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## **EPA Order**

### **EPA Order 1000.32 Compliance with Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency**

#### **I. PURPOSE AND AUTHORITY**

The purpose of this updated EPA Limited English Proficiency (LEP) Order is to continue to improve EPA’s provision of meaningful access to EPA programs, activities, and services for individuals with LEP. This LEP Order will replace the existing EPA LEP Order 1000.32, issued in February 2017. This LEP Order outlines the guidelines, consistent with Title VI of the Civil Rights Act of 1964<sup>1</sup>, its implementing regulations and guidance documents, and Executive Order 13166 (EO 13166)<sup>2</sup>. Title VI prohibits intentional discrimination and discriminatory effects on the basis of race, color, or national origin, including limited English proficiency, by recipients of federal financial assistance. EO 13166 requires federal agencies to develop and implement a plan to provide services to individuals with LEP and to ensure meaningful access to programs and activities conducted by federal agencies. EPA’s LEP Order sets forth EPA’s expectations and requirements to ensure the Agency’s compliance with EO 13166.

On November 21, 2022, Attorney General Merrick B. Garland issued “Memorandum to Improve Access to Services for People with Limited Proficiency in English.”<sup>3</sup> The memorandum outlines a course of action for federal agencies to improve, modernize, and carry out their language access responsibilities under EO 13166. The Memorandum requests that federal agencies review their language access practices and policies to strengthen the federal government’s engagement with individuals with LEP. As result of this initiative, EPA reviewed and updated its policies and practices.

This LEP Order is consistent with EPA’s policy that it is the responsibility of EPA to effectively communicate with individuals with LEP and to provide meaningful access to the Agency’s programs, activities, and services. Failure to provide timely language assistance services may result in a denial of meaningful access for individuals with LEP

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<sup>1</sup> See Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d) *et seq.*

<sup>2</sup> See <https://www.gpo.gov/fdsys/pkg/FR-2000-08-16/pdf/00-20938.pdf>.

<sup>3</sup> See <https://www.justice.gov/file/1553196/download>

to EPA's programs, activities, and services that are accessible to English proficient individuals.

This LEP Order describes how EPA's program and regional offices will implement EO 13166. The LEP Order also highlights different approaches to improve outreach in communities with LEP and identify the responsible individuals for the development and implementation of LEP-related policy, guidance, and procedures.

This LEP Order is intended to improve the internal management of EPA's language access program, 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. Since this document is intended for the internal management of EPA's language access program, it is not intended to be cited in any judicial or administrative proceeding. Administration of the programs discussed herein is within the sole discretion of EPA and its components.

## II. POLICY STATEMENT

### **Commitment to Meaningful Access**

EPA is committed to providing individuals with LEP meaningful access to EPA's programs, activities, and services.

EPA is committed to fulfilling the promise of EO 13166, which has been in effect since 2000. EPA's *FY 2022-2026 Strategic Plan*<sup>4</sup> deepens EPA's commitment to protecting human health and the environment for all people, with an emphasis on historically overburdened and underserved communities, including communities with LEP. EPA's *Strategic Plan* includes a new and unprecedented strategic goal focused on advancing environmental justice and civil rights. *Strategic Plan Goal 2: Take Decisive Action to Advance Environmental Justice and Civil Rights*, includes environmental Justice and civil rights priorities that are integrated throughout the *Plan's* programmatic goals and cross-agency strategies. These strategies, such as, Objective 2.2: *Embed Environmental Justice and Civil Rights into EPA's Programs, Policies, and Activities*, are supported by long-term performance goals, including a goal requiring all program and regional offices to implement program and region-specific language assistance plans to ensure that all of EPA considers language access in all programs, activities, and services, including those related to community engagement and outreach.<sup>5</sup>

These EPA commitments to provide meaningful access for persons with LEP are also included in EPA's EO 13985 Equity Action Plan, Priority 2: "*Develop EPA's internal capacity to engage underserved communities and implement clear and accountable processes to act based on communities' input*. This plan specifically requires EPA to develop and improve its capacity and ability to engage meaningfully with stakeholders in

