

French Broad River MPOs Limited English Proficiency (LEP) Policy

Executive Order (E.O.)13166 and Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating based on national origin by, among other things, failing to provide meaningful access to individuals who are limited English proficient (LEP).

All recipients and sub-recipients of federal funding are required to take reasonable steps to provide meaningful access to LEP individuals. The FBRMPO is a recipient of federal funds. The FBRMPO executes its Title VI and LEP plans and policies.

It is important to ensure that written materials routinely provided by the FBRMPO 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 program or activity. A document will be considered vital if it contains information that is critical for obtaining the 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.

Vital documents must be translated when 1000 people or 5% 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. It is impossible from a practical and cost effective perspective to translate every piece of outreach material into every language, and Title VI and EO 13166 do not require this of their recipients. However, in some circumstances lack of awareness of the existence of a particular program may effectively deny LEP individuals meaningful access. It is important for recipients, sub-recipients and contractors to continually survey/assess the needs of eligible service populations in order to determine whether certain critical outreach materials should be translated into other languages.

The obligation to provide meaningful opportunity to individuals who are LEP is not limited to written translations. Oral communications between recipients and beneficiaries often is a necessary part of the exchange of information. Thus, a recipient that limits its language assistance to the provisions of written materials may not be allowing LEP persons “effectively to be informed of or to participate in the program.”

There are several steps which can assist recipients in providing such oral assistance. They range from hiring bilingual staff or staff interpreters competent in the skill of interpreting, to contracting qualified outside in-person or telephonic interpreter services, to arranging formally for the services of qualified

voluntary community interpreters who are bound by confidentiality agreements. Generally, it is not acceptable for agencies or recipients to rely upon an LEP individual's family members or friends to provide the interpreter services. The agency or recipient should meet its obligations under EO 13166 and Title VI by supplying competent language service free of cost.

The FBRMPO will comply with this federal requirement by assigning responsibility for LEP assistance as follows:

☑ **Requests for Translation of Vital Documents** LEP services will be provided by the local MPO (FBRMPO member agency) in which the LEP individual resides, in accordance with that MPO's LEP policy and plan. The local MPO may request assistance from the MPO that authored the document.

☑ **Requests for Translation Assistance at Public Meetings and Workshops** All ads for a public meeting sponsored by the FBRMPO will contain the following language: "Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact (*name of local contact*) at (*telephone number of local contact*) at least 10 working days in advance of the Public Meeting."

As covered under Title VI requirements for nondiscrimination, at each meeting the FBRMPO will provide the Title VI material and will include this material in an alternate language when applicable.

☑ **Maintaining Files** Member MPOs will maintain LEP status for their communities in files to assure consistent communication in the appropriate language. The member MPO/TPO will provide a follow-up report to the FBRMPO as to how individual LEP requests, complaints or issues were resolved and/or what assistance was provided. A summary of LEP reports and complaints will be provided to the FBRMPO concurrent with the annual renewal of the LEP.

☑ **Review Process** Member MPOs/TPO will review their respective delivery processes to determine whether any local or FBRMPO program process denies or limits participation by LEP persons within that agency's respective community.

☑ **Discrimination-Complaint Procedures** LEP persons should be provided notice of their opportunity to file a discrimination complaint in accordance with Title VI. LEP persons may be advised orally of the opportunity to file a discrimination complaint pursuant to the regulations using an interpreter. LEP persons should be made aware of the free, oral translation of vital information that member MPOs will provide upon request.

☑ **Annual Update** Annual assessment of the language needs will be conducted by FBRMPO when this policy is updated by review of census and county labor-market data or review of statistics from school system, community agencies and organizations and comparison to demographic data.

French Broad River MPOs Limited English Proficiency (LEP) Plan

Introduction The purpose of this Limited English Proficiency (LEP) policy guidance is to clarify the responsibilities of recipients of federal financial assistance from the U.S. Department of Transportation (DOT) and assist them in fulfilling their responsibilities to persons, pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. It was prepared in accordance with **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, and;

Executive Order 13166

Executive Order 13166 "Improving Access to Services for Persons With Limited English Proficiency," reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that is subject to the requirements of Title VI to publish guidance for its respective recipients clarifying that obligation. Executive Order 13166 further directs that all such guidance documents be consistent with the compliance standards and framework detailed in the Department of Justice's (DOJ's) Policy Guidance entitled "Enforcement of Title VI of the Civil Rights Act of 1964--National Origin Discrimination Against Persons With Limited English Proficiency." (See 65 FR 50123, August 16, 2000 DOJ's General LEP Guidance). Different treatment based upon a person's inability to speak, read, write or understand English may be a type of national origin discrimination.

