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FEMA Policy: Language Access

FEMA Policy FP-256-23-001

BACKGROUND

FEMA works with state, local, tribal, and territorial governments, non-governmental organizations, and the private sector to prepare communities before a disaster occurs and to deliver a range of services to survivors before, during, and after disasters.

It is FEMA's policy that all personnel shall take reasonable steps to provide individuals with limited English proficiency (LEP) with meaningful access to all programs or activities conducted both by FEMA and by entities receiving funding from FEMA. This policy is based upon the principle that it is the responsibility of FEMA—not the LEP individual—to take reasonable steps to ensure communications are not impaired because of the limited English proficiency of the individual.

This policy implements the Department of Homeland Security (DHS) language access policy¹ and augments an established system within FEMA to implement Executive Order 13166.² The executive order sets two overarching goals for each federal agency: 1) to improve access to federally funded programs and activities by persons with limited English proficiency;³ and, 2) to implement a system by which individuals with limited English proficiency can meaningfully access the agency's services consistent with, and without unduly burdening, the fundamental mission of the agency.

PURPOSE

The Language Access Policy (LAP) confirms FEMA's commitment to make reasonable efforts to eliminate or reduce limited English proficiency as a barrier to accessing FEMA programs and/or activities, including those conducted by its contractors and grant recipients.

¹<https://www.dhs.gov/sites/default/files/publications/crcl-dhs-language-access-plan.pdf>

² Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* §2; 65 Fed. Reg. 50121 (August 11, 2000).

³ Under Title VI of the Civil Rights Act of 1964 and implementing regulations, failure of a recipient of federal financial assistance to take reasonable steps to provide meaningful access by individuals with LEP to covered programs and activities could violate Title VI.



PRINCIPLES

FEMA adheres to DHS policy and implements Executive Order 13166 that affirms the agency's commitment to its language access responsibilities. FEMA ensures meaningful communication access to individuals with limited English proficiency by implementing the following principles. FEMA has and will continue to ensure the following:

- A. *Assessment of Need and Capacity*: Have in place processes to regularly identify and assess the language assistance needs of the public, as well as processes to assess the agency's capacity to meet these needs according to the elements of this policy.
- B. *Oral Language Assistance*: Provide oral language assistance such as sufficient qualified interpreters or staff whose proficiency in non-English languages has been documented, in both in-person and remote encounters, and that addresses the needs identified in Principle A. FEMA will establish a point of contact for individuals with limited English proficiency, such as an office, official, or phone number. A language coordinator in the Office of Equal Rights will monitor, provide oversight, and implement the limited English proficiency program will be assigned to assist FEMA in carrying out these principles as well as convening and directing a language access working group.
- C. *Written Translation*: Identify, translate, and make accessible in various formats, including print and electronic media, vital documents in languages other than English in accordance with assessments of need and capacity conducted under Principle A.
- D. *Responding to Surges*: Develop steps and mechanisms on which it relies to augment language capacity in a surge or sudden change in demographics of the limited English proficiency population served or encountered.
- E. *Notification of the Availability of No-Cost Language Assistance*: Proactively inform individuals with limited English proficiency that language assistance is available at no cost.
- F. *Assessment of Access and Quality*: Regularly assess the accessibility and quality of language assistance activities for individuals with limited English proficiency, maintain an accurate record of language assistance services, and implement or improve limited English proficiency outreach programs and activities in accordance with public need and agency capacity.
- G. *Stakeholder Consultation and Language Access Working Group*: Consult with stakeholder communities, in accordance with this and other federal policies, to identify language assistance needs of individuals with limited English proficiency, implement appropriate language access strategies to ensure individuals with limited English proficiency have meaningful access in accordance with assessments of customer need and agency capacity, and evaluate progress on an ongoing basis.
- H. *New Technologies and Digital Information*: Provide information on and develop initiatives to use updated technologies to provide greater language access. Appropriate parties within FEMA will develop and implement specific written policies and procedures to ensure that, in accordance with assessments of limited English proficiency needs and agency capacity, digital information is accessible by communities in need of language services.



- I. *Indigenous and Rare Languages*: Ensure that its policies and practices consider the language needs of Indigenous and rare language speakers.
- J. *Compliance with Plain Language Act*: Ensure the use of easily understandable language in its documents.
- K. *2022-2026 FEMA National Tribal Strategy*: Abide by the FEMA National Tribal Strategy to better provide services to Tribal Nations and communities.
- L. *FEMA Equity Plan*: Be responsive to needs of all individuals and communities to ensure that the benefits of FEMA services are available in accordance with Executive Order 13985 Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

FEMA's Office of Equal Rights, External Civil Rights Division (ECRD) will develop a Language Assistance Manual that will further discuss implementation of the principles set forward in this document.

