

FOUR FACTOR ANALYSIS
ASSESSING
LIMITED ENGLISH PROFICIENCY
AND
LANGUAGE ASSISTANCE PLAN

PREPARED BY
GRANTS DIVISION
OF
ARKANSAS ECONOMIC DEVELOPMENT COMMISSION
STATE OF ARKANSAS

FOR
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

A. POLICY STATEMENT

It is the policy of the Arkansas Economic Development Commission (AEDC) to take reasonable steps to provide meaningful access to its programs and activities for persons with Limited English Proficiency (LEP). The AEDC's policy is to ensure that staff will communicate effectively with LEP individuals, and LEP individuals will have access to important programs and information. AEDC is committed to complying with federal requirements in providing free meaningful access to its programs and activities for LEP persons.

B. HISTORY

Title VI of the Civil Rights Act of 1964 is the federal law which protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, failure to ensure that persons who have Limited English Proficiency can effectively participate in, or benefit from, federally assisted programs may violate Title VI's prohibition against national origin discrimination.

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter.

On August 11, 2000, Executive Order 13166, titled, "Improving Access to Services by Persons with Limited English Proficiency," was issued. Executive Order 13166 requires federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to LEP cannot fully and equally participate in or benefit from those programs and activities. Section 2 of the Executive Order 13166 directs each federal department or agency "to prepare a plan to improve access to...federally conducted programs and activities by eligible LEP persons...."

C. DEFINITIONS

Beneficiary: The ultimate consumer of HUD programs and receives benefits from a HUD Recipient or Sub-recipient.

Limited English Proficient Person (LEP): Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English because of national origin.

Language Assistance Plan (LAP): A written implementation plan that addresses identified needs of the LEP persons served.

Recipient: Any political subdivision of the State of Arkansas, or an eligible nonprofit organization, to whom Federal financial assistance is extended for any program or activity, or who otherwise participates in carrying out such program or activity, including any successor, assign or transferee thereof, but such term does not include any Beneficiary under any such program.

Sub-recipient: Any public or private agency, institution, organization, or other entity to whom Federal financial assistance is extended, through another Recipient, for any program or activity, or who otherwise participates in carrying out such program or activity but such term does not include any Beneficiary under any such program.

Vital Document: Any document that is critical for ensuring meaningful access to the Recipient’s major activities and programs by Beneficiaries generally and LEP persons specifically.

D. FRAMEWORK & METHODOLOGY

This Four Factor Analysis is the first step in providing meaningful access to federally funded programs for LEP persons. The Four Factor Analysis completed by AEDC addresses the following:

1. The number or proportion of LEP persons eligible to be serviced or likely to be encountered by AEDC;
2. The frequency with which LEP persons using a particular language come in contact with AEDC;
3. The nature and importance of the AEDC program or activity provided to the individual’s life; and
4. The resources available to the AEDC, and costs associated with providing LEP services.

E. FOUR FACTOR ANALYSIS

- 1. The number or proportion of LEP persons eligible to be served or likely to be encountered by AEDC.**

AEDC is the recipient of funding from the United States Department of Housing and Urban Development (HUD). This includes Community Development Block Grant Program (CDBG or CDBG Program) funds and HOME Investment Partnerships Program (HOME or HOME Program) funds. AEDC sub-grants this funding to eligible Recipients throughout the State of Arkansas, and such Recipients undertake projects in specific services areas (i.e. within a particular local government, a group of counties, or other identified service area). AEDC does not often come into direct contact with LEP persons, as most direct contact with an LEP person occurs at the project level between the Recipient and the LEP person.

AEDC’s service area generally consists of the entire State of Arkansas, (although the Cities of Little Rock, North Little Rock, Conway, Pine Bluff, Fayetteville, Ft. Smith, Rogers, Hot Springs, Springdale, Jacksonville, Texarkana, West Memphis and Jonesboro are each HUD entitlement communities). In order to determine the LEP population of Arkansas, AEDC reviewed the 2012 5-year American Community Survey (ACS) data (Table B16001) to find what the primary languages were for people that spoke English less than “very well”. Based on this data, in addition to English, Arkansas’s population speaks the following languages: Spanish (68,847 or 2.31%), Pacific Islander (3,151 or 1%), Vietnamese (3,088 or 1%), Chinese (2,358 or .08%), Laotian (1701 or .06%). Other Asian languages and African languages both are composed of numerous languages and dialects, not any one specific translatable language.