Executive Order 13166 applies to all federal agencies and all programs and operations of entities that receive funding from the federal government, including state agencies, local agencies and governments, private and non-profit entities and subrecipients. This includes the Chairs Coordinating Committee.

Definitions

Limited English Proficiency - The LEP program provides assistance for people whom English is not their primary language and who have a limited ability to read, speak, write or understand English.

LPA – The Lead Planning Agency responsible for housing the functions of the FBRMPO

Vital Document – Forms that include (but are not limited to) applications, consent forms, all compliance plans, public participation plans, letters containing important information regarding participation in a program, appeal forms, other outreach materials.

Substantial Number of LEP – 1000 people or 5% 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.

Title VI Compliance Officer – The person or persons responsible for compliance of Title VI LEP policies, in the case of the FBRMPO, the Title VI Coordinator.

Plan Summary.

This document will describe the FBRMPO's responsibilities to offer language assistance and to support the LEP activities of the local programs.

The FBRMPO developed an LEP program that complies with federal guidelines that includes:

What Documents Apply to the LEP Executive Order

All documents that are vital are included under this provision. A document will be considered vital if it contains information that is critical for obtaining the federal services and/or benefits, or is required by law.

How an LEP Population is Identified

An LEP Person does not speak English as a primary language AND has limited ability to read, speak, write or understand English. The threshold for translation services is 1,000 persons or 5% of the population eligible to be served based on the FBRMPO's LEP Policy. The US Census Bureau's American Community Survey 5-year estimates are the basis for determination. LEP populations that are reasonably close to one of the thresholds can be considered for inclusion for services if the margin of error in the American Community Survey would allow the threshold to be met.

- Hearing or visual impairments - sign language interpretation and Braille texts are accommodations of disabilities provided under the Americans with Disabilities Act and/or Section 504 of the Rehabilitative Acts of 1973.
- Illiteracy - LEP individuals protected by the Executive Order and Title VI are those who not only cannot speak, read, or write English, but primarily speak, read or write an language other than English

What Documents or Materials are Included

Vital documents must be translated when they meet the definition, above. For the purposes of the French Broad MPO, the following documents will be translated: the Public Involvement Plan, the Title VI Compliance Plan, this LEP Plan, meeting schedules for all committees and subcommittees of the MPO, the informational brochure about the MPO, and an informational pamphlet about translation services.

Most other documents that require translation and that also relate to transportation are done by the local governments and transit operators directly.

Public Meetings / Workshops / MPO Website and Social Media

All ads for a public meeting will contain the following language: Persons who require special accommodations under the Americans with Disabilities Act or persons who require translation services (free of charge) should contact the FBRMPO at 828.521.6622 at least 10 working days in advance of the Public Meeting. As covered under Title VI requirements for nondiscrimination, at each meeting it is necessary to provide the Title VI material and include this material in an alternate language when

applicable. On the website, the MPO provides contact phone numbers, email addresses and links to LEP resources at the MPO.

Monitoring and Updating the LEP Plan This plan is designed to be flexible and is one that can be easily updated. The FBRMPO will annually update their Title VI and LEP Program. The next required Title VI Program update must be forwarded to the FTA by July 30, 2012.

Dissemination of the FBRMPO Limited English Proficiency Plan The FBRMPO will post the offer for translation services for LEP individuals on its website, *www.fbrmpo.org*. The FBRMPO will also maintain its Spanish language resources at http://www.fbrmpo.org/información_en_español.

Any person or agency, including social service, non-profit and law enforcement agencies and other community partners with internet access will be able to access the plan. Copies of the FBRMPO's LEP Plan will also be available to the North Carolina Department of Transportation, Federal Highway Administration, the Federal Transit Administration, and to any person or agency requesting a copy.

