materials into non-English languages, and monitors the policies of

the agency and its vendors that affect LEP persons.

Multicultural Delivery Project—Another county agency has established a “Multicultural Delivery Project” that is designed to help immigrants and other LEP persons find someone who speaks their language and who can help them navigate the county health and social service systems. The project uses community outreach workers to work with LEP clients and can be used by employees in solving cultural and language issues. A multicultural advisory committee helps to keep the county in touch with community needs.

Use of Technology—Some recipients use their Internet and/or intranet capabilities to store translated documents online. These documents can be retrieved as needed.

Telephone Information Lines and Hotlines—Recipients have established telephone information lines in languages spoken by frequently encountered language groups to instruct callers, in the non-English languages, on how to leave a recorded message that will be answered by someone who speaks the caller’s language. For example, NHTSA’s Auto Safety hotline has four representatives who speak Spanish and are available during normal hotline business hours (8 a.m.–10 p.m. Eastern Time). The evening hours permit people from the West Coast (where a significant number of LEP persons reside) to call after work. The automated voice response system has an option for instructions in Spanish. Calls from Spanish-speaking customers are placed in a Spanish-speaking cue which has priority for those four operators who speak Spanish.

Signage and Other Outreach—Other recipients have provided information about services, benefits, eligibility requirements, and the availability of free language assistance, in appropriate languages by (a) posting signs and placards with this information in public places such as grocery stores, bus shelters and subway stations; (b) putting notices in newspapers, and on radio and television stations that serve LEP groups; (c) placing flyers and signs in the offices of community-based organizations that serve large populations of LEP persons; (d) establishing information lines in appropriate languages; and (e) using posters with appropriate languages designed to reach potential beneficiaries.

DOT’s Research and Special Programs Administration (RSPA), at 49 CFR 192.616 and 195.440, requires “Each [pipeline] operator [to] establish a continuing educational program to

enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator or the appropriate public officials. The program and the media used should be as comprehensive as necessary to reach all areas in which the operator transports gas. The program must be conducted in English and in other languages commonly understood by a significant number and concentration of the non-English speaking population in the operator’s area.” We recommend such an approach to recipients to meet their individual service provision needs.

The Governor’s Highway Safety Office in New Jersey coordinates several programs for the Hispanic community. In Essex County, a bilingual counselor provides community education on safety issues.

Proyecto AASUL (Assistance with Alcohol and Sobriety Uniting Latinas/ Ayuda con Alcohol y Sobriedad Uniendo Latinas), funded by the California Department of Transportation, was developed to educate Hispanic women in Southern California about alcohol abuse and related problems. Information and services included a brochure listing alcohol-related service providers with Spanish speaking staff and a fotonovela focusing on the problems of alcoholism in a family setting. A fotonovela is an extensively illustrated booklet that tells a human-interest story.

The El Protector program has been implemented in Del Rio, Texas. The Del Rio Police Department has developed radio spots in Spanish, about traffic safety issues such as putting people in the back of pickup trucks, loading and unloading school buses, drinking and driving, and pedestrian safety.

EMS staff in Los Angeles reported that their system is equipped to receive calls in 86 languages, although Spanish is the most frequent language used by 911 callers who do not speak English.

The Michigan DOT has produced a Title VI poster and brochure in English and Spanish. It’s public hearings officer speaks English and Spanish. One Michigan metropolitan planning organization (MPO) translated its I-496 community involvement materials into Spanish.

The New Jersey Department of Motor Vehicles (DMV) has administered drivers license tests in more than 14 languages for at least 10 years, including French, Greek, Korean, Portuguese, and Turkish. Other states conduct such tests in other languages. For example, Oregon DOT is in the process of having its tests

translated into Japanese and Vietnamese. USDOT recommends that state agencies share such information, to avoid the necessity of each doing every translation.

The New Mexico State Highway and Transportation Department has, with FHWA support, provided Spanish language translations of its Right-of-Way Acquisition and Relocation Brochures. The State also employs bilingual right-of-way agents capable of discussing project impacts in Spanish.

