



**NOVEMBER 2000**

**BUREAU OF RECLAMATION  
POLICY GUIDANCE FOR  
IMPROVING ACCESS  
TO SERVICES FOR PEOPLE  
WITH LIMITED  
ENGLISH PROFICIENCY**

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# **Executive Order 13166**

## **Improving Access to Services for Persons With Limited English Proficiency**

### **I. INTRODUCTION**

The United States is home to millions of individuals who are limited in English proficiency (LEP). That is, they cannot speak, read, write or understand the English language at a level that permits them to participate effectively and meaningfully in programs, activities, and services that are made available by the Federal government. Where language barriers exist, eligible LEP persons are often excluded from Federal programs, activities, and services which has the effect of discriminating on the basis of national origin. There may not always be a direct connection between language and national origin, but language commonly serves to identify an individual's origin.

Language barriers can occur for a number of reasons, i.e. program administrators may be unaware of non-English speaking people in the community, they may be resistant to change, or they may not be familiar with their responsibilities under nondiscrimination law. In some cases, however, a failure to address language barriers may not be an oversight of responsibilities, but instead may be attributable to intentional acts of discrimination based on national origin and race.

To ensure that LEP persons effectively participate in and benefit from Federal programs and activities, the President issued Executive Order 13166—Improving Access to Services for Persons with Limited English Proficiency (Appendix B). The purpose of the Executive Order is to eliminate, to the maximum extent possible, limited English proficiency as a barrier to full and meaningful participation by beneficiaries in Federally conducted and Federally assisted programs and activities. The Executive Order requires Federal agencies, such as the Department of the Interior (DOI), to examine the services they provide and develop and implement a system to provide those services so that LEP persons can have meaningful access, but without unduly burdening the fundamental mission of the agency.

The Executive Order is divided into two categories applicable to Federal agencies: 1) Federally Conducted Programs and Activities; and 2) Federally Assisted Program and Activities. In order to comply with the Executive Order, the Bureau of Reclamation (BR) must submit a plan concerning its Federally conducted programs and activities, and must submit guidance concerning its federally assisted programs and activities to Interior. The Executive Order and this policy guidance do not create any new obligations, but rather clarify the existing responsibilities under Title VI of the Civil Rights Act of 1964, (42 USC § 2000d-2000d-4) which prohibits discrimination on the basis of race, color and national origin. The Executive Order directs agencies to examine the services they provide and develop and implement a system by which LEP persons can meaningfully access those services.

## **II. PURPOSE**

The purpose of this plan is to provide policy guidance for:

- a) Reclamation Federally conducted programs (agency); and
- b) Reclamation Federal financial assistance recipients (recipients).

Sections III and IV provide general guidance for both Federally conducted and Federally assisted program development. Specific guidance for Reclamation's Federally conducted programs is provided in Section V. Guidance for Federal assistance recipients is provided in Section VI.

### **III. FACTORS AFFECTING THE PROVISION OF LANGUAGE ASSISTANCE**

This policy guidance allows both agencies and recipients flexibility in choosing the type of language assistance based on the following factors: the nature of the program or service; the number or proportion of language groups to be served; the frequency of contact with LEP persons; and the resources available.

#### **Factor 1--Nature and Importance of the Program**

In order to implement this directive, the unique nature of the programs should be assessed to effectively inform LEP persons of the availability of services and activities provided by the agency/recipient especially if the program pertains to the individual's health, safety or well being. Greater efforts to communicate information concerning safety and rights will be more critical than for those programs conveying general information.

Agencies/recipients should assess the effects of not providing the information to LEP persons both in the short term and the long term. Entities should also be aware that the importance of the program can change unexpectedly, as with water quality concerns or natural disasters, for example. A change such as this in the nature and importance of the program may require a change in current methods of communication or an additional method to be added.

#### **Factor 2--Number or Proportion of LEP Persons in the Community**

There is no minimum number of LEP persons required to relieve an agency/recipient of its responsibilities under this requirement. The agency/recipient is obliged to effectively inform all citizens eligible to use the programs and services it provides. The number or proportion of a particular group of LEP persons within the service area who will potentially be excluded from receiving benefit from the program or service will determine the reasonableness of a particular method of notification.

