

Animal and Plant Health Inspection Service (APHIS)



Limited English Proficiency (LEP) Implementation Strategy (IS)

for

APHIS Federally Assisted Programs

December 2015

A handwritten signature in blue ink, appearing to read "Kenneth E. Johnson". The signature is written over a horizontal line.

Kenneth E. Johnson
Director
Office of Civil Rights, Diversity, and Inclusion

A handwritten signature in blue ink, appearing to read "Kevin Shea". The signature is written over a horizontal line.

Kevin Shea
Administrator

Table of Contents

<u>Section</u>	<u>Page</u>
I. Purpose.....	3
II. Recipient LEP Plan Requirement.....	3
III. APHIS Limited English Proficiency Statement.....	3
IV. Free Language Assistance Requirement.....	3
V. Authorities and Legal Background.....	3
VI. Definitions/Key Terms with Examples.....	4
VII. Scope/Approach.....	5
VIII. Incorporation of USDA Final Guidance into Recipient LEP Plans.....	5
IX. APHIS Mission.....	5
X. APHIS Federally Assisted Programs and Activities Summary.....	5
XI. Implementation Strategy for Recipients.....	6
XII. APHIS LEP Programs Contacts.....	9
XIII. Resources Appendix.....	10

I. Purpose

The purpose of this (LEP) implementation strategy is to provide a strategy to assist recipients of federal financial assistance from APHIS to develop and implement their Limited English Proficiency (LEP) Plans per USDA Final Guidance (see Authorities and Legal Background section). This document provides recipients with a strategy to develop and implement their plans, but does not constitute a LEP plan.

II. Recipient LEP Plan Requirement

All recipients of Federal financial assistance from APHIS, irrespective of the size or duration of that assistance or frequency or contact with LEP persons, must take reasonable steps to develop a basic LEP plan. U.S. Department of Justice LEP guidance recommends that recipients include reference to LEP requirements in Requests for Applications/Proposals, grants and cooperative agreements, and work plans.

III. APHIS LEP Policy Statement for Federally Assisted Programs

It is the policy of APHIS to ensure that all of its federally assisted programs are in compliance with statutes, regulations, executive orders, and other directives applicable to providing access to those programs by persons with LEP.

IV. Free Language Assistance Requirement

All recipients of APHIS Federal financial assistance must provide language assistance to LEP persons at no cost to those persons. All announcements or other communications regarding the availability of language assistance to LEP persons should prominently state that the assistance is provided at no cost.

V. Authorities and Legal Background

- i. Executive Order 13166, "Improving Access To Services For Persons With Limited English Proficiency", issued on August 11, 2000 (65 FR 50121), requires Federal agencies to develop and implement a implementation plan to provide individuals with limited English proficiency (LEP) meaningful access to programs and activities assisted by those agencies.
- ii. U.S. Department of Justice policy guidance document, *Enforcement of Title VI of the Civil Rights Act of 1964-National Origin Discrimination Against Persons with Limited English Proficiency*, 65 FR 50123-50125 (August 16, 2000), also provides a framework for the appropriate measures for Federal agencies to implement.
- iii. Title 7 Code of Federal Regulations Part 15 Nondiscrimination, Subpart A-*Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture-Effectuation of Title VI of the Civil Rights Act of 1964*.

iv. U.S. Supreme Court decision in *Lau v. Nichols*, 414 (1974) finding that a recipient of Federal financial assistance violated Title VI of the Civil Rights Act of 1964 when it denied a group of non-English speakers a “meaningful opportunity” to participate in the education program.

iii. Title 7 Code of Federal Regulations Part 15, *Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency*, November 28, 2014.

VI. Definitions/Key Terms with Examples

1. Limited English Proficient Persons-Persons who do not speak English as their primary language and have a limited ability to read, speak, write or understand English are limited English proficient, or LEP. Example: Person who visits the recipient’s office and whose command of the English language is not sufficient for that person to access the recipient’s federally assisted program.

2. Interpretation-The process by which the spoken word is used when transferring meaning between languages. Example: An LEP person visits a recipient office and needs an interpreter to translate his/her statements to and with those of the recipient employee. The recipient would provide interpretation (interpreter) so the visitor and recipient employee can understand each other.