Oregon's DMV website provides online access to English and Spanish versions of its Driver Manual. It has also contracted with a local government to provide additional classes to Hispanic drivers on "rules of the road" after they gain their driver's licenses. The State of Oregon is developing a report on multilingual services provided by State agencies. The final document will be used by State agencies to enhance their existing programs, including expanding communication efforts to serve and protect all Oregonians. On the NHTSA web site, the Traffic Safety Materials Catalog page has an option to permit a search for materials for an Asian-American or Hispanic audience. This search will result in several publications that are available in Spanish or Chinese.

In Puerto Rico, LEP needs have been addressed by providing all government services, programs and activities in Spanish.

Tennessee DOT recipients in a geographical area where there is a significant (above 5%) population that usually speak a language other than English, must translate and post notices and other correspondence advising persons that their right to participate in any programs or activities receiving federal funding cannot be denied on the basis of nation origin.

Texas DOT has in the past provided forms in Spanish to assist LEP persons in filling out forms to request certified copies of vehicle titles. TxDOT also utilizes bilingual employees in its permit office to provide instruction and assistance to Hispanic truck drivers when providing permits to route overweight trucks through Texas. In the On the Job Training Supportive Services Program, Spanish language television has been used to get the information of the opportunities in the construction industry to people who have difficulty reading English.

Virginia DOT became aware that several Disadvantaged Business Enterprise (DBE) firms were about to be removed from construction projects in Northern Virginia because projects required certified concrete inspectors, and the DBE firms were having trouble

complying because the concrete inspection test was only offered in English. VDOT used supportive services funding to have the training manual and test material translated into Spanish, and provided tutoring for the DBE firms. The Virginia State Police (VSP) maintain a written list of interpreters available statewide to troopers through the Red Cross Language Bank, as well as universities and local police departments. The VSP carry cards with Miranda rights set forth in several different languages.

The Colorado State Patrol has produced safety brochures in Spanish for farmer and ranchers. It has also printed brochures in Spanish pertaining to regulatory requirements for trucking firms.

In 1996, the Alabama Department of Transportation (ALDOT) was faced with the relocation of 14 Spanish-speaking families who were living in a trailer park in north Alabama. The State determined that most of the residents met the length of occupancy requirements for rental relocation housing payments. Through a right-of-way consultant who was under contract with ALDOT, an interpreter was hired from the University of Alabama—Birmingham to assist the relocation agent in explaining Uniform Relocation Act entitlements to the heads of families. The interpreter was on call throughout the relocation process to accompany the relocation agent whenever it was necessary to contact the displacees. The families were successfully relocated to Department of Social Services replacement housing. Several families moved into surplus Federal Emergency Management Agency mobile homes that were made available through a private buyer who gave the displacees the option of renting or entering into a purchase agreement.

Minnesota DOT (MnDOT) authored a manual entitled "Public Involvement Procedures For Planning and Project Development" that details Mn/DOT requirements to provide access to all residents of Minnesota under environmental justice standards. The manual takes a proactive approach to public involvement. It includes such things as publishing notices in non-English newspapers, printing notices in appropriate languages and providing translators at public meetings. Mn/DOT's Office of EEO Contract Management provides a Spanish language version of a brochure entitled "Mn/DOT Construction Contracts: Labor Provisions for Contractor Employees" to construction employees during reviews and upon request to Contractors for employee distribution. This pamphlet

provides general guidelines to labor laws and Mn/DOT contract labor provisions. Mn/DOT's Office of EEO Contract Management is on call to provide Spanish language translation at Mn/DOT's Information Desk. In addition, telephone numbers are provided to persons who wish to speak directly to Spanish-speaking EEO Office employees.

Mn/DOT's Office of EEO Contract Management provides Spanish language translations in both written communications and oral interviews for labor investigations. In addition, the EEO Office provided written materials in Spanish for explanation of processes and procedures for such investigations.