Any questions or comments regarding this plan should be directed to the LOSRC Title VI Coordinator:

Danna Stansbury 339 New Leicester Hwy, Suite 140, Asheville, NC 28806 Phone 828.521.6622, FAX: 828.251.6353, E-mail: danna@landofsky.org

Four Factor Analysis

Introduction

Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," dated August 11, 2000 (65 Fed. Reg. 50121, Aug. 16, 2000) requires federal Agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities, who, due to limited English proficiency, cannot fully and equally participate in or benefit from those programs and activities. The EO and DOJ LEP Guidance advises each federal agency to "take reasonable steps to ensure meaningful access to the information and services they provide." The DOJ guidance document instructs agencies to consider four factors in developing LEP guidance for their recipients (the number of LEP persons in the eligible service population or likely to be encountered in recipient activities and programs; the frequency with which LEP individuals come into contact with the program; the importance of the service or information provided by the program; and the resources available to the recipient of the federal funds).

Analysis of Factors

Factor 1: Number or Proportion of LEP Individuals in the Eligible Population [1]

The MPO evaluated non-English speakers in the counties that make up the MPO, Buncombe, Haywood, and Henderson (See table by language in Appendix A).

Factor 2: Frequency of Contact with the Program [2]

All contacts with the MPO are made through its office in Asheville or at public outreach meetings that support a specific project. These contacts are potentially made through telephone calls, mail, Internet web site, e-mail, and in person. The MPO estimates that fewer than three persons with limited English proficiency have contacted the agency in the past few years.

Factor 3: Nature and Importance of the Program [3]

The French Broad River MPO is a partnership between local and state government that makes decisions about transportation planning in urbanized areas and meets planning requirements established by federal authorizing legislation for transportation funding. Local governments belonging to the MPO are Buncombe, Haywood and Henderson Counties, and Asheville, Biltmore Forest, Black Mountain, Canton, Clyde, Flat Rock, Fletcher, Hendersonville, Laurel Park, Maggie Valley, Mills River, Montreat, Waynesville, Weaverville, and Woodfin. While our programs serve a necessary and meaningful public purpose, they do not rise to the level of matters having life or death implications (e.g., the provision of services to children, medical care, food, housing, etc.).

Factor 4: Resources Available [4]

Recognizing the occasional need to handle calls in languages other than English, the MPO staff compiled a list of staff volunteers with fluency in some 5 languages other than English. This is supplemented by contract translation and interpreter services on retainer with Land of Sky Regional Council, the host organization of the MPO. Through these volunteers and contract services, we are able to assist callers who are better served by speaking with staff in languages other than English. Volunteers fluent in the languages of callers or correspondents are asked to deal directly with LEP persons in responding to inquiries. Technical staff is called upon as necessary in order to assist volunteers in providing requested information. We ask for assistance from volunteers to help callers on an infrequent basis—less than once a year. Thus, the MPO's current policy of using multi-lingual staff volunteers is an efficient and effective use of resources.

The MPO makes available documents pertinent to translation services and other Title VI issues on its website in Spanish and Russian at http://www.fbrmpo.org/información_en_español_spanish and http://www.fbrmpo.org/информация_на_русском_russian, respectively. Executive summaries of major planning documents vital to the MPO are also translated, including the Long Range Transportation Plan and the Transportation Improvement Program.

There is significant interest from the MPO boards to create materials that serve native English speakers who have limited language proficiency due to inability to read English or visual impairment. The MPO will be adding these materials over the next fiscal year to present in the Spring of 2012 for potential addition to this plan.

Regional Assessment of Language Proficiency Populations (2009 5-year American Community Survey)

	Buncombe County, North Carolina	Haywood County, North Carolina	Henderson County, North Carolina	Madison County, North Carolina	Transylvania County, North Carolina	TOTAL
Total	212,328	53,621	94,370	19,210	28,541	408,070
	+/-35	+/-84	+/-72	+/-26	+/-99	
Speak only English	197,695	51,925	85,119	18,853	27,592	381,184
	+/-1,030	+/-266	+/-605	+/-136	+/-183	
Spanish	8,838	1,072	7,140	230	572	17,852
	+/-489	+/-240	+/-457	+/-117	+/-130	
speak English "very well"	4,300	633	2,621	51	234	7,839
	+/-457	+/-195	+/-507	+/-51	+/-104	
speak English less than "very well"	4,538	439	4,519	179	338	10,013
	+/-415	+/-166	+/-433	+/-107	+/-93	
French	730	79	319	17	40	1,185
	+/-180	+/-55	+/-147	+/-29	+/-50	
speak English "very well"	574	69	267	17	40	967
	+/-165	+/-51	+/-140	+/-29	+/-50	
speak English less than "very well"	156	10	52	0	0	218
	+/-82	+/-17	+/-43	+/-127	+/-127	
Creole	15	0	68	0	0	83
	24	127	63	127	127	
speak English "very well"	7	0	0	0	0	7
	12	127	127	127	127	
speak English less than "very well"	8	0	68	0	0	76
	20	127	63	127	127	
Italian	93	179	100	0	33	405
	52	106	136	127	38	
speak English "very well"	72	155	62	0	20	309
	55	112	80	127	32	
speak English less than "very well"	21	24	38	0	13	96
	24	32	58	127	21	
Portuguese	146	0	32	0	0	178
	115	127	40	127	127	