3. Qualified Interpreter-An individual who is competent to provide services at a level of fluency, comprehension, impartiality, and confidentiality appropriate to the specific nature, type, and purpose of the information at issue. Example: Interpreter certified by Interpretation Assessment and Certification body such as Defense Language Proficiency Test.

4. Federally assisted programs and activities-are those programs and activities that involve Federal financial assistance from APHIS to a recipient, who in turn provides a benefit or service to the beneficiary. Example: Feral Swine Outreach Activities for Limited Resource Farmers.

5. Federal financial assistance-grants and loans of Federal funds, grant or donation of Federal property and interests in property, detail of Federal personnel; sale, lease, permission to use Federal property, or any Federal agreement, arrangement, or other contract where one of its purposes is to provide assistance. Example: APHIS has a cooperative agreement with Tuskegee University to provide Feral Swine Outreach Activities for Limited Resource Farmers.

5. Recipient- any State, political subdivision of any State, or instrumentality of any State or political subdivision, any public or private agency, institution, or organization, or other entity, or any individual, in any State, to whom Federal financial assistance is extended, directly or through another recipient, for any program, but the term does not include any ultimate beneficiary. Example: Tuskegee University

6. Beneficiary- Person or groups of persons with an entitlement to receive or enjoy the benefits, services, resources, and information, or to participate in the activities or programs assisted by APHIS. Example: Limited Resource Farmers receiving information about feral swine.

5. Translation-the process of transferring ideas expressed in writing from one language to another language. Example: Translating a document such as an application from English to another language so that an LEP person fluent in that other language can understand and apply for the program or service.

6. Vital Documents-defined as those recipient documents critical to the primary operations of APHIS federally assisted programs. The documents identified for immediate translation would be those whose availability to LEP persons is essential to application and participation in federally assisted APHIS programs and activities. The documents include forms, applications, notices, regulations, directives, and other communication formats. Example: An application form that must be filled out and submitted in order to access the program or service would be considered a vital document.

VII. Scope/Approach

This LEP implementation strategy is for recipients of Federal financial assistance from APHIS.

If the recipient already has a LEP plan for its programs and activities, then the plan should be reviewed to ensure that it meet USDA Final Guidance requirements.

Recipients without LEP plans should follow this implementation strategy to develop a LEP plan.

VIII. Incorporation of USDA Final Guidance into Recipient LEP Plans

USDA's final guidance dated November 28, 2014, provides definitive guidance to recipients to develop their LEP plans. The guidance can be found in the Appendix section of this implementation strategy.

IX. APHIS Mission

APHIS' mission is to protect the health and value of American agriculture and natural resources. APHIS is a multi-faceted Agency that protects and promotes U.S. agricultural health, regulates genetically engineered organisms, administers the Animal Welfare Act and carries out wildlife damage management activities. To help accomplish that mission, APHIS provides federal financial assistance to a large number of recipients thru grants and cooperative agreements with work plans outlining recipients' tasks and goals.

X. APHIS Federally Assisted Programs and Activities

APHIS makes extensive use of Federal financial assistance to meet mission goals. Summaries of the level of federally financial assistance via grants and cooperative agreements by APHIS program areas are as follows:

Animal and Plant Health Inspection Service			
Cooperative Agreements and Grants by Program - FY 2015			
Program	No. of Agreements by Program		Amount
AC	9	\$	1,208,874.00
BRS	4	\$	632,022.00
IS	14	\$	34,720,670.16
OA	35	\$	2,627,245.03
PPQ	727	\$	160,752,897.58
VS	486	\$	150,757,701.32
WS	109	\$	5,882,239.47
Total	1,384		\$356,581,649.56

XI. LEP Plan Strategy for Recipients

Strategy Phase 1-*Conduct the Four Factor Analysis*

The Four Factor Analysis (analysis) is detailed in the attached final guidance issued November 28, 2014, by the US Department of Agriculture' Office of the Assistant Secretary for Civil Rights. The analysis is the critical step in establishing meaningful access to programs that receive Federal financial assistance from APHIS. Recipients of assistance from APHIS should conduct the analysis for each of their APHIS assisted programs. The four factor analysis is the initial step for the recipient to develop an effective LEP plan. The four factors for each recipient to apply and make determinations from are as follows. Recipients should refer to the November 28, 2014 final guidance for details and examples of how to apply the following four factors:

1. The number or proportion of LEP persons eligible to be served or encountered in the eligible service population;
2. The frequency with which LEP persons come into contact with the program or activity;
3. The nature and importance of the program or activity by the program;
4. The resources available to the recipient and costs.