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<sup>4</sup> See FY [2022-2026 EPA Strategic Plan](#)

<sup>5</sup> See FY 2022-2026 EPA's Strategic Plan at page 33 ("By September 30, 2026, all EPA programs and regions will implement program and region-specific language assistance plans.").

underserved communities and strengthen EPA’s language assistance and other services to ensure access for people with LEP, including by developing and implementing language assistance plans for each program and region and providing EPA-wide training on meaningful access.<sup>6</sup> Executive Order 14091, issued on February 16, 2023, *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, reinforces the equity principles of EO 13985 and requires federal agencies to evaluate their policies and programs to ensure they do not perpetuate barriers for underserved communities, including communities with LEP.

EPA is also committed to providing meaningful access to individuals with LEP from the Asian American, Native Hawaiian, and Pacific Islander (AA and NHPI) communities by embracing EO 14031: *Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific* (June 3, 2021). This includes improving language access services to ensure AA and NHPI communities with LEP can access EPA programs, activities, and services, and incorporating strategies during the development of LEP plans to increase AA and NHPI public- and private-sector collaboration, and community involvement participation.

### **III. APPLICABILITY**

The policies, procedures, and responsibilities of this LEP Order apply to all EPA staff, including those working on their behalf, such as contractors working in EPA facilities.

### **IV. EXECUTIVE ORDER 13166**

On August 11, 2000, the President signed Executive Order 13166 (EO 13166), *Improving Access to Services for Persons with Limited English Proficiency* Exec. Order No. 13166, 65 Fed. Reg. 50,121 (Aug. 16, 2000). EO 13166 directs federal agencies to develop and implement a plan to “improve access to its federally conducted programs and activities by eligible LEP persons.” There are two major categories of federally conducted programs or activities covered by EO 13166: (1) activities involving general public contact as part of ongoing agency operations, and (2) programs directly administered by an agency for program beneficiaries and participants.

To facilitate understanding of EO 13166, the Department of Justice, in coordination with other federal agencies, developed [www.lep.gov](http://www.lep.gov), which is a resource designed to help federal agencies and recipients of federal financial assistance to provide meaningful access to individuals with LEP.

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<sup>6</sup> See [EPA’s Equity Action Plan](#) EO 13985: *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (January 20, 2021), and EO 14091: *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (February 16, 2023) at <https://www.federalregister.gov/documents/2023/02/22/2023-03779/further-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal>.

## V. EPA'S EXTERNAL LEP GUIDANCE

To ensure recipients of EPA financial assistance comply with EO 13166, on June 25, 2004, EPA published the *Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*<sup>7</sup>. The Guidance provided a general framework that EPA recipients may use to provide meaningful access to individuals with LEP. Some of the topics covered in the Guidance included an overview of how to conduct an individualized assessment to determine the extent of recipients' obligation to provide LEP services and the importance of the development of recipients' own LEP implementation plans to address the identified needs of the LEP populations they serve.

## VI. DEFINITIONS

*Contractor*- Any entity that performs work or provides services on behalf of an agency or division under a contractual agreement with reimbursement. ("Contract" means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them.).

*Deputy Civil Rights Officials*- The Deputy Civil Rights Officials are senior leaders from each of EPA's program and regional offices who have responsibilities for coordination of the external civil rights program, as well as implementation responsibilities for the internal civil rights program in their respective offices. The Deputy Civil Rights Officials are charged with working with the Office of Environmental Justice and External Civil Rights (OEJECR) as well as the Office of Civil Rights.<sup>8</sup>

*Direct "In-Language" Communication*- Monolingual communication in a language other than English between a multilingual staff member and an individual with LEP (e.g., Korean to Korean).

*Effective Communication*- Communication sufficient to provide the individual with LEP with substantially the same level of access to services and information received by individuals who are proficient in English. For example, if EPA creates a frequently asked questions document in English to help the general public understand its actions, then such information should be translated into the relevant languages to allow individuals with LEP access to the same information.