#### **Factor 3--Frequency of Contact with LEP Persons**

There is a significant difference between serving one LEP person in a year and serving several in a day. Communicating with LEP persons on a daily basis require more affirmative efforts to ensure effective communication, such as having staff on hand who are capable of proficiently speaking the language. A more reasonable method of communicating with the infrequent LEP person is advised. For unpredictable or infrequent communications with an LEP person, an entity may use a commercially available language line interpreter service. Staff who may be contacted should understand the plan and be prepared to use the selected method of communication in a timely and service oriented manner.

Agencies should be cautious in determining past contact as "infrequent." Often, LEP persons did not know of their rights or eligibility because program information was not

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communicated to them effectively; therefore, they would not have participated in the past. This underscores the need for agencies/recipients to thoroughly study the various language groups in the community it serves and remain apprized of new language groups.

**Factor 4--Available Resources**

Resources available to an agency/recipient will have an effect on the methods used to communicate with LEP persons. A small agency/recipient whose program has only minor effects on the day-to-day living of LEP persons and having infrequent contact with LEP persons may be required to do less or, in some cases, do nothing at all.

Claims for exemption from this directive need to be documented and well founded with reasoning from the four factors above.

#### **IV. ELEMENTS OF AN EFFECTIVE LANGUAGE ASSISTANCE PROGRAM**

Effective language assistance programs should contain the four elements below. Failure to incorporate one of the elements does not necessarily mean noncompliance, the totality and effect of the plan will determine whether meaningful access to the agency's/recipient's programs has been provided.

*Assess the language needs of the service area for your programs and services.*

Study the non-English speaking populations within the program's service area to determine the eligible LEP persons. Information about LEP groups can be gathered from census data, school systems, LEP advocate organizations, and immigrant assistance centers. Census data can be obtained at [http://www.census.gov/population/www/socdemo/lang\\_use.html](http://www.census.gov/population/www/socdemo/lang_use.html). Determine where LEP persons access the agency's/recipient's programs or information about the programs. For example, LEP persons may obtain services from an agency/recipient at recreation sites. Recreation programs and activities are offered to the public across Reclamation at reservoirs. Information about the activities, use policies, or water and boater safety information may need to be translated into other languages to ensure proper use and safety of all visitors. LEP persons may access federal assistance programs at irrigation districts or through billing information. Information provided to eligible beneficiaries may need to be translated orally or in writing if needed, especially when continuance or provision of services is at issue.

*Plan out a written policy for providing meaningful communication with LEP groups.* From the assessment, apply the four factors above to the information gathered to determine which information is critical to meaningful access by LEP persons. Determine the methods of communication and the resources necessary to provide the communication whether it is hiring/contracting with interpreters, obtaining translation software for written documents, or arranging/contracting for telephone language interpreter services.

*Train staff on the plan and the process for effectively serving the LEP groups.* Use the plan to educate staff on the processes to be implemented and policies supporting effective communication with all program beneficiaries. Staff, who are likely to have contact with LEP persons, should be able to work effectively in person or over the phone with interpreters, if used. Training should be incorporated into orientation for new employees. Training should ensure that the plan "translates" to effective practices.

*Monitor and update the plan.* Any plan should be reviewed for effectiveness of the methods, whether the methods selected are still useful and beneficial and whether more current methods are available. Effectiveness can be determined by contacting the user group. Additionally, reassessment will assist in determining the need for translations to additional languages. Compliance with Title VI is most likely when the agency/recipient monitors its plan, make changes if needed, and ensures that employees are

knowledgeable of the policies and procedures.

### **Providing a Balance of Appropriate Communication Methods**

Communication and outreach to the public through writing is common. Technology now expands written information—paper brochures, pamphlets, news releases—to the Internet. Agencies/recipients should attempt to provide an appropriate mix of written and oral communications to provide program information. Factors 1-4 will determine the extent of steps necessary to provide information. Agencies/recipients should also consider whether the information is necessary immediately or requests can be made to have the information translated and provided within a reasonable time period. This may be necessary if many LEP groups are served and it is not reasonable to have every language immediately available. Some information should be immediately provided orally so that interaction is possible and questions can be asked and answered immediately. This may require a translator either over the phone via a translation service or in person. The goal is to allow LEP persons to gain information and participate in programs in the same manner as individuals who speak English.

### **Written Info**

The first step in determining which documents should be translated is to distinguish between vital and non-vital information. If a document is critical to accessing federal services and/or benefits, or is required by law it could be considered a vital document. Examples include applications, consent forms, notices that require a response from the beneficiary or client, notices of denial or termination of services or benefits, or a complaint form. Non-vital documents include general information about services or programs for informational purposes only.