Strategy Phase 2-*Interpretation Services*

Recipients have two main ways to provide language service: Oral interpretation either in person or via telephone interpretation service (hereinafter "interpretation") and written translation (hereinafter "translation"). The correct mix should be based on what is both necessary and reasonable.

When providing oral assistance, recipients should ensure competency of the language service provider. The use of certified interpreters is required. When interpretation is needed, it should be provided in a timely manner. Recipients may consider implementing the following practices such as:

(1) *Hiring Bilingual Staff*

When particular languages are encountered often, hiring bilingual staff offers one of the best, and most economical, options.

(2) *Hiring Staff Interpreters*

Hiring interpreters may be most helpful where there is a frequent need for interpreting services in one or more languages.

(3) *Contracting for Interpreters*

Contract interpreters may be a cost-effective option when there is no regular need for a particular skill.

(4) *Using Telephone Interpreter Lines*

Telephone interpreter service lines often offer speedy interpreting assistance in many different languages.

(5) *Using Community Volunteers*

Use of recipient-coordinated community volunteers working with, for instance, community-based organizations may provide a cost-effective supplemental language assistance strategy under appropriate circumstances. Recipients should carefully review USDA's final guidance for appropriate circumstances regarding using community volunteers or interpreters other than hired staff or certified contract personnel.

Strategy Phase 3-*Written Translations*

A recipient may determine that an effective LEP plan for its particular program or activity includes the translation of vital written materials into language of each frequency encountered LEP group eligible to be served and/or likely to be affected by the recipient's program. Such written materials could include, but are not limited to: applications, consent forms, written notices, notices advising LEP persons of the availability of free language assistance; written tests that competency for particular license, job, or skill for which knowing, outreach materials, or any document that require a response from applicants, beneficiaries, and other participants.

The languages spoken by the LEP persons with whom the recipient has contact determine the languages into which vital documents should be translated. As a result, the extent of the written translations of documents should be determined by the recipient on a case-by-case basis, looking at the totality of the circumstances in light of the four-factor analysis.

Recipients should review LEP language resources provided by public and private organizations regarding trends in LEP populations when considering interpretations and translations. The US Census Bureau's 2011 Language Mapper has the capability of identifying languages within geographic areas in the US. Also, the Migration Policy Institute's LEP Data Brief (see Resource Appendix) provides a detailed reporting of levels of LEP persons by state, metropolitan areas, and languages. Recipients may wish to consider translations into some or all of the top 5

languages spoken by LEP individuals-Spanish or Spanish Creole, Chinese, Vietnamese, Korean, and Tagalog as a starting point to build LEP resources.

Strategy Phase 4-Notification of LEP persons

Recipients will inform LEP persons of the availability of language assistance, free of charge, by providing written notice in languages for LEP persons. At a minimum, notices and signs will be posted and provided in recipients' offices and facilities where the public can readily view them.

Recipients should also utilize the following media and steps to notify the public of the availability of LEP services on a no cost basis:

- 1) Place notifications on recipient Web sites, and use Facebook, Twitter, and other appropriate Web-based communications.
- 2) Notify groups/persons listed as contacts for underserved groups, community-based organizations, organizations representing stakeholders and other parties interested in recipient programs funded by APHIS Federal financial assistance.
- 3) Provide detailed responses to inquiries received from groups/persons in the contact lists and/or other interested persons regarding LEP.
- 4) Develop an article on the availability of LEP services for publication in newsletters or other media outlets.
- 5) On an ongoing basis, recipients should assess the effectiveness of their LEP communication policy and increase communication to any LEP population who is not receiving the necessary notice of services available. Recipients should periodically assess the efficiency of interpretations and translations, analyze complaints filed regarding LEP services, and conduct customer service surveys.

Strategy Phase 5-Recipient Staff Training

Recipients should include a training component in their LEP plan. APHIS will share its training modules and presentations with recipients.