This data shows that the Spanish speaking population is the largest LEP population in Arkansas; and therefore would likely be the LEP population most likely to be encountered by AEDC. Because AEDC does not directly provide assistance to individuals, AEDC also looked at the ACS data to determine what LEP populations are present on a county level.

HUD has established a “safe harbor” regarding the responsibility to provide translation of Vital Documents for LEP populations. This safe harbor is based upon the number and percentages of the service area-eligible population or current beneficiaries and applicants that are LEP. According to the safe harbor rule, HUD expects translation of Vital Documents to be provided when the eligible LEP population in the service area or Beneficiaries exceeds 1,000 persons or if it exceeds 5% of the eligible population or Beneficiaries along with more than 50 people. In cases where more than 5% of the eligible population speaks a specific language, but fewer than 50 persons are affected, there should be a translated written notice of the person’s right to an oral interpretation.

With the Spanish speaking population being the largest LEP population in Arkansas, AEDC has identified 14 counties that have Spanish speaking LEP populations exceeding the 1,000 person or 5% threshold. These are depicted in the following table. With the exception of these counties, no other Arkansas county has an LEP population other than the Spanish speaking population that exceeds the HUD safe harbor threshold.

County	Total Population	Estimate of Spanish Speaking LEP Population	% of Total
Benton	204,397	12,365	6.04
Bradley	10,724	576	5.37
Carroll	25,653	1,409	5.49
Craighead	89,719	1,518	1.69
Faulkner	105,779	1,257	1.19
Garland	90,816	1,633	1.80
Hempstead	20,826	1,098	9.11
Howard	12,772	791	6.19
Pope	57,674	1,532	2.65
Pulaski	356,303	9,128	2.56
Sebastian	116,736	5,697	4.88
Sevier	15,466	2,686	17.37
Washington	188,655	13,298	7.04
Yell	20,503	1,955	9.53

Source: U.S. Census 2008-2012 American Community Survey Data Table B16001 LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER. The estimates from the ACS are based on a sample survey and hence are subject to sampling error

2. The frequency with which LEP persons using a particular language come in contact with AEDC.

AEDC understands that the more frequently contact occurs with LEP persons, the more likely enhanced language services will be needed. However, AEDC does not provide direct assistance to individuals. AEDC awards HUD funds to Recipients that carry out eligible projects that benefit individuals in the service area. As such, LEP persons rarely come into contact with AEDC administered HUD-funded programs at the State level. However, it is possible that some citizen participation efforts may be directed to the State by persons seeking to participate in the annual planning process for AEDC programs.

3. The nature and importance of the AEDC program or activity provided to the individual's life.

AEDC understands that the more important the activity, information, services or program, or the greater the possible consequences of the contact to the LEP persons, the more likely language services are needed. The programs administered by AEDC result in Recipients of HUD funding from AEDC carrying out projects, and in some instances, providing direct assistance to LEP individuals and families. It is likely that the type of project activities proposed by the Recipient will impact the level and type of language assistance needed to be provided. At the AEDC level, it is most important for language assistance services be provided for citizen participation efforts undertaken by AEDC, as this is when it is most likely that LEP individuals will come into contact with AEDC directly. It is also important that AEDC provide information to LEP persons that will allow them to file a complaint if they believe they have been denied the benefits of language assistance.

4. The resources available to AEDC, and costs associated providing LEP services.

AEDC has limited resources available for administration of HUD funded programs. These resources primarily come from the percentage of CDBG funding that is allowed to be used for administration of such programs. AEDC will use these administration funds to provide LEP services, in addition to using such funds for fulfilling all other statutory and regulatory requirements of these programs.

The costs associated with providing LEP services will vary depending upon the service provided. If AEDC uses existing resources, such as having AEDC staff members who are proficient in languages other than English assist in translation and/or interpretation, this will be a cost effective method of providing LEP services. Another cost effective method of providing LEP services would be to make LEP persons aware of the many brochures, handbooks, booklets, factsheets and forms that are available in multiple languages on the HUD website. AEDC may also, when appropriate, utilize free websites to translate written materials. The most costly option for providing LEP services would be to contract with outside persons that are proficient in interpretation of spoken word and in translation of documents. AEDC will do this when necessary. It is expected that the cost of obtaining such services will vary depending upon the nature of the services requested, and the service provider selected.

F. LANGUAGE ASSISTANCE PLAN

As a result of the preceding Four Factor Analysis, AEDC has developed a Language Assistance Plan. The Language Assistance Plan addresses the identified needs of the LEP persons AEDC serves, the process by which AEDC will monitor and update the LAP.