REQUIREMENTS

Incorporating the LAP's principles into a functional policy creates the need for specific requirements to be considered by FEMA along with its contractors and grant recipients.

A. UNDERSTANDING HOW LEP INDIVIDUALS INTERACT WITH FEMA

Outcome: FEMA ensures meaningful access for LEP individuals to FEMA programs and services before, during, and after disasters.

FEMA recognizes the myriad ways it interacts with limited English proficiency individuals including, but not limited to face-to-face, telephonically, electronically (through websites, texts, emails), and through written correspondence. Realizing the many potential interactions with LEP individuals are common occurrences, FEMA can prepare the best implementation of this policy.

Agencies are encouraged to perform a "four-factor analysis" that will help them determine the most appropriate language assistance services necessary to ensure a LEP individual has meaningful access to the agency's programs and activities. The analysis considers: 1) the number or proportion of LEP individuals eligible to be served or likely encountered by the program; 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 program and costs⁴.

⁴ LEP Guidance to Recipients, 67 Fed. Reg at 41459.



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B. IDENTIFYING AND ASSESSING LEP COMMUNITIES

Outcome: FEMA analyzes LEP community language needs.

FEMA will assess the number or proportion of LEP individuals from each language group in its service area to determine appropriate language assistance services. This analysis includes persons in a geographic service area with whom FEMA comes into contact while carrying out agency functions. For the assessment to be accurate it must also include all communities who are eligible for services or are likely directly affected by programs or activities. FEMA may determine the linguistic characteristics of an LEP population in a service area by reviewing available data from state, local, tribal, and territorial government agencies, community, and faith-based organizations.

Based upon the unpredictable nature of disasters that FEMA must respond to, identifying and assessing potential LEP communities is done on a case-by-case basis and, although static factors such as census details play a large part, more up-to-date and immediate feedback from community sources may provide a more accurate accounting of language access needs during an emergency.

C. PROVIDING LANGUAGE ASSISTANCE SERVICES

Outcome: FEMA will provide appropriate language assistance to LEP individuals.

Translation is a written language service, and interpretation is an oral language service. FEMA must provide both written translations and oral interpretation to ensure meaningful access to and an equal opportunity to participate fully in the services, activities, programs, or other benefits administered by the agency, aligning with Principles B and C.

Given the disparate activities and areas of focus within FEMA, a universal threshold has not been established to determine what documents are vital. However, it is incumbent upon each FEMA department to determine for its programs and activities what constitutes vital documents, such as applications, and implement a translation strategy. Agencies should proactively translate vital written documents into the frequently encountered languages of LEP groups.

D. TRAINING STAFF IN POLICY AND PROCEDURE

Outcome: FEMA will ensure personnel that interact with LEP individuals receive LAP training.

FEMA personnel that encounter LEP individuals need to know how and when to access language services. For policies and procedures to be effective, FEMA, through its Office of Equal Rights/ECRD, will ensure that new and existing personnel periodically receive training on the content of this policy, identify language access needs, and provide language assistance services to LEP individuals.



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E. PROVIDING NOTICE OF LANGUAGE ASSISTANCE SERVICES

Outcome: FEMA will make reasonable efforts to notify the public about its LEP policies and how to access language assistance services.

FEMA's departments should determine what information shall be provided in English and in appropriate non-English languages. FEMA departments should assess all points of contact, telephone, in-person, mail, and electronic communication its staff has with the public and LEP individuals when determining the best method of providing notice of language assistance services. FEMA will not only translate its outreach materials, but also explain how LEP individuals may access available language assistance services.

Leslie Saucedo
Director
Office of Equal Rights

Date



ADDITIONAL INFORMATION

REVIEW CYCLE

FEMA Policy: Language Access 256-23-001 will be reviewed, reissued, revised, and/or rescinded within four years of the issue date.

AUTHORITIES and REFERENCES

Authorities

- A. Sections 308, 309, and 616 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), 42 U.S.C. §§ 5151, 5152, 5196f.
- B. Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.
- C. Title 44 C.F.R. Part 7, Subpart A, Nondiscrimination in FEMA-assisted Programs –General.
- D. Title 44 C.F.R. § 206.11, Non-discrimination in Disaster Assistance.
- E. Plain Writing Act of 2010, 5 U.S.C. § 301 note.