*Interpretation*- The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.

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<sup>7</sup> See <http://www.gpo.gov/fdsys/pkg/FR-2004-06-25/pdf/04-14464.pdf>.

<sup>8</sup> See Deputy Civil Rights Officials, EPA Order No. 4700 (May 1, 2013).

*Interpreter-* An individual who conveys meaning orally from one language (the source language) into another (the target language).

*Individuals with Limited English Proficiency (LEP)-* Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. Individuals with LEP may be competent in English for certain types of communication (e.g., speaking or understanding), but be limited in their English proficiency for other types of communication (e.g., reading or writing).

*Meaningful Access-* Language assistance that results in accurate, timely, and effective communication to the individual with LEP. For individuals with LEP, meaningful access denotes reasonable efforts to provide language assistance services to ensure that individuals with LEP have substantially equal access to EPA services, programs, and activities.

*Qualified and Designated Multilingual Staff or Employee-* A staff person or employee who has demonstrated proficiency in English and reading, writing, speaking, and understanding at least one other language as authorized by EPA. A multilingual staff member/employee may speak or write directly to an individual with LEP in a language other than English.<sup>9</sup>

*Primary Language-* An individual's primary language is the language in which an individual most effectively communicates.

*Programs, Activities, and Services-* The term "programs, activities, and services" and the term "program" mean all the operations of the Agency.

*Sight Translation-* Oral or signed rendering of written text into spoken or signed language by an interpreter without change in meaning based on a visual review of the original text or document.

*Translation-* The replacement of written text from one language (source language) into an equivalent written text in another language (target language).

*Translator-* An individual who conveys written text from one language (source language) into the equivalent in written text in another language (target language).

*Vital Document-* Paper or electronic material that is critical for access to the Agency's programs, activities, and services, or contains information about procedures or processes required by law. Classification of a document as "vital" depends upon the importance of the program, information, encounter, or service involved, and the consequence to the individual with LEP if the information in question is not provided accurately or in a timely manner.

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<sup>9</sup> EPA is developing an SOP to describe the qualifications and designations for multilingual staff or employees who are recruited, hired, identified, assessed, and/or trained to communicate with individuals with LEP on EPA's behalf.

## VII. RESPONSIBILITIES

EPA's mission is to protect human health and the environment and to ensure that anyone living in America is protected from significant risks to human health and the environment where they live, learn, and work. Consistent with Title VI of the Civil Rights Act of 1964, the Title VI implementing regulations and guidance documents and EO 13166, this LEP Order is intended to provide agency-wide guidance on the reasonable steps the EPA is taking to provide individuals with LEP with meaningful access to EPA programs, activities, and services that otherwise are available to the public, in a timely and effective manner.

The ultimate responsibility for administering EPA's LEP program function and implementing EO 13166 is with the Office of Environmental Justice and External Civil Rights (OEJECR) as the subject matter experts. This responsibility is carried out in close coordination with the Office of Public Affairs (OPA) within the Office of the Administrator.

Within OEJECR, the LEP Program is administered by the National External LEP and Disability Program Coordinator (herein LEP NPC). The LEP NPC reports to OEJECR's Deputy Assistant Administrator for External Civil Rights. The LEP NPC is responsible for the overall management of the LEP program function and develops, implements, and delivers appropriate EPA Orders and directives, guidance, and executable processes to achieve consistent, efficient, and meaningful access for persons with LEP external to the Agency. The LEP NPC develops trainings, factsheets, frequently asked questions and other informational resource materials for employees, management, and other stakeholders (including those external to the Agency) on the procedures for providing appropriate language services for persons with LEP. The LEP NPC works in coordination with OPA in carrying out responsibilities under this Order. The LEP NPC actively participates in and leads EPA's Language Access Working Group. The LEP NPC also participates in and represents EPA in interagency federal workgroups, including with the Department of Justice on the LEP Interagency Workgroup, and engages with other interagency federal stakeholders on administration of the LEP program.