Wisconsin DOT created a Motorist Study Manual Easy reader (3rd grade level, translated by the Janesville Literacy Council) version in English. It is creating one in Spanish and is considering Hmong. There are regular versions (6th grade level) in English, Spanish and Hmong. There is a Motorcycle Study Manual in English and Spanish, and a CDL (Commercial Drivers License) Study Manual in English and Spanish. Knowledge and Highway Sign Tests are provided in 13 languages besides English. Some languages have been available since the late 1970s. Bids are being prepared to update the bank of questions in non-English languages based on demand. Knowledge and Highway Sign Tests are provided via various audio means ranging from cassette tapes in English and Spanish to allowing bilingual translators to verbally present the questions in non-English languages based on demand. A pilot to evaluate automated knowledge test systems is underway at three DMV Service Centers. The pilot includes tests in English, Spanish, and on audiotape. These automated knowledge test systems allow testing in many languages. The Division of State Patrol is using a compact disk with commonly used phrases and sayings in languages other than English that is printable to a paper card, which then contains the phrase in an appropriate language for the LEP person who is interacting with the officer. The officer points to the appropriate column on the card. WIDOT also keeps a roster of employees who speak, read, or write non-English languages.

In Indiana, 15 Commercial Drivers License branches offer the CDL knowledge test orally, in a true/false format.

The Zuni Entrepreneurial Enterprises Inc. (ZEE) Public Transportation Program was designed to develop, implement, and maintain a

transportation system that provides needed linkages for Native Americans and other traditionally unserved/underserved persons in the service area to access needed vocational training and employment opportunities in order to enhance both the quality of life and the attainment and perpetuation of meaningful employment. The trip purposes served by the Zuni JOBLINKS project included education, employment, and job training. ZEE provided transportation of students to the University of New Mexico at Gallup, transportation of employees to their existing jobs in Gallup, as well as transportation for individuals requiring vocational rehabilitation and job training within the Pueblo of Zuni. The Project Director also took a number of steps to market the JOBLINKS service. He coordinated the broadcast of a radio spot on a local radio station in English and Zuni.

Seattle's Sound Transit's Link Light Rail to the Rainier Valley in south Seattle is an example of best practices. Demographically, the Rainier Valley is home to a high percentage of immigrant, refugee, low income, and disadvantaged Seattle residents. In addition to providing direct service benefits, Sound Transit has also provided the community with information they need to access the service in the appropriate languages. This has taken the form of translated brochures, outreach staff skilled in interpretation, and multi-language phone lines. etc.

The Washington, DC area's Metro transit system (WMATA) publishes pocket guides to the system in French, Spanish, German, and Japanese.

The following example, although it is focused on people who are deaf, is applicable to people who are LEP. Portland's Tri-Met transit system had a growing concern that access needs of people who are deaf or hard-of-hearing have not been fully addressed, due to more immediate ADA priorities such as putting lifts on buses and implementing paratransit plans. They contacted the Oregon Deaf Resources Center (ODRC) to discuss problems and issues and examine how to make public transportation more accessible to this segment of the disability community. One of the first things Tri-Met learned was that the main barrier in fixed-route travel for people who are deaf is difficulty in getting bus drivers to understand questions and provide information. In fact, people in Portland's deaf community reported that they seldom receive accurate, informative communication from transit drivers. The idea developed was to produce a set of pictograms that

illustrate situations that typically arise during fixed-route travel, particularly those that are difficult to verbally communicate to people who are deaf or hard of hearing. The pictograms would be laminated and attached to the bus close to the driver to be readily available when needed. As with many improvements in accessibility, it is expected that enhanced communication capability will not only benefit people with hearing impairments, but will also improve communication with other passengers with disabilities, such as those who have cognitive impairments. Tri-Met submitted a proposal to Project ACTION and received funding to develop a standardized picture language for communicating various situations that can occur during fixed-route travel. Suggestions for the type of information to be included in the pictograms were solicited by from deaf communities across the country. The project also includes developing a transit personnel training video, created and produced by people who are deaf, to educate transit drivers about deaf culture. Another project product is an information booklet that illustrates the pictograms and hand signals.