References

- A. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000).
- B. Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021).
- C. FEMA Directive 256-22-0001, Civil Rights: Enforcement, Compliance, Integration and Coordination.
- D. Department of Justice, Federal Coordination and Compliance Section, Civil Rights Division, www.LEP.gov .
- E. Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs, https://www.lep.gov/sites/lep/files/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf .
- F. 2022-2026 FEMA National Tribal Strategy, https://www.fema.gov/sites/default/files/documents/fema_national-tribal-strategy_08182022.pdf .
- G. DHS Language Access Plan (February 28, 2012). <https://www.dhs.gov/sites/default/files/publications/crcl-dhs-language-access-plan.pdf> .



DEFINITIONS

Bilingual Person: Persons who are fluent in two languages and can conduct the business of the workplace in either of those languages. An individual who is proficient in a language may, for example, be able to greet an LEP individual in their language, but not conduct FEMA business in that language. Interpretation and translation require the interpreter to be fluently bilingual and require additional skills.

Effective Communication: Communication sufficient to provide the LEP individual with substantially the same level of access to services received by individuals that are not LEP. For example, staff must take reasonable steps to ensure communication with an LEP individual is as effective as communications with other, non-LEP individuals.

Interpretation: Interpretation refers to oral communication and is the immediate communication of meaning from one language to another. An interpreter conveys meaning orally; as a result, interpretation requires skills different from those of translation. Interpreting is a complex task that combines several abilities beyond language competence in order to enable delivery of an effective professional interpretation in a given setting. Successful interpretation is one that faithfully and accurately conveys the meaning of the source language orally, reflecting the style, register and cultural context of the source message, without omissions, additions, or embellishments on the part of the interpreter.

Language Assistance Services: Oral and written language services needed to assist LEP individuals to communicate effectively with staff, and to provide LEP individuals with meaningful access to, and an equal opportunity to participate fully in, the services, activities, or other programs administered by FEMA.

Limited English Proficient (LEP) Individual: Person who does not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

Meaningful Access: Language assistance that results in accurate, timely, and effective communication at no cost to the LEP individual. For LEP individuals, meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English proficient individuals.

Primary Language: An individual's primary language is the language in which they most effectively communicate.

Program or Activity: A federally conducted program or activity is, in simple terms, anything a federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the department for program beneficiaries and participants. Activities in the first part include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the Department's facilities (cafeteria, library). Activities in the second category include programs



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that provide federal services or benefits (immigration activities, operations of the federal prison system.)

Translation: Involves written communication, taking words from one language and translating them into another.

Vital Document: Paper or electronic written material that contains information that is critical for accessing a component's program or activities or is required by law.

MONITORING AND EVALUATION

ECRD has compliance and enforcement authority regarding language access responsibilities. FEMA Office of External Affairs (OEA) is responsible for partnering with program offices to identify and assist in providing language interpretation and translation needs and services in support of FEMA's engagement with external stakeholders, in accordance with *FEMA Directive: Civil Rights: Enforcement, Compliance, Integration, and Coordination*.

ECRD created and will facilitate meetings of a Language Access Working Group to gather insight and suggestions on how to best update and improve the FEMA LAP.

ECRD will monitor the implementation of this LAP. ECRD will conduct internal compliance reviews to determine the provision of LEP services provided by program offices. ECRD will investigate any allegation of violations of FEMA's LAP.

QUESTIONS

Direct questions to FEMA's ECRD at: 202-212-3535, or email to FEMA-civilrightsoffice@fema.dhs.gov.

Language access complaints about FEMA programs and activities, and programs and activities conducted by FEMA grant recipients, may be filed in any language, with ECRD by:

- Calling FEMA at (202) 212-3535 and pressing "1" for Civil Rights
- Sending an email explaining the issue to: FEMA-CivilRightsOffice@fema.dhs.gov
- Calling the Civil Rights Resource Line at (833) CVL-RGHT (833) 285-7448

Regular mail complaints can be sent to: FEMA, OFFICE OF EQUAL RIGHTS, Civil Rights Division, 500 C Street, SW, Room 4SW-0915, Washington, DC 20472-3505.

Members of the public may also file a complaint with the DHS Office for Civil Rights and Civil Liberties (CRCL). For more information about filing complaints with CRCL, see: www.dhs.gov/compliance-branch, e-mail CRCLCompliance@hq.dhs.gov, or call CRCL at (202) 401-1474 or 1 (866) 644-8360. Complaints may be filed with CRCL in any language.

If you are an individual with a disability requiring a reasonable accommodation related to this policy, please contact FEMA-CivilRightsOffice@fema.dhs.gov.