AEDC understands that the actions AEDC is expected to take to meet its LEP obligations depend upon the results of the Four Factor Analysis including the services AEDC offers, AEDC's service area, the resources AEDC possesses, and the costs of various language service options. However, AEDC is to take reasonable steps to ensure meaningful access to LEP persons. The meaningful access is based upon a reasonableness standard that is both flexible and fact-dependent.

1. The procedures AEDC will use to identify LEP persons with whom AEDC has contact, the size of LEP populations, and the languages of LEP populations.

AEDC will review American Community Survey data as it is updated to determine the size of LEP populations and the languages of LEP populations within the State of Arkansas. AEDC will use its citizen participation process conducted on at least an annual basis in conjunction with preparation of the required Annual Action Plan to determine whether additional contact with LEP persons is likely to occur at the State level. This will be accomplished by including information in public notices for Annual Action Plan hearings regarding obtaining language assistance in order to participate in the planning process. AEDC staff persons will also interact with public hearing attendees and informally engage in conversation to gauge each attendee's ability to speak and understand English. AEDC will keep records of language assistance requests in order to determine whether language assistance may be needed at future hearings.

2. Points and types of contact AEDC may have with LEP persons.

LEP persons rarely come into contact with AEDC administered HUD-funded programs at the State level. However, AEDC is aware that LEP populations may wish to participate in the citizen participation efforts of AEDC, especially when AEDC is determining state and local needs and program policies. AEDC's LAP focuses on the need for AEDC to ensure that individuals have access to citizen participation efforts, and that Recipients of HUD funding from AEDC fulfill their LEP obligations so as to ensure that the LEP community has access to appropriate language assistance.

3. Ways in which language assistance will be provided by AEDC, and the plan for outreach to LEP populations.

AEDC will provide language assistance as requested, and as appropriate. AEDC has limited resources available for administration of HUD funded programs, and such resources must be used to provide LEP services in addition to fulfilling all other statutory and regulatory requirements of these programs. AEDC will provide language assistance as follows:

(1) AEDC will maintain a list of identified AEDC staff members (and where possible other state agency employees) who are proficient in languages other than English who are willing to assist in translation and/or interpretation, and will make this list available to staff persons so that they can appropriately obtain language assistance services for LEP persons.

(2) AEDC will use and make persons aware of the many brochures, handbooks, booklets, factsheets and forms that are available in multiple languages on the HUD website.

Many of these are available at: <http://www.hud.gov/offices/fheo/promotingfh/leptranslated.cfm>

(3) When, and if appropriate, AEDC may utilize free websites and computer programs to translate written materials. AEDC's website www.ArkansasEDC.com utilizes a 94 language translation program.

(4) As needed, AEDC will contract with entities that are proficient in interpretation of spoken word and translation of documents. AEDC will maintain a list of identified contractors.

(5) When language assistance is needed via telephone, staff will immediately contact the individual from the AEDC internal list of staff persons proficient in the particular language and have such individual provide assistance; or in the alternative, the staff will seek assistance through Language Line. Language Line is a voice interpretation service provided by the Arkansas Office of the CIO-Network Services, which utilizes an interpreter for communicating with non-English speaking persons. AEDC will keep a copy of the instructions for using Language Line at the AEDC reception desk. These instructions are included in this Language Assistance Plan.

(6) AEDC will provide, on a prior request basis, interpretation assistance for AEDC public hearings and/or meetings via staff persons proficient in the particular language requested; or in the alternative if no staff person is available to provide such assistance, the staff will seek assistance from a qualified contractor.

(7) AEDC will translate Vital Documents, including but not limited to the Citizen Participation Plan and Complaint procedures, into Spanish (and other languages as need may be identified in the future).

Outreach Plan

AEDC will conduct outreach to LEP persons as follows:

(1) AEDC will provide notification to LEP persons of the availability of language assistance services (both interpretation and translation) through public notices published in conjunction with the Annual Action Plan, and on the AEDC website.

(2) AEDC will provide a link on the AEDC website to the HUD translated materials site.

(3) AEDC will provide its Recipients with technical assistance regarding their responsibilities to provide language assistance services to individuals in their jurisdiction and/or service area, and request information from them on how they will provide outreach to LEP persons in their jurisdiction and/or service area.

4. AEDC's plan for training staff members on LEP guidance and the LAP, including specific provisions for training staff that are responsible for monitoring Recipients of HUD funding.