Vital documents should be translated if large LEP populations are likely to be affected by the program and need the information in a language other than English. Title VI of the Civil Rights Act does not require that all vital outreach materials be translated; however, covered entities/recipients should assess the possible detriment to LEP groups of not receiving vital documents. Large documents may not need to be translated entirely; however, vital information within the document must be translated.

Public outreach documents and publications describing programs and services would not likely be categorized as vital documents. The argument could be made that meaningful access requires an awareness of the service or program. The assessment in this case, should ascertain whether not translating the document would be a detriment to LEP groups. Communication with LEP groups in the community can assist in making the decision as to whether certain documents should be translated or not; this decision could change over time, necessitating translation.

Materials for an interpretative experience may not be considered vital documents. However, if a large percentage of the public that does not speak English is participating in the interpretive program (i.e., tour), then a translated version of the interpretive program should be available.

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Additionally, signage at a facility that serves a high proportion of LEP persons, such as a visitor center or recreation facility, may also need to be offered in other languages. If information to be relayed is brief, internationally understood symbology can be used.

Public outreach mediums such as web sites should offer vital documents in other languages through links. Providing documents in an electronic format allows for translating, filing, and disseminating at little or no costs. Software applications are available to translate English documents into numerous other languages. In addition, many companies provide document translation services.

**Oral Info**

Public information telephone lines should be available to LEP persons. This can be accomplished by hiring bilingual staff who is competent and skilled or by contracting with a telephone language interpreter service. Hiring bilingual staff may be insufficient to meet the needs of LEP customers if several LEP groups are served. In this case, an interpreter would be the best choice. Staff who serve as primary contact points should be aware of the steps necessary to contact and use interpreters, as timeliness is important. A plan should be put in place and well understood by reception staff. Where appropriate, signs may be posted noting that free language assistance is available. This would be useful at visitor centers or offices with high visitation by LEP persons.

Interpretive or Educational Information such as tours may require translation. Interpreters, on staff or contracted, may meet requirements for effective communication with LEP persons. However, if several different languages are required, multilingual staff may need to be hired or trained. Videos or slide presentations may also require translation if a high proportion of interpretive visitors speak a language other than English.

Monitoring and reassessment of the needs of eligible service populations will determine whether outreach materials should be translated into additional languages or additional language translators are necessary.

Appendix B provides additional information on the implementation of EO 13166 and may provide additional assistance in developing a language assistance program for both federally conducted and assisted programs.

## **V. COMPLIANCE BY RECLAMATION FEDERALLY CONDUCTED PROGRAMS AND ACTIVITIES**

### **Legal Authority**

Title VI of the Civil Rights Act of 1964 (42 USC 2000d et. seq) prohibits discrimination on the basis of race, color, and national origin. Executive Order 13166 directs all bureaus to review their programs and services to determine areas where improvements in notification of services to LEP persons is possible, bearing the same responsibilities as federally assisted recipients.

### **Steps Toward Implementation**

This plan provides policy guidance to improve access to Reclamation programs and activities by LEP persons. Reclamation Programs shall begin to develop policy and begin implementation of this plan after a full review of the plan by the appropriate Reclamation offices. Below are the recommended steps for policy development and implementation of EO 13166:

- Step One:** Reclamation draft plan and guidance provided to DOI-OEO for review.
- Step Two:** Reclamation draft plan and guidance document to be provided to Reclamation Office of Policy, Acquisition and Assistance Management Services, and Reclamation Regions for review and assessment of baseline LEP requirements.
- Step Three:** Receive comments and modify plan document.
- Step Four:** Issue Reclamationwide formal policy and plan.
- Step Five:** Implement the plan Reclamationwide.
- Step Six:** Monitor program progress.

### **Background**

The Bureau of Reclamation administers many programs in addition to its mission of managing water for power, irrigation, and recreation. Programs include, but are not limited to, contract administration, cultural and archeological resources, dam safety, employment, environmental education, innovations activities, international affairs, internships, partnerships and cooperative agreements, recreation, research, safety, restoration, water conservation, recycling and re-use, water reclamation, and water treatment. Additionally, Reclamation provides Federal assistance to entities that directly offer or assist in the provision of programs to the public. Each recipient is required to develop a plan for its programs and services.