(1,000 persons) inclusion.

speak English "very well"	124	0	32	0	0	156
	109	127	40	127	127	
speak English less than "very well"	22	0	0	0	0	22
	24	127	127	127	127	
German	797	232	302	19	128	1,478
	185	120	106	25	91	
speak English "very well"	667	210	248	19	104	1,248
	180	116	96	25	84	
speak English less than "very well"	130	22	54	0	24	230
	64	23	51	127	27	
Yiddish	9	0	0	0	0	9
	15	127	127	127	127	
speak English "very well"	0	0	0	0	0	0
	127	127	127	127	127	
speak English less than "very well"	9	0	0	0	0	9
	15	127	127	127	127	
Other West- Germanic	40	0	103	0	0	143
	34	127	82	127	127	
speak English "very well"	32	0	103	0	0	135
	32	127	82	127	127	
speak English less than "very well"	8	0	0	0	0	8
	12	127	127	127	127	
Scandinavian	54	26	88	0	0	168
	69	28	76	127	127	
speak English "very well"	54	13	88	0	0	155
	69	20	76	127	127	
speak English less than "very well"	0	13	0	0	0	13
	127	21	127	127	127	
Greek	303	0	41	0	0	344
	190	127	64	127	127	
speak English "very well"	215	0	41	0	0	256
	174	127	64	127	127	
speak English less than "very well"	88	0	0	0	0	88
	74	127	127	127	127	
Russian	1,009	0	228	17	0	1,254

	489	127	185	26	127	
speak English "very well"	299	0	88	17	0	404
	188	127	81	26	127	
speak English less than "very well"	710	0	140	0	0	850†
	405	127	130	127	127	916†
Polish	68	11	63	0	0	142
	51	19	50	127	127	
speak English "very well"	56	11	26	0	0	93
	47	19	30	127	127	
speak English less than "very well"	12	0	37	0	0	49
	18	127	33	127	127	
Serbo-Croat	0	0	0	0	0	0
	127	127	127	127	127	
speak English "very well"	0	0	0	0	0	0
	127	127	127	127	127	
speak English less than "very well"	0	0	0	0	0	0
	127	127	127	127	127	
Other Slavic	515	10	57	0	15	597
	289	17	65	127	24	
speak English "very well"	139	10	57	0	15	221
	120	17	65	127	24	
speak English less than "very well"	376	0	0	0	0	376
	202	127	127	127	127	
Farsi	62	0	0	0	0	62
	55	127	127	127	127	
speak English "very well"	28	0	0	0	0	28
	32	127	127	127	127	
speak English less than "very well"	34	0	0	0	0	34
	37	127	127	127	127	
Gujarati	113	0	66	0	0	179
	98	127	96	127	127	
speak English "very well"	82	0	66	0	0	148
	82	127	96	127	127	
speak English less than "very well"	31	0	0	0	0	31
	36	127	127	127	127	

†850 + Margin of Error (+/- 916) basis for LEP (1,000 persons) inclusion.

Hindi	31	0	0	0	0	31
	30	127	127	127	127	
speak English "very well"	22	0	0	0	0	22
	25	127	127	127	127	
speak English less than "very well"	9	0	0	0	0	9
	18	127	127	127	127	
Other Indic	145	0	32	0	22	199
	140	127	55	127	41	
speak English "very well"	114	0	26	0	22	162
	126	127	45	127	41	
speak English less than "very well"	31	0	6	0	0	37
	32	127	11	127	127	
Other Indo- European	266	0	0	0	0	266
	195	127	127	127	127	
speak English "very well"	45	0	0	0	0	45
	52	127	127	127	127	
speak English less than "very well"	221	0	0	0	0	221
	172	127	127	127	127	
Chinese	104	0	169	14	74	361
	86	127	159	23	90	
speak English "very well"	61	0	145	14	46	266
	56	127	163	23	56	
speak English less than "very well"	43	0	24	0	28	95
	41	127	29	127	36	
Japanese	138	33	0	11	0	182
	93	38	127	19	127	
speak English "very well"	68	33	0	11	0	112
	53	38	127	19	127	
speak English less than "very well"	70	0	0	0	0	70
	56	127	127	127	127	
Korean	140	0	91	0	0	231
	97	127	46	127	127	
speak English "very well"	89	0	22	0	0	111
	62	127	35	127	127	
speak English	51	0	69	0	0	120