AEDC will ensure that AEDC staff persons are given proper LEP training so that they are aware of their obligations to provide meaningful access to information and services for LEP persons. Staff associated with HUD funded programs will have a greater need for in-depth training, and AEDC will ensure such staff persons have been trained on providing language assistance and/or obtaining language assistance for LEP individuals. Training for these individuals will include the following:

(1) Staff persons will be trained on language assistance requirements by being made aware of applicable law and resources.

(2) Staff persons will be provided with a copy of the Four Factor Analysis and Language assistance Plan, and will be informed when such information is updated.

(3) Staff persons will be informed of other staff persons who are proficient in providing language assistance, and receive instructions on actions to take when LEP individuals are encountered, including instructions on the use of Language Line.

(4) Front desk receptionists will be trained on the use Language Line and on use of language identification cards, or “I speak cards”, which invite LEP persons to identify their language needs. I speak cards will be kept at the front desk.

(5) All staff persons that monitor Recipient’s will be trained on examining the efforts of Recipients to comply with LEP requirements. This will include the following: (1) evaluating whether the Recipient has completed a Four Factor Analysis; (2) determining whether such Four Factor Analysis necessitated the preparation of a Language Assistance Plan; (3) determining whether Recipient provided language assistance outreach and services as identified in the Language Assistance Plan; and (4) determining whether Vital Documents have been made available in appropriate languages.

(6) Supervisors and managers will be trained on language assistance requirements so that they can reinforce the importance of compliance and ensure implementation by staff.

5. A list of Vital Documents to be translated, the languages into which they will be translated and the timetable for translations.

AEDC will translate Vital Documents into appropriate languages. Vital Documents are any documents that are critical for ensuring meaningful access to AEDC’s major activities and programs by beneficiaries generally and LEP persons specifically. Based upon the information gathered through completion of the Four Factor Analysis, AEDC has determined that the Citizen Participation Plan and complaint procedure contained in the AEDC program administration manuals are Vital Documents. The Citizen Participation Plan provides the plan for ensuring that citizens are aware of when activities will take place, which will help ensure they have the opportunity to participate and/or request the necessary assistance to participate. The complaint procedure provides information on how to inform AEDC if an individual has a complaint against AEDC or its Recipient’s in administering funding. AEDC will translate both of these documents into Spanish. The Citizen Participation Plan will be translated prior to citizen participation efforts for the next Annual Action Plan at that time. AEDC also plans to have the complaint procedure in the AEDC program administration manuals translated.

AEDC will document requests received for language assistance, observe interactions with LEP persons that occur as a result of the Vital Documents translated, continue to review American Community Survey data as it is updated, and determine whether there are other Vital Documents that need to be translated, or whether other languages are necessary.

AEDC will also ensure that public notices include a clause in Spanish, which informs individuals that they may request language assistance services in order to participate in the process addressed in the public notice.

6. AEDC’s plan for translating informational materials that detail services and activities provided to Beneficiaries and AEDC’s plan for providing appropriately translated notices to LEP persons.

Because the cost of translation can be high, AEDC will continue to evaluate the need for translation of informational materials, and consider the best way to undertake translation services. AEDC wishes to be resourceful in providing language assistance without compromising quality and accuracy of the language services provided. If AEDC receives a request for translation of materials, AEDC will proceed to have such materials translated into the language requested, unless it is determined that the requester would also be satisfied with a competent oral interpretation of the document (e.g. documents only a few pages in length), and the oral interpretation can be more promptly provided.

As explained in the Four Factor Analysis, AEDC does not provide services directly to beneficiaries, but instead provides funding to Recipients who then provide services to beneficiaries. Therefore, AEDC believes it is appropriate to focus upon ensuring Recipients are taking appropriate action to ensure notice of language assistance services is provided to LEP persons, and that documents that are identified as Vital Documents by Recipients are translated into appropriate languages.

7. AEDC's plan for providing interpreters for large, medium, small and one-on-one meetings.

As part of AEDC's citizen participation plan, AEDC will make the LEP persons aware that an interpreter can be provided without charge to allow for participation in public hearings or meetings. AEDC will require a request, in advance of the public hearing or meeting, for an interpreter to be provided. In the event a LEP person requests to have a family member or friend act as an interpreter for them at a hearing or meeting, AEDC will make every effort to ensure the LEP person knows that AEDC will provide an interpreter free of charge. If the LEP person continues to insist upon use of such family member or friend, AEDC will inform the LEP person that they need to be confident that the family member or friend can provide quality and accurate interpretation. If the LEP person wishes to proceed with such individual as an interpreter, AEDC will accommodate for such interpretation assistance to occur at the hearing or meeting.