In order to effectively notify LEP persons of services available to them, a language assistance plan shall be developed and implemented.

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Some Reclamation programs are already taking steps to communicate with LEP persons; however this is not consistent across Reclamation or recipient programs. Current methods of notifying LEP persons of service available are minimal and should be evaluated to determine the effectiveness. Contact with LEP persons can provide valuable assistance in the assessment process. Information about the language groups within the service area should be gathered both through direct contact with representatives of these groups and through study of census data and demographic information of the service area. The community organizations representing or comprising the non-English speaking people should be contacted to determine if the information from current notification methods is reaching these groups and whether a more effective method is available. Current method(s) of informing LEP persons may need to be updated because they may no longer be timely or effective.

**Implementation**

Reclamation programs that should assess its provision of services and current methods of notification include, but are not limited to:

- Public Affairs and Outreach Programs
- Human Resources and Employment Programs
- Information Resource Management and Web Design Activities
- Visitor Facility Programs
- Recreation Facility Programs
- Financial Assistance and Agreement Programs
- Civil Rights and Equal Opportunity Programs
- Water Conservation Outreach Programs
- Regional, Area, and Field Office Reception Activity
- Education Center Programs
- Archive and Files Storage Activities
- Job Corps Activities
- General Information Activities
- Safety Programs

This guidance allows flexibility to Reclamation conducted programs in choosing the option of language assistance based on the nature of the program, the number of language groups to be served and the frequency of contact with LEP persons.

No blanket exemptions will be provided. Each program should assess the services and benefits provided to the public and eligible LEP persons. If at that point an exemption from completing and implementing a plan is requested, the program manager should make the request through a memorandum to the Equal Opportunity Compliance Program including written responses to the issues below.

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When assessing programs, consider the following to aid the development of the language assistance plan:

- What types of benefits, programs, and services are offered?
- For each type of program, service, benefit, or action indicate the nature of the services; and the importance of obtaining those services. Is it informational or background only? Is it a complaint form, application or an oral communication that is vital to providing access to the service? Is it a communication of rights which would be critical?
- For each type of program, service, benefit, or action, provide an estimate of the percentage of people who are eligible for those activities who have limited English proficiency and speak a particular language. Identify each language separately.
- For each language grouping under each program or service, benefit, or enforcement action, determine the frequency of contact.
- For each language grouping, approximate the cost of providing language services, including written and oral services. Note that different types and levels of services will impact cost, and any that are appropriate considering the other three factors should be considered before choosing one.
- Given the four factors, what language services and/or policies should be provided/instituted under the four factor analysis? If cost is an overriding factor, provide well-substantiated evidence of the cost, broken down by the population subgroup and program. Resources are less of a consideration for Federal programs. Enforcement authorities consider an agency's overall resources when determining reasonable efforts toward civil rights protections.
- What types of language services and policies are already provided? Identify the services and the languages translated to and reasoning for selecting those programs and languages.
- Are current language services and policies written down and shared with LEP persons, their representatives, and internally? If not, what steps will be taken to ensure that this occurs.
- What services have been identified through the analysis that will be provided in additional languages? Specify the languages.
- What plans will be taken to review and update the implementation plan?

**Technical Assistance**

Technical assistance for plan development and implementation may be obtained from the

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following sources:

Bureau of Reclamation  
Equal Opportunity Compliance Program  
1150 North Curtis Road  
Suite 100, MS-PN-4530  
Boise, Idaho 83706-1234  
(208) 378-5049 (V)  
(208) 378-5023 (F)  
(800) 877-8339 (Federal Relay Service)

Department of Justice  
Coordination and Review Section  
Civil Rights Division  
P.O. Box 66560  
Washington, DC 20034-6560  
(202) 307-2222 (V)  
(202) 307-0595 (F)  
202-307-2678 or (888)848-5306 (TDD)

## **VI. COMPLIANCE BY RECLAMATION FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES**

### **Reclamation's Title VI Program**

Reclamation is currently determining the extent of its Title VI program and developing a comprehensive and effective plan for ensuring nondiscrimination by recipients. This document will provide interim guidance to recipients. It will be followed by a comprehensive program approach when the program parameters are defined; however, recipients should proceed with program analysis, plan development and implementation.