In 1980 when Souris Basin Transportation in North Dakota first started, the illiteracy rate was high among the senior population in their area of operation. To help them identify the bus on which they were riding, SBT started using visual logos on the sides of the vehicles. They have now found that the illiteracy rate has dropped among the seniors, but the LEP population has grown. Therefore, SBT kept the logos on the vehicles. SBT has also added volunteers who speak languages other than English, such as Spanish, German, Norwegian, Swedish and French. These volunteers are only a phone call away from the drivers or staff that need help. Most of the volunteers are at the Minot State University Language Department.

Florida conducts CDL tests in any language needed, and provides interpreters if needed. Out of service warnings for trucks are issued in Spanish and English.

The Iowa Department of Transportation provides a Spanish version of the CDL knowledge test, using a touch screen computer. In addition, they have worked with Refugee Services of Des Moines, and with a local community college in educating Bosnian refugees to take the Commercial Motor Vehicle driving course. DOT especially recommends the idea of working with local community colleges to educate the LEP community in transportation matters.

Sample Notice of Availability of Materials and Services

“FOR FURTHER INFORMATION CONTACT: For hearing impaired individuals or non-English speaking attendees wishing to arrange for a sign language or foreign language interpreter, please call or fax [name] of [organization] at Phone: xxx-yyy-zzzz or Fax: xxx-yyy-zzzz.”

If there is a known and substantial LEP population which may be served by the program discussed in the notice, the notice should be in the appropriate non-English language.

Resources

U.S. Department of Justice, General LEP Guidance, August 2000.

U.S. Department of Health and Human Services, Limited English Proficiency Guidance.

U.S. Department of Health and Human Services, “Cultural Competence.”

Environmental Protection Agency, “Draft Translation and Interpretation Protocol for Promoting Access to EPA Programs, Services, and Information by Persons With Limited English Proficiency.”

Glossary of Transportation Terms, English-Spanish, 1994, Federal Highway Administration.

North American Emergency Response Guidebook (NAERG96), published jointly by the U.S. Department of Transportation, Transport Canada (TC), and the Secretariat of Communications and Transportation of Mexico, in English, French and Spanish.

National Directory of Asian Pacific American Organizations, 1999–2000, Organization of Chinese Americans, available through Philip Morris Management Corporation, 120 Park Av., NY, NY 10017.

Southeast Asian American Mutual Assistance Association Directory, 2000, Southeast Asia Resource Action Center, 1628 16th St., NW., Washington, DC 20009, 202-667-4690, www.searac.org.

Red Cross Language Bank.

“Highway Safety Needs of U.S. Hispanic Communities: Issues and Strategies,” NHTSA, September 1995, DOT HS 808 373.

Since 1995, individual border States Division Offices of the Department's Federal Motor Carrier Safety Administration (formerly the FHWA Office of Motor Carriers) have translated a number of documents into Spanish to be used to educate Mexican carriers and drivers operating in the commercial zones. These subjects covered include meaning of out-of-service orders, minimum requirements to operate in the U.S., one page pamphlet that explains

the U.S. certification program, one page bulletins on various Federal Motor Carrier Safety Regulations, how to obtain an U.S. DOT vehicle identification number, and state specific safety regulations. The following brochures/guidance have been translated into Spanish and are currently distributed at the border or are being reviewed for possible distribution at the U.S. Southern border:

- FMCSRs—Drivers Guide to the FMCSRs (JJ Keller Publication).
 - Drug and Alcohol Regulations (JJ Keller Publication).
 - HM Basic Awareness Training Course (CD FMCSA Publication).
 - MX Program Pamphlet (FMCSA Publication) [Currently Distributed]
 - Road User Guide for North America (FHWA Publication) [Currently Distributed in English, Spanish, and French]
 - Awake At the Wheel (FMCSA Publication) [Currently Distributed]
- Materials developed for international use, such as those developed by FMCSA's ITS/CVO Technology Division for use with border partners Canada and Mexico. These include its pocket brochure in English, Spanish, and French. It is also developing Spanish video scripts.

The Canadian Council of Motor Vehicle Administrators is developing a trilingual chart for conducting roadside commercial vehicle inspection.

