

Limited English Proficiency Plan

Effective May 15, 2009

***CENTRAL MISSISSIPPI PLANNING
AND DEVELOPMENT DISTRICT***

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I. Introduction

It is the policy of the Central Mississippi Planning and Development District (CMPDD), Inc. to assure compliance with Title VI of the Civil Rights Act of 1964, as amended. CMPDD, Inc. assures that no person in the United States, on the grounds of race, color, national origin, sex, age, or disability shall be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity for which the recipient receives federal assistance.

English is the predominant language of the United States. The United States is also, however, home to millions of national origin minority individuals who are “limited English proficient” (LEP). That is, they cannot speak, read, write or understand the English language at a level that permits them to interact effectively. Because of these language differences and their inability to speak or understand English, LEP persons are often excluded from programs, benefits and/or activities of agencies receiving Federal financial assistance.

Presidential Executive Order (EO) 13166 entitled “Improving Access to Services for Persons with Limited English Proficiency” was intended to improve access to federally conducted and assisted programs for persons who are LEP. The EO requires recipients of Federal financial assistance to develop and implement guidance on how the recipient will 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.

CMPDD’s LEP Plan provides procedures that will comply with Title VI responsibilities to ensure meaningful access to all programs, activities and/or benefits for LEP persons.

II. Limited English Proficiency Statement of Commitment

As a federal funds recipient, CMPDD is committed to nondiscrimination in all its programs and activities whether or not those programs and activities are federally funded. This guidance clarifies CMPDD’s fulfillment of responsibilities to limited English proficient (LEP) persons, pursuant to Executive Order 13166, entitled “Improving Access to services for persons with Limited English Proficiency.” CMPDD will take reasonable steps to ensure meaningful access to CMPDD’s programs, activities, services, and information that are normally provided in English are accessible to LEP persons.

The key to providing meaningful access to LEP persons is to ensure that LEP beneficiaries can communicate effectively and act appropriately based on that communication. CMPDD will ensure that every manager, supervisor, employee, and sub-recipient of federal-aid funds administered by CMPDD takes reasonable steps to ensure meaningful access to programs and activities. In addition, CMPDD will post written notices in a public area regarding the right to language assistance for persons needing communication assistance.

Discrimination allegations may be brought to the attention of CMPDD’s Equal Employment Opportunity (EEO) Coordinator for the appropriate resolution process.

III. Guidelines for Full Participation of Limited English Proficient (LEP) Persons

1. Implementation

The EEO Coordinator is responsible for monitoring CMPDD's programs and activities to ensure meaningful access for LEP persons, and is designated as CMPDD's LEP Liaison.

2. Responsibilities

All managers and supervisors have been notified that they are obligated to ensuring meaningful access to all programs and activities offered by CMPDD, Inc.

The EEO Coordinator along with management will identify language service needs and strategies for responding to those needs. The EEO Coordinator is responsible for monitoring CMPDD's programs and activities to ensure meaningful access for LEP persons. The EEO Coordinator will submit an annual report to the Chief Executive Officer identifying an estimate of the number of LEP clients in CMPDD programs and any obstacles that might hinder LEP participation.

3. LEP Services

The LEP Liaison will identify and maintain an inventory of Language Assistance Services (LAS) providers available to CMPDD's personnel. The inventory will include, but is not limited to, the following:

1. Contract language service providers (LSP) based on the following qualification factors:
 - The interpretation skill level of the LSP and its agents:
 - The LSP's experience in providing LEP services in similar contexts, and
 - Demonstrated timeliness in which they provide the service.

2. Contract document translators based on the following qualification factors:
 - The translation skill level of the contractor and its agents:
 - The contractor's experience in providing LEP services in similar contexts, and
 - Demonstrated timeliness and accuracy in which they provide the service.

All requests for translation/interpreter services will be forwarded to the EEO Coordinator. Requests for services will include the name of the person requesting the services, as well as their address and telephone number.

The EEO Coordinator will maintain a database for all LEP requests. This database will include, at a minimum, the name of the person requesting the service, type of service requested, name of LEP person affected, type of document to be translated, language translated from and to, and any other pertinent information for tracking language services.

The EEO Coordinator will develop a form that each requestor for services will complete to evaluate the services performed by the translator service provider. The evaluation forms will be sent directly to the EEO Coordinator.

If deemed as an eligible federal program expense, all LAS will be made available to LEP persons at the expense of CMPDD, where the circumstances indicate the provision of LEP services is appropriate and required.

4. Training

CMPDD staff members and sub-recipients will be instructed to know their obligations to provide meaningful access to information and services for LEP persons. An effective training objective would likely include training to ensure that:

- The appropriate staff and sub-recipients know about LEP policies and procedures.
- The appropriate staff and sub-recipients who have contact with the public are trained to utilize interpreter services effectively.
- CMPDD shall include this training as part of the orientation provided for new employees in key positions.
- The date, titles, attendance, and time the training involved will be documented.

5. Complaint Procedure

a. Any LEP individual has a right to file a complaint against CMPDD where he or she believes that CMPDD did not provide necessary LEP services as appropriate. These complaints include those available under Title VI of the Civil rights Act of 1964.

b. All complaints, alleging a violation under Title VI will be referred to the EEO Coordinator.

c. The EEO Coordinator will take appropriate steps to resolve all complaints in accordance with CMPDD's discrimination complaint procedures.

d. The EEO Coordinator will maintain a database tracking requests for all complaints and their resolution. The database will include the following items:

1. Source of complaint LEP request including relevant contact information
2. Nature of complaint request
3. Date complaint/request received
4. Date complaint/request resolved
5. Manner of resolution
6. Comments

- e. Fact-finding procedures will follow the investigation protocol in the Equal Opportunity Policy.
- f. Information mediation or formal hearings, as included in the Equal Opportunity Policy, will be conducted. Interpreters will be made available to hearing participants upon request or where staff identify a need for the interpreter.

6. Frequently Asked Questions

Q. Who is a Limited English Proficient (LEP) individual?

A. Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP."

Q. Does a recipient have to provide translation services in every language?

A. No. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. What is "reasonable" is based on the four factor analysis. Once the recipient researches the demographics and takes resources available and costs into consideration it may be that they only provide language services in the largest number of LEP persons served or encountered by a program or service.

Q. Will providing language services increase the risk of litigation and liability for recipients as a result of LEP Guidance?

A. No. *Alexander v. Sandoval* holds principally that there is no private right of action to enforce Title VI disparate regulations. The LEP Guidelines are based on Title VI regulations at 49 CFR Part 21 and does not provide any private right of action beyond that which exists in those laws. Thus LEP Guidance does not increase the risk of recipient's legal liability to private plaintiffs. This would not dismiss the fact that although there are no legal grounds a person is not prevented from initiating legal actions.

Q. What is a “safe harbor?”

A. “Safe harbor means that if a recipient provides written translations under certain circumstances, such action will be considered strong evidence of compliance with the recipient’s WRITTEN translation obligations under Title VI. The following actions will be considered strong evidence of compliance with the recipient’s written translation obligations: (a) the awarded recipient provides written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served; (b) if there are fewer than 40 persons in a language group that reaches the 5% trigger in (a), the recipient does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

Q. What are recipients of federal funds and federal agencies required to do to meet LEP requirements?

A. Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the grantee/recipient or agency, and costs. As indicated above, the intent of this guidance is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, or small nonprofits.