### **Interim Guidance**

All entities that receive Federal financial assistance from Reclamation, either directly or indirectly through a subgrant or subcontract, are covered by this guidance. As defined in 43 CFR Part 17.12 (e), Federal financial assistance includes (1) grants and loans of Federal funds, (2) grants or donations of Federal property and interests in property, (3) the detail of Federal personnel (4) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

All recipients must take reasonable steps to provide meaningful access upon issuance of formal policy. This guidance allows flexibility to federally assisted recipients in choosing the option of language assistance based on the nature of their program, the number of language groups to be served and the frequency of contact with LEP persons. A plan should be developed which assesses the language needs of the LEP persons in the service area; outlines the policy for providing meaningful communication with LEP groups; requires staff to be trained about the processes developed for effectively serving the LEP groups; and monitors and update the plan as needed.

### **Steps Toward Implementation**

This plan provides guidance to improve access to programs and services offered by recipients of Reclamation Federal financial assistance. Implementation shall begin implementation after a review of the plan by the bureau. Below are the steps toward implementation of EO 13166:

**Step One:** Reclamation draft guidance provided to DOI-OEO for review.

**Step Two:** Reclamation draft guidance to be provided to Reclamation Office of Policy, Acquisition and Assistance Management Services, and Reclamation Regions for review and assessment of baseline LEP requirements.

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**Step Three:** Receive comments and modify guidance document.

**Step Four:** Issue Reclamationwide formal policy for federal financial assistance program.

**Step Five:** Work with Federal assistance recipients to implement the program.

**Step Six:** Monitor program progress.

**Program Assessment**

Recipient programs that should be assessed for provision of services and current methods of communication include, but are not limited to:

- Concessionaire Activities
- Conference Support
- Educational Programs
- Irrigation Activities
- Public Awareness Activities
- Recreational Activities
- Utility Activities

A small entity whose program has only minor effects on the day-to-day living of LEP persons and having infrequent contact with LEP persons may be required to do less or, in some rare cases, do nothing at all. Claims for exemption from this directive need to be documented and well founded with reasoning from the four factors found on pages 2-3 and responses to the issues below.

When assessing programs, consider the following to aid the development of the language assistance plan:

- What types of benefits, programs, and services are offered?
- For each type of program, service, benefit, or action indicate the nature of the services; and the importance of obtaining those services. Is it informational or background only? Is it a complaint form, an application, or an oral communication that is vital to providing access to the service? Is it a communication of rights which would be critical?
- For each type of program, service, benefit, or action, provide an estimate of the percentage of people who are eligible for those activities who have limited English proficiency and speak a particular language. Identify each language separately.
- For each language grouping under each program or service, benefit, or enforcement action,

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determine the frequency of contact.

- For each language grouping, approximate the cost of providing language services, including written and oral services. Note that different types and levels of services will impact cost, and any that are appropriate considering the other three factors should be considered before choosing one.
- Given the four factors, what language services and/or policies should be provided/instituted under the four factor analysis? If cost is an overriding factor, provide well-substantiated evidence of the cost, broken down by the population subgroup and program.
- What types of language services and policies are already provided? Identify the services and the languages translated to and reasoning for selecting those programs and languages.
- Are current language services and policies written down and shared with LEP persons, their representatives, and internally? If not, what steps will be taken to ensure that this occurs.
- What services have been identified through the analysis that will be provided in additional languages? Specify the languages.
- What plans will be taken to review and update the implementation plan?

**Technical Assistance**

Technical assistance for plan development and implementation may be obtained from the following sources:

Bureau of Reclamation  
Equal Opportunity Compliance Program  
1150 North Curtis Road  
Suite 100, MS-PN-4530  
Boise, Idaho 83706-1234  
(208) 378-5049 (V)  
(208) 378-5023 (F)  
(800) 877-8339 (Federal Relay Service)

Bureau of Reclamation  
Acquisition and Assistance Management Services  
PO Box 25007  
Building 67, Denver Federal Center  
Denver, Colorado

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(303) 445-2427 (V)

(303) 445-6344 (F)

(800) 977-8339

Department of Justice

Coordination and Review Section

Civil Rights Division

P.O. Box 66560

Washington, DC 20034-6560

(202) 307-2222 (V)

(202) 307-0595 (F)

202-307-2678 or (888)848-5306 (TDD)

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**APPENDIX A**

THE WHITE HOUSE

Office of the Press Secretary  
(Aboard Air Force One)

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For Immediate Release

August 11, 2000

EXECUTIVE ORDER

13166

IMPROVING ACCESS TO SERVICES FOR  
PERSONS WITH LIMITED ENGLISH PROFICIENCY

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP), it is hereby ordered as follows:

Section 1. Goals.