“La Seguridad de los Materiales Peligrosos,” (The Safety of Dangerous Materials), RSPA, DOT.

The International Pictograms Standard, 414 SE Grand Avenue, Portland, Oregon 97214 USA, (503) 234-1400. “Making conneXions for the Transit Customer,” Breaking down illiteracy and other barriers to transit travel. A multi-media computer software program to help people with barriers to literacy become independent transit riders. The software program includes photos, video and voice narration to help clients learn how to best use public transit. Clients use the program at their learning level and pace, on their own, or with the help of a facilitator.

Data Sources

- Census
- Public Schools
- Community-based organizations
- Advocacy and special interest groups
- Indian tribes
- Immigrant aid organizations
- Welfare to Work organizations
- Job Access service providers
- State Migrant Coordinators
- State Refugee Coordinators
- Local refugee services organizations

- National, regional, and local ethnic advocacy organizations
- Unions that represent farmworkers, service workers, and entry level jobholders
- Legal services organizations
- Staff of elected officials in areas with substantial national origin minority communities
- National Environmental Policy Act (NEPA) related demographic studies
- Hispanic Data Handbook
- National Clearinghouse for Bilingual Education
- Center for Applied Linguistics, www.cal.org
- Hispanic Ministry of Catholic Dioceses, Catholic Social Services, Episcopal Bishop's Fund, Hebrew Immigrant Aid Society, and other faith-based entities that serve LEP people
- Language, Demographics and Population Studies Departments at local universities
- Commercial marketing data
- Minority marketing firms

Appendix A to DOT Guidance

DOT's Title VI regulation (49 CFR Part 21) states the following, in part:

§ 21.5 Discrimination prohibited.

(a) General. No person in the United States shall, on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program to which this part applies.

(b) Specific discriminatory actions prohibited:

(1) A recipient under any program to which this part applies may not, directly or through contractual or other arrangements, on the grounds of race, color, or national origin.

(i) Deny a person any service, financial aid, or other benefit provided under the program;

(ii) Provide any service, financial aid, or other benefit to a person which is different, or is provided in a different manner, from that provided to others under the program;

(iii) Subject a person to segregation or separate treatment in any matter related to his receipt of any service, financial aid, or other benefit under the program;

(iv) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, financial aid, or other benefit under the program;

(vi) Deny a person an opportunity to participate in the program through the provision of services or otherwise or afford him an opportunity to do so which is different from that afforded others under the program; or

(vii) Deny a person the opportunity to participate as a member of a planning, advisory, or similar body which is an integral part of the program.

(2) A recipient, in determining the types of services, financial aid, or other benefits, or

facilities which will be provided under any such program, or the class of person to whom, or the situations in which, such services, financial aid, other benefits, or facilities will be provided under any such program, or the class of persons to be afforded an opportunity to participate in any such program; may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, or national origin.

(5) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(7) This part does not prohibit the consideration of race, color, or national origin if the purpose and effect are to remove or overcome the consequences of practices or impediments which have restricted the availability of, or participation in, the program or activity receiving Federal financial assistance, on the grounds of race, color, or national origin.

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD17-01-001]

Annual Certification of Cook Inlet Regional Citizen's Advisory Council (CIRCAC)

AGENCY: Coast Guard, DOT.

ACTION: Notice of Recertification.

SUMMARY: Under the Oil Terminal and Tanker Environmental Oversight Act of 1990, the Coast Guard may certify on an annual basis, an alternative voluntary advisory group in lieu of a regional citizens' advisory council for Cook Inlet, Alaska. This certification allows the advisory group to monitor the activities of terminal facilities and crude oil tankers under the Cook Inlet Program established by the statute. The purpose of this notice is to inform the public that the Coast Guard has recertified the alternative voluntary advisory group for Cook Inlet, Alaska.

DATES: The effective period of this certification is from September 1, 2000 to August 31, 2001.

FOR FURTHER INFORMATION CONTACT: For general information regarding the CIRCAC or viewing material submitted to the docket, contact LT Ryan Murphy, Seventeenth Coast Guard District, Marine Safety Division, (907) 463-2817.