8. AEDC's plan for developing community resources, partnerships, and other relationships to help with the provision of language services.

AEDC is aware that other Arkansas government agencies and entities have Language Assistance Plans. These include the Arkansas State Courts, Arkansas Highway and Transportation Department, and Arkansas Department of Education, among others. AEDC will communicate with these agencies regarding their methods of LEP outreach and provision of language assistance services. Through this communication, AEDC will attempt to determine best practices for the provision of such services, and incorporate those into AEDC's Language Assistance Plan.

AEDC will also communicate with community organizations that serve LEP populations. Such organizations include Hispanic Community Services, Inc., Hispanic Women's Organization of Arkansas, Arkansas Latino Nonprofit Leadership Academy, Marshallese Educational Initiative, Arkansas Literacy Councils, ¡Hola! ARKANSAS and others that assist people of all cultures by teaching English language and literacy skills. Many of these organizations also partner with educational institutions, community groups, and churches to provide services to LEP persons.

Identification of these groups through interaction with literacy skill providers will help AEDC become more aware of the needs that exist for language assistance services.

AEDC will provide Recipients with technical assistance regarding their responsibilities to provide language assistance services. In particular, AEDC will educate Recipients on HUD's safe harbor provision for translation of written materials, and the requirement to provide reasonable, timely, oral language assistance to LEP persons. AEDC will require all Recipients to provide reasonable oral language assistance, and such assistance may involve use of an in-person interpreter or telephone line interpreter, as may be appropriate. AEDC will require Recipients in counties that have populations that exceed the HUD safe harbor threshold to complete a Four Factor Analysis, and where necessary prepare a Language Assistance Plan to address identified needs of LEP persons. AEDC will prepare a template that can be used as a starting point for Recipients in preparing a Language Assistance Plan. After provision of technical assistance and training, AEDC will monitor Recipients to evaluate action taken comply with LEP requirements and, where applicable, compliance with provisions contained in a Language Assistance Plan.

AEDC will make Recipients aware of LEP resources, especially those noted at the end of the Language Assistance Plan. In particular, AEDC will use the LEP video, "Breaking Down the Language Barrier: Translating Limited English Proficiency into Practice." This video, which is available as a streaming video on www.lep.gov, explains the language access requirements of Title VI and Executive Order 13166 through vignettes that expose the problems resulting from the absence of language assistance. The video goes on to show how these same situations could have been handled more appropriately if the service provider took reasonable steps to provide meaningful access.

9. AEDC's plan for monitoring and updating the LAP.

AEDC will monitor, maintain and update the Language Assistance Plan at least annually, and more frequently in response to new information. AEDC will review American Community Survey data as it is updated to determine the size of LEP populations and the languages of LEP populations within the State of Arkansas, review additional guidance provided by HUD, and update the Language Assistance Plan accordingly.

AVAILABLE LEP RESOURCES

HUD Frequently Asked Questions on the Final LEP Guidance:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq

HUD’s LEP Website:

<http://www.hud.gov/offices/fheo/lep.xml>

Federal LEP Website:

<http://www.lep.gov/>

LEP and Title VI Videos:

<http://www.lep.gov/video/video.html>

“I Speak” Card:

<http://www.lep.gov/ISpeakCards2004.pdf>

COMPLAINTS

If you believe that you have been denied the benefits of this Language Assistance Plan, you may file a written complaint by mail to:

Compliance Officer

Grants Management Division

Arkansas Economic Development Commission

900 W. Capitol, Ste. 400

Little Rock, AR 72201

Or by email to: dpolk@arkansasedc.com with a copy to jnoble@arkansasedc.com

If you need assistance in filing a written complaint, you may contact Dori Polk at 501-682-7335.

Any person that feels that the Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) and Executive Order 13166 regulations were not complied with may file a complaint directly to the Assistant Secretary for Fair Housing and Equal Opportunity at the following links (or as otherwise directed):

FORT WORTH REGIONAL OFFICE U.S. Department of Housing and Urban Development Southwest Office 801 Cherry St., Unit 45, Suite 2500 Fort Worth, TX 76102	Garry Sweeney, Regional Director	(817) 978-5868 Fax: (817) 978-5876
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Or Contact (888)560-8913 and for the hearing impaired, please call TTY (800)927-9275