To ensure these language services are provided efficiently and effectively, EPA has established a contract vehicle that includes document translation, in-person and virtual interpretation, voice over, subtitle, and telephonic interpretation services,<sup>10</sup> which are

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<sup>10</sup> The LEP services contract provides qualified professional translators and interpreters that are certified professional whose competency is assured based upon professional qualifications. Appropriate professional qualifications include a Master of Arts degree in translation/interpretation, or accreditation from the American Translators Association, or other recognized accrediting body and have appropriate training regarding professional confidentiality and conduct standards. In addition, the LEP language access contract requires the contractor to have an understanding in environmental, health, scientific, legal terms, and special words or expressions that are used or are difficult for others to understand, e.g., "professional jargon," following the Spanish [Language Style and Glossaries for U.S. Government Web Sites](#) and use the [EPA Terms of Environment Glossary, Abbreviations, and Acronyms in Spanish](#) for the translation.

available for all EPA program and regional offices.<sup>11</sup> The LEP contract is administered by OEJECR. The LEP NPC shall serve as the LEP contract representative on EPA’s Working Capital Fund Board.

#### **A. Language Access Working Group to Assist in Monitoring, Evaluating and Updating LEP Policies**

Once every two years (or more frequently as required) EPA will convene a Language Access Working Group (Working Group), led by the LEP NPC, to review (1) whether EPA should further update its language access policies and plans (including the “nationally most prominent languages”); (2) if EPA is effectively reaching individuals with limited English proficiency when disseminating information about EPA resources, and providing meaningful access to EPA’s programs, activities, and services;<sup>12</sup> and (3) whether EPA should make further updates to its digital communications to serve individuals with limited English proficiency.<sup>13</sup> The Working Group’s membership will reflect EPA’s organizational structure and shall be representative of EPA’s program and regional offices (including the “lead region”). The Working Group will make recommendations to the LEP NPC and OEJECR leadership for appropriate updates and revisions. The Working Group will establish a meeting schedule and a timetable to deliver such recommendations. The Working Group membership will be updated every two years.

#### **B. Responsible Program or Regional Office Official**

Each program or regional Deputy Civil Rights Official (DCRO) shall designate a Responsible Program or Regional Office Official (RPROO) (usually the program office’s Communications Director or region’s Public Affairs Director). The RPROO will ensure their office has developed a program/region-specific LEP plan. Each LEP plan shall be submitted to the LEP NPC for review and approval. Once the LEP plan is approved, the RPROO will work with the DCRO to ensure it is implemented and that all program/regional staff have been trained, as appropriate.<sup>14</sup> The RPROO, in coordination with the LEP NPC, will create a schedule to monitor the effectiveness of the LEP plans and shall be briefed on the work and recommendations of the LEP Working Group regarding review and revision of the LEP Order, policies and procedures and LEP

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<sup>11</sup> In FY 2021, the LEP services contract became part of the Agencywide Contracts line of business in the Working Capital Fund and RPIOs were billed annually based upon the previous year’s usage. In FY 2023, the chargeback methodology was updated to provide more accurate and concise billing, and program and regional offices are invoiced monthly based on actual usage. In FY 2024, the LEP Services Contract became a new Working Capital Fund line of business as a stand-alone service managed by OEJECR allowing LEP funding to be accurately tracked, while enabling spending to be broken down by program. The Agency can then examine and track appropriated funds by program/regional code.

<sup>12</sup> EPA’s evaluation of whether EPA is effectively reaching individuals with LEP when disseminating information about EPA resources, and providing meaningful access to EPA’s programs, activities, and services, will include public outreach and allow an opportunity to receive input from the public as to EPA’s external LEP program effectiveness.

<sup>13</sup> Consistent with U.S. Attorney General’s November 2022 Memorandum at: <https://www.justice.gov/file/1553196/download>.