Recipient training plans should include at a minimum:

1. A review of the proper tracking and maintenance of information about contact with LEP individuals.
2. Procedures for working with an interpreter over the phone.
3. Procedures for providing in-house language assistive services through bilingual employees, interpreters or translators, or through contracted services.
4. Sharing and posting LEP materials on the APHIS website.
5. Professional responsibility to LEP individuals and ethics.
6. Ensuring that employees are notified that LEP family members cannot be used as interpreters except in emergency situations.

Strategy Phase 6-LEP Monitoring and Evaluation

APHIS assisted programs and activities will report their LEP activities to OCRDI.

APHIS recipients should record the type of interaction between their assisted program and the LEP customer (face-to-face, over the phone, or video teleconference), the language of the individual, and the type of language assistance provided (translation or interpretation). A sample tracking/reporting template can be found in the Resources Appendix section. In addition recipient LEP tracking information will provide a basis for adjustments to the recipients LEP plan.

Annually, beginning in June 2017, recipients will be required to provide a report to APHIS of LEP activities during the previous year.

APHIS will conduct periodic reviews of recipient LEP activities to ensure compliance. These reviews may include requests for specific information or updates. APHIS may also conduct unannounced tests of accessibility to interpretation services and written information. Similarly, recipients should conduct reviews of their LEP activities and make adjustments to their LEP plans as appropriate.

Strategy Phase 7-APHIS Requests for Recipient LEP Actions-Timeline

LEP ACTION ITEMS/TIMELINE APHIS & RECIPIENT		
ACTION ITEM	DUE DATE	COMPLETED (☑)
APHIS Issue IS to Recipients	31 January 2016	
Recipient Provide Existing LEP Plan to APHIS	15 February 2016	
Option A: Existing Recipient Plan Assessment Provide Feedback/Recommendations: LEP Resources Translated Documents Notices to LEP Community Available APHIS Shared Resources	25 April 2016	
Option B: Recipients Without Plans Provide Guidance Recipient Completed LEP Plans	01 June 2016	
All Recipient Plans In Place/Meet Requirements	01 September 2016	
Annual Assessment June 30 Each Year	30 June 2017	

XII. APHIS LEP Program Contact List

Program/Office	Title	Telephone Number	Email
Ken Johnson	Director, APHIS Office of Civil Rights, Diversity, and Inclusion (OCRDI)	202-799-7012	Kenneth.E.Johnson@aphis.usda.gov

Steve Shelor	Branch Chief, OCRDI	202-799-7013	Steve.Shelor@aphis.usda.gov
Mike Alston	Management Analyst, OCRDI	301-851-4204	Michael.L.Alston@aphis.usda.gov

XIV. Resources Appendix

Title 7 Code of Federal Regulations Part 15, Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency, November 28, 2014, *Office of the Assistant Secretary for Civil Rights, USDA*. <https://www.gpo.gov/fdsys/pkg/FR-2014-11-28/pdf/2014-27960.pdf>

Communicating Effectively with Limited English Proficient Individuals <https://www.youtube.com/watch?v=vv3IBZkUgwg> (video available on YouTube, published May 29, 2015, *US Department of Justice*)

LEP Data Brief, Limited English Proficient Individuals in the United States: Number, Share, Growth, and Linguistic Diversity, December 2011, *Migration Policy Institute, National Center on Immigrant Integration Policy*

LEP: Know Your Rights Brochure, *US Department of Justice*
http://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/LEPKYR_English.pdf

Speak Cards <http://www.lep.gov/ISpeakCards2004.pdf> *Department of Commerce, Bureau of Census*

U.S. Census Language Use <http://www.census.gov/topics/population/language-use.html>
Department of Commerce, Bureau of Census

U.S. Census, 2011 Language Mapper,
https://www.census.gov/hhes/socdemo/language/data/language_map.html
Department of Commerce, Bureau of Census

Migration Policy Institute: Language Portal
http://www.migrationinformation.org/integration/language_portal/ *Migration Policy Institute*

Communicating More For Less: Using Translation and Interpretation Technology to Serve Limited English Proficient Individuals <http://www.migrationpolicy.org/pubs/LEP-translationtechnology.pdf> *Migration Policy Institute*