The Federal Government provides and funds an array of services that can be made accessible to otherwise eligible persons who are not proficient in the English language. The Federal Government is committed to improving the accessibility of these services to eligible LEP persons, a goal that reinforces its equally important commitment to promoting programs and activities designed to help individuals learn English. To this end, each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance (recipients) provide meaningful access to their LEP applicants and beneficiaries. To assist the agencies with this endeavor, the Department of Justice has today issued a general guidance document (LEP Guidance), which sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of title VI of the Civil Rights Act of 1964, as amended, and its implementing regulations. As described in the LEP Guidance, recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

Sec. 2. Federally Conducted Programs and Activities.

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities. Agencies shall develop and begin to implement these plans within 120 days of the date of this order, and shall send copies of their plans to the Department of Justice, which shall serve as the central repository of the agencies' plans.

Sec. 3. Federally Assisted Programs and Activities.

Each agency providing Federal financial assistance shall draft title VI guidance specifically tailored to its

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recipients that is consistent with the LEP Guidance issued by the Department of Justice. This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients. The agency-specific guidance shall take into account the types of services provided by the recipients, the individuals served by the recipients, and other factors set out in the LEP Guidance. Agencies that already have developed title VI guidance that the Department of Justice determines is consistent with the LEP Guidance shall examine their existing guidance, as well as their programs and activities, to determine if additional guidance is necessary to comply with this order. The Department of Justice shall consult with the agencies in creating their guidance and, within 120 days of the date of this order, each agency shall submit its specific guidance to the Department of Justice for review and approval. Following approval by the Department of Justice, each agency shall publish its guidance document in the Federal Register for public comment.

Sec. 4. Consultations.

In carrying out this order, agencies shall ensure that stakeholders, such as LEP persons and their representative organizations, recipients, and other appropriate individuals or entities, have an adequate opportunity to provide input. Agencies will evaluate the particular needs of the LEP persons they and their recipients serve and the burdens of compliance on the agency and its recipients. This input from stakeholders will assist the agencies in developing an approach to ensuring meaningful access by LEP persons that is practical and effective, fiscally responsible, responsive to the particular circumstances of each agency, and can be readily implemented.

Sec. 5. Judicial Review.

This order is intended only to improve the internal management of the executive branch and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.

WILLIAM J. CLINTON

THE WHITE HOUSE,  
August 11, 2000

## APPENDIX B

### QUESTIONS AND ANSWERS REGARDING THE POLICY GUIDANCE ON THE TITLE VI PROHIBITION AGAINST NATIONAL ORIGIN DISCRIMINATION AS IT AFFECTS PERSONS WITH LIMITED ENGLISH PROFICIENCY

#### 1. Q. What is the purpose of the policy guidance on language access?

A. The policy guidance clarifies the requirements of Executive Order 13166 and assists Reclamation managers and recipients of federal assistance. The Factors and Elements of an Effective Language Assistance Program explain how to conduct assessments and take steps in order to ensure equal access to all programs and activities.

#### 2. Q. What does the policy guidance do?

A. The policy guidance does the following:

- Explains the policies, procedures and other steps that Reclamation and recipients can take to ensure meaningful access to their program by LEP persons.
- Explains how failure to take one or more of these steps does not necessarily mean noncompliance.
- Provides information to determine compliance on a case-by-case basis. Assessments to determine compliance will take into account the nature of the program, the frequency of contact by LEP persons, the number of LEP persons in the service area, and the resources available.
- Provides information on the factors and elements of an effective language assistance program.
- Explains that small providers with limited resources will have flexibility in achieving compliance.

#### 3. Q. Does Executive Order 13166 impose new requirements on the Bureau and recipients?

A. No. Since its enactment, Title VI of the Civil Rights Act of 1964 has prohibited discrimination on the basis of race, color, or national origin in any federal program or activity. The Executive Order restates the requirements of the Civil Rights Act of 1964.