<sup>14</sup> OEJECR will assist in training program and regional staff on program/region-specific LEP Plans.

program evaluation. The RPROO will participate in regular meetings with the LEP NPC and remain informed and involved as to the implementation of the EPA's LEP Order as well as the implementation of their corresponding LEP plans.

### **C. Program and Regional Office LEP Representative**

Each RPROO will identify a Program and Regional Office LEP Representative (LEPR) for their program or regional office. The LEPR will serve as the main point of contact for the program or regional office for purposes of securing language assistance services from the LEP contract and will coordinate directly with the LEP NPC and the LEP contract officer's representative (COR).

OEJECR, the LEP NPC, the LEP Working Group, the RPROO, and the LEPR will work closely to ensure that EPA adheres to this LEP Order, LEP directives, and procedures, as well as the implementation of LEP Plans across the Agency to ensure meaningful access to the Agency's programs, activities, and services for individuals with LEP.

### **D. Language Assistance Measures**

Upon determining the need for language assistance services, the EPA will take reasonable steps to ensure that all communication is conducted with the use of a qualified contract interpreter or translator, through telephonic or virtual/video interpretation with qualified interpreters, or with the use of a qualified multilingual staff member.

EPA will take reasonable steps to ensure that vital documents related to the EPA's programs, activities and services are translated into the most frequently encountered languages of those individuals with LEP. EPA will also provide interpretation services to individuals in a language they can understand, such that they may meaningfully participate in EPA programs, activities, and services. Further, EPA will provide Spanish language interpretation for all events of national interest. EPA staff who interact with the public will be trained on language access policies and procedures, including how to access policies and procedures, how to access language assistance services and how to identify and work with individuals with LEP, interpreters, and translators.

## **LIMITED ENGLISH PROFICIENCY ORDER AND PROCEDURES**

### **1. EPA's Interaction with Individuals with LEP**

The EPA's mission is carried out by its approximately 23 offices,<sup>15</sup> which are dedicated, among other things, to:

- Leading national efforts to reduce environmental risk based on the best available scientific information;

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<sup>15</sup> See [Environmental Protection Agency's Organizational Chart](#)



- Ensuring that federal laws protecting human health and the environment are enforced;
- Ensuring that environmental protection is an integral consideration in U.S. policies concerning natural resources, human health, economic growth, energy, transportation, agriculture, industry and international trade, and these factors are similarly considered in establishing environmental policy;
- Providing accurate information to all parts of society for individuals to effectively participate in managing human health and environmental risks; and
- Providing access to communications in response to environmental emergencies or disasters.

Given the varied activities and the specific missions, programs, and services of the EPA's many offices, the type and frequency of contact and interaction with the public and individuals with LEP may vary across offices. In response to this, each of EPA's program and regional offices will develop program or region specific LEP plans to ensure that individuals with LEP have meaningful access to all EPA programs, activities, and services.<sup>16</sup>

- A. In developing program and region specific LEP plans, each program and regional office will examine its mission and the programs, activities, and services it offers in light of that mission.
- B. To the extent that the EPA makes programs, activities, and services available to the public, EPA will take reasonable steps to ensure meaningful access is available to the public with LEP as well. Accordingly, each program and regional program office will examine the types and methods of their public interactions. For example, telephone numbers regularly used by the public, public outreach activities, publications and letters, and program information available through EPA.gov should be accessible to individuals with LEP.
- C. As the frequency, type, and extent of these contacts and interactions with individuals with LEP will vary across the EPA's offices, each program and regional office follow a systematic method for tracking such interactions to ensure they are handled appropriately and effectively.<sup>17</sup>

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<sup>16</sup> The requirement to develop "program or region specific LEP plans" applies to all EPA program offices, including the Office of the Administrator, media, support offices and the ten regional offices. Some program offices may want to develop sub-plans for specific offices within their program offices that carry out external facing mission functions (such as, for example, the Office of External Civil Rights Compliance within OEJECR, which has developed its own sub-plan.)