less than "very well"	53	127	45	127	127	
Mon-Khmer	27	28	10	0	0	65
	32	31	23	127	127	
speak English "very well"	27	28	0	0	0	55
	32	31	127	127	127	
speak English less than "very well"	0	0	10	0	0	10
	127	127	23	127	127	
Hmong	47	0	0	0	14	61
	57	127	127	127	25	
speak English "very well"	32	0	0	0	14	46
	54	127	127	127	25	
speak English less than "very well"	15	0	0	0	0	15
	24	127	127	127	127	
Thai	37	0	13	0	0	50
	36	127	20	127	127	
speak English "very well"	37	0	0	0	0	37
	36	127	127	127	127	
speak English less than "very well"	0	0	13	0	0	13
	127	127	20	127	127	
Laotian	19	0	0	0	0	19
	18	127	127	127	127	
speak English "very well"	15	0	0	0	0	15
	17	127	127	127	127	
speak English less than "very well"	4	0	0	0	0	4
	7	127	127	127	127	
Vietnamese	174	0	45	0	0	219
	141	127	52	127	127	
speak English "very well"	63	0	32	0	0	95
	68	127	48	127	127	
speak English less than "very well"	111	0	13	0	0	124
	91	127	20	127	127	
Other Asian	31	0	0	17	0	48
	35	127	127	28	127	
speak English "very well"	13	0	0	17	0	30
	20	127	127	28	127	

speak English less than "very well"	18	0	0	0	0	18
	23	127	127	127	127	
Tagalog	271	16	181	20	10	498
	121	25	98	32	22	
speak English "very well"	208	0	172	11	10	401
	118	127	95	23	22	
speak English less than "very well"	63	16	9	9	0	97
	46	25	15	18	127	
Other Pacific Island	117	0	44	0	41	202
	112	127	60	127	58	
speak English "very well"	69	0	44	0	0	113
	75	127	60	127	127	
speak English less than "very well"	48	0	0	0	41	89
	48	127	127	127	58	
Navajo	0	0	0	0	0	0
	127	127	127	127	127	
speak English "very well"	0	0	0	0	0	0
	127	127	127	127	127	
speak English less than "very well"	0	0	0	0	0	0
	127	127	127	127	127	
Other Native American	39	10	0	0	0	49
	72	18	127	127	127	
speak English "very well"	39	10	0	0	0	49
	72	18	127	127	127	
speak English less than "very well"	0	0	0	0	0	0
	127	127	127	127	127	
Hungarian	68	0	0	0	0	68
	52	127	127	127	127	
speak English "very well"	54	0	0	0	0	54
	49	127	127	127	127	
speak English less than "very well"	14	0	0	0	0	14
	22	127	127	127	127	
Arabic	75	0	12	0	0	87
	58	127	21	127	127	
speak English	75	0	0	0	0	75

"very well"	58	127	127	127	127	
speak English less than "very well"	0	0	12	0	0	12
	127	127	21	127	127	

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value.

1. An '**' entry in the margin of error column indicates that too few sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
2. An '***' entry in the margin of error column indicates that no sample observations were available to compute a standard error and thus the margin of error. A statistical test is not appropriate.
3. An '-' entry in the estimate column indicates that no sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the lowest interval or upper interval of an open-ended distribution.
4. An '-' following a median estimate means the median falls in the lowest interval of an open-ended distribution.
5. An '+' following a median estimate means the median falls in the upper interval of an open-ended distribution.
6. An '****' entry in the margin of error column indicates that the median falls in the lowest interval or upper interval of an open-ended distribution. A statistical test is not appropriate.
7. An '*****' entry in the margin of error column indicates that the estimate is controlled. A statistical test for sampling variability is not appropriate.
8. An 'N' entry in the estimate and margin of error columns indicates that data for this geographic area cannot be displayed because the number of sample cases is too small.
9. An '(X)' means that the estimate is not applicable or not available.

[NOTE. For information on confidentiality protection, sampling error, nonsampling error, and definitions, see Survey Methodology.](#)