**4. Q. Who is covered by the guidance?**

**A.** Bureau of Reclamation programs and services and any state or local agency, private institution or organization, or any public or private individual that receives federal financial assistance from BOR directly or through another agency. 43 CFR17.12(e) defines Federal financial assistance as (1) grants and loans of Federal funds, (2) grants or donations of Federal property and interests in property, (3) the detail of Federal personnel (4) the sale or lease of, or the permission to use (on other than a casual or transient basis), Federal property or any interest in such property without consideration or at a nominal consideration or at a consideration which is reduced for the purpose of assisting the recipient or in recognition of the public interest to be served by such sale or lease to the recipient, and (5) any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.

**5. Q. How does the guidance affect small agencies/recipients?**

**A.** The key to providing meaningful access for LEP persons is to ensure that the LEP person is able to understand the services and benefits available and is able to receive those services and benefits for which he or she is eligible in a timely manner. Reclamation/recipients have flexibility in determining how to ensure meaningful access for persons with Limited English Proficiency. Compliance will be assessed on a case by case basis and will take into account the nature of the program offered, the frequency of contact with LEP persons, the number or proportion of LEP persons in the service area eligible for the program, and the resources of the agency/recipient. There is no “one size fits all” solution to ensure equal access to programs and services to LEP persons. Optional approaches are explained in the policy guidance.

**6. Q. What is a “Vital Document” that in some instances may have to be translated into other languages?**

**A.** Specific vital documents and information have not been identified for translation in each program area. Rather, a document should be considered vital if it contains information that is critical for assessing services, benefits, cautions, or is required by law. Thus, vital documents may include letters or notices that require a response, documents that advise of free language assistance, or notices and signs that warn of danger such as “No Swimming” in recreation areas.

**7. Q. Will Reclamation/recipients have to translate large documents?**

**A.** Not necessarily. As part of its overall language assistance program, Reclamation/recipient must develop and implement a plan to provide written materials in languages other than English where a significant number or percentage of the population eligible to be served, or likely to be

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directly affected by the program, needs services or information in a language other than English to communicate effectively. Reclamation/recipients should assess the need for written translation of documents and vital information contained in larger documents on a case by case basis, taking into account all relevant circumstances, including the nature of programs and services, the number and size of the LEP language groups in its service area, the nature and length of the document, the objectives of the program, the total resources available, the frequency which particular languages are encountered and the frequency with which translated documents are needed and the cost of translation. Depending on these circumstances, large documents may not need to be translated or may not need to be translated in their entirety. For example, a Reclamation/recipient may provide written translations of vital information contained in larger documents, but may not have to translate the entire document.

**8. Q. May Reclamation/recipient require an LEP person to use a family member or a friend as his or her interpreter?**

**A.** No. Reclamation/recipient must inform the LEP person of his or her right to receive free interpreter services. Understandably, some individuals may be uncomfortable having a stranger serve as an interpreter, especially when the situation involves the discussion of personal or private matter. However, family and friends may not be insufficiently proficient in both languages, may be untrained and unskilled as interpreters, and unfamiliar with specialized terminology. Use of such persons may also result in breaches of confidentiality. In other words, when family and friends are used, there is a risk to Reclamation/recipient that the interpretation may not be accurate or complete.

**9. Q. How will compliance be enforced?**

**A.** The Department of Justice ensures compliance by all Executive Agencies for Title VI requirements. The Department of the Interior, Office for Equal Opportunity, monitors Bureaus within the Department. Bureaus monitor their recipients of federal financial assistance. An investigation is conducted when a complaint, report, or other information that alleges or indicates possible noncompliance with Title VI is filed with the Department or the Bureau's Equal Opportunity Officer. If the investigation results in a finding of noncompliance, the recipient/Reclamation office is notified of the noncompliance through a Letter of Findings which states the areas of noncompliance and the steps that must be taken to correct the noncompliance. If the matter cannot be resolved informally, compliance may include (a) the termination of Federal assistance after the recipient has been given an opportunity for an administrative hearing, (b) referral to the Departments of Interior or Justice, ( c ) employ other administrative means authorized by regulations.

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**10. Q. Does issuing this guidance mean that enforcement of Title VI will change?**

**A.** No. The methods and procedures have not changed on how to investigate and resolve Title VI complaints of discrimination and conduct compliance reviews.

**11. Q. What is Reclamation doing to ensure it is following the guidance it is giving to its federal financial assistance recipients?**

**A.** Reclamation is applying the same policy guidance to its programs and services as it is to recipients.