<sup>17</sup> The LEP Services Contract is a Working Capital Fund line of business as a stand-alone service managed by OEJECR allowing LEP funding to be accurately tracked, while enabling spending to be broken down by program. The Agency can then examine and track appropriated funds by program/regional code. In addition, during the intake process for requesting language access services, a reference number is provided to each regional and program office. This reference number allows OEJECR, to track the following information: language requested, the type of language assistance services provided, use, and cost.

## 2. Identification and Assessment of Communities with LEP: A Profile of the EPA's Interactions with Individuals with LEP

### A. Profile of Individuals with LEP

The individuals with LEP that EPA encounters include communities, individuals, businesses, and tribal governments. Nationally, the most frequently encountered language spoken by persons with LEP is Spanish. However, program and regional offices also encounter many other languages spoken by persons with LEP, especially during interactions with specific geographic communities.

### B. Types of interactions

It is important for program and regional offices to track all instances where the respective office has provided translation and/or interpretation services and in what languages so that offices know the needs of the communities they serve. It also allows offices to periodically reexamine whether the demographic/linguistic profile of the communities they serve has changed. OEJECR will also track the services provided by program and regional offices, as well as the language contract costs.<sup>18</sup> On an annual basis, OEJECR will provide this information to each respective program or regional office that uses this contract to facilitate the office's review of their own LEP plans, evaluate the effectiveness of their interactions in light of changing demographics, etc.

### C. Nationally prominent languages:

On a national level, EPA considers the languages most commonly spoken by individuals with LEP as those identified by the American Community Survey (ACS). According to ACS, the top 10 languages other than English spoken at home by individuals ages five years or older who speak English less than very well are: Spanish, Chinese (Mandarin traditional and simplified), Vietnamese, Korean, Tagalog, Arabic, Russian, Haitian, Portuguese, and French.<sup>19</sup> To ensure that the list remains current, the LEP Working Group will review the list every two years and update it as necessary. The update will reflect current demographic information based on ACS data. In addition to the top 10, EPA will consider indigenous languages or other languages of lesser diffusion.

In addition, each program and regional office that conducts its business through more regional or specific geographic areas, should ensure that they refer to the U.S. Census Bureau data<sup>20</sup> or other data tools, to identify region specific or geographic area demographic data and appropriate languages spoken. Each program and regional office will use this data to develop information about the language groups likely to be encountered during regional or community-based outreach. Translated material directed

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<sup>18</sup> *Id.*

<sup>19</sup> See: LANGUAGE SPOKEN AT HOME BY ABILITY TO SPEAK ENGLISH FOR THE POPULATION 5 YEARS AND OVER, 2020: ACS 5-Year Estimates Detailed Tables Universe: Population 5 years and over, at <https://data.census.gov/table?q=B16001&tid=ACSDT5Y2020.B16001&tp=false>.

<sup>20</sup> See ["People That Speak English Less than "Very Well" in the United States."](#) for specific state/county language data.

to specific audiences need not be translated for all languages. For example, if a translation is made for a targeted area that is dealing with an environmental hazard and the demographic analysis has shown that the affected language group only speaks Vietnamese, there is no need to translate the same material into Spanish, Chinese, and Russian, etc.

**D. Point of First Contact—Identification of Individuals with LEP:**

At the first point of contact with an individual with LEP, EPA staff will make an initial assessment of the need for language assistance services. Staff will then contact the appropriate office, if different from the first point of contact, to arrange for such services if they are needed to effectively communicate with the individual. Each office will determine the most effective way to identify the individual's primary language.

In many instances, the first contact is likely to be by telephone or via e-mail. To identify the individual's primary language by telephone, staff may rely on self-identification by the individual with LEP. EPA's LEP contract includes telephonic interpretation, and every office has access to these telephonic interpretation services.

If there is confusion about the individual with LEP's primary language, staff can use qualified multilingual staff members or EPA's telephonic interpretation service to attempt to identify the individual's primary language. To identify the individual's primary language by e-mail, staff may rely on self-identification by the individual with LEP. Otherwise, staff can use qualified multilingual staff members, or the contract translation services to determine the appropriate language for communication.

During telephone or in-person contact with an individual with LEP, if relatives, friends, acquaintances, neighbors, or children are present with the individual, staff may rely on these individuals to conduct a first inquiry as to the primary language of the individual with LEP. However, staff generally should not rely on these individuals to provide interpretation services because this could result in a breach of confidentiality, a conflict of interest, or an inadequate interpretation.

To identify an individual's primary language, staff may use one or more of the following:

- 1) Self-identification by the individual with LEP or companion;
- 2) Verification by a qualified multilingual staff member; and/or
- 3) Telephonic interpretation services.

During staff communication while onsite in communities, staff who work at on-site locations outside EPA offices will make every effort to identify potential individuals with LEP with whom they may come in contact prior to the site visit and prepare accordingly. If staff encounter individuals with LEP who need interpretation services and who were not identified prior to the on-site visit, staff will ask the individuals with LEP to identify

their language using an “I Speak” card or other language identifying tool<sup>21</sup> or other effective resources and will arrange for interpretation services either while on site or as soon as possible thereafter. For example, interpretation services could be provided using the telephonic interpretation line.

### 3. Language Assistance Services

As previously stated, OEJECR administers a LEP contract that provides document translation, virtual, in-person and telephonic interpretation, voice over, subtitle, transcription, and Section 508<sup>22</sup> compliance services to all program and regional offices. OEJECR has a Standard Operating Procedure (SOP) for obtaining translation and interpretation services under the LEP contract, along with forms that can be submitted electronically to request language services.<sup>23</sup>

All EPA program and regional offices will take reasonable steps to respond in a timely and effective manner to provide individuals with LEP who need assistance or information with appropriate language services. All EPA program and regional offices will determine the “mix of services” needed to ensure persons with LEP are provided meaningful access.<sup>24</sup> Individuals with LEP will be advised that language services, including translation and/or interpretation will be provided by EPA at no cost to them.

#### A. Oral Language Services (Interpreters)

1. EPA’s program and regional offices will provide for simultaneous oral interpretation, by qualified interpreters of live proceedings (e.g., community engagement meetings and public meetings or hearings), events, other programs, activities, or services, whether in person, virtually or in a hybrid setting, in all appropriate and other requested languages to allow individuals with LEP to meaningfully participate in those events, proceedings, programs, and activities, etc. (e.g., provide comments during public hearings, proceedings, programs, and activities hosted or provided by an EPA program or regional office).
2. EPA’s program and regional offices will not require individuals with LEP to provide their own language assistance services when communicating with the EPA. Oral interpretation services will be provided through the LEP contract.

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<sup>21</sup> The “I Speak” identification flashcard is a tool used with individuals with LEP to determine their native language.

<sup>22</sup> See Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended, 1998, at <https://www.regulations.gov/accessibility>.

<sup>23</sup> See SOP and forms for requesting LEP contract services: <https://work.epa.gov/oejecr/limited-english-proficiency>.

<sup>24</sup> See Department of Justice “[Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#)” (June 12, 2002), explaining the “four-factor analysis” to be used in determining the mix of the appropriate language assistance services to ensure an LEP individual has meaningful access to that agency’s programs and activities. The four-factor analysis considers: (1) The number or proportion of LEP persons eligible to be served or likely to be 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 costs. *Also see* [DOJ’s Language Access Plan](#).

3. Depending on the type of the language assistance services needed, a qualified multilingual staff can be used, as appropriate. When the services of a multilingual staff are not appropriate, the program or regional office will seek interpretation assistance through the LEP contract.
4. Except in unusual circumstances, the EPA will not rely on untrained, volunteer family members, neighbors, friends, acquaintances, or bystanders, to provide interpreter services.

## **B. Written Language Services (Translation)**

1. *Vital Documents*: Classification of a document as “vital” depends upon the importance of the program, information, encounter, or service involved, and the consequence to the individual with LEP if the information in question is not provided accurately or in a timely manner. The determination of what documents are considered “vital” is left to the discretion of the program or regional office, which is in the best position to evaluate and articulate their unique circumstances and services. Documents that could be classified as “vital” generally fall into two broad categories: specific written communication regarding a matter between an individual and a program or regional office and, documents primarily geared towards the general public or a broad audience.

The more important the activity, information, service, or program, or the greater the possible consequences of the contact to the individuals with LEP, the more likely language services are needed. For example, the obligations to communicate information to a person who may be adversely impacted by an immediate water source contamination or to sudden release of airborne toxic chemicals differ from those to provide information on efforts to increase recycling. A program/region needs to determine whether denial or delay of access to services or information could have serious or even life-threatening implications for the individual with LEP. Decisions by a program to make an activity, warning or notice compulsory, such as particular educational programs on lead-based paint and children, can serve as strong evidence of the program’s importance.

It may sometimes be difficult to draw a distinction between vital and non-vital documents, particularly when considering outreach or other documents designed to raise awareness of rights or services. Though meaningful access to a program requires an awareness of the program's existence, we recognize that it would be nearly impossible, from a practical and cost-based perspective, to translate every piece of outreach material into every language. Nevertheless, because in some circumstances lack of awareness of the existence of a particular program may effectively deny individuals with LEP meaningful access, it is important for EPA to regularly assess the needs of eligible service populations to determine whether certain critical outreach materials should be translated into other languages.

- a. With respect to specific written communication regarding a matter between an individual and a specific program or regional office, the purpose of translating

such written communication is to provide the individual with LEP with meaningful access to communication that is critical to understanding the matter at hand. As an example, persons with LEP may submit discrimination complaints to OEJECR in non-English languages and OEJECR must respond to the persons with LEP in their primary language.

Written communications with an individual that are considered “vital” documents include, but not are limited to, the following:

- Written notices of rights, denial, loss or decreases in benefits or services;
  - Notice of disciplinary action, environmental hazards or cease and desist orders;
  - Notice advising individuals with LEP of free language assistance;
  - Settlement of environmental complaints;
  - Notices of permit;
  - Notices, letters, or forms pertaining to administrative complaints, including online electronic complaints (for example, external civil rights complaints);
  - Final EPA decisions or letters of determination on specific matters in which individuals with LEP or communities with LEP are involved; and,
  - Consent forms for the disclosure of personally identifiable information.
- b. With respect to documents intended for public outreach or a broad audience, each program and regional office will ensure that the documents it considers “vital” are translated where a significant percentage of the population is eligible to be served, or likely to be directly affected, by the offices’ services, programs, or activities have LEP. The program and regional offices will consider the nationally prominent languages spoken by individuals with LEP as a guide for prioritizing languages for translation of vital documents.<sup>25</sup> Each office may want to consider translation into other languages, as necessary, based on regional demographics or subject matter targeted to specific communities and audiences.

Some examples of documents intended for public outreach, or a broad audience may include, but are not limited to, the following:

- Brochures;
- Fact Sheets;

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<sup>25</sup> Currently, EPA has an [LEP website](#) that provides vital information for individuals with LEP in the following languages: Arabic, Chinese, Haitian Creole, Korean, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.

- Question & Answer Documents;
  - Press Releases;
  - Environmental Reports;
  - Environmental Risk/Concern Advisories;
  - Settlement Agreements (in specific instances in which an LEP community are involved or may be affected);
  - Final Agency Decisions (in specific instances in which a community with LEP is involved or may be affected);
  - Information pertaining to natural disasters and emergency response efforts; and,
  - Other Vital Documents.
2. For “vital” documents published in the Federal Register<sup>26</sup>, the program and regional office should determine whether to include the document on the appropriate EPA internet page in the nationally prominent languages or other languages, as necessary, based on regional demographics or subject matter targeted to specific communities and audiences in the appropriate languages other than English or, at a minimum, a “notice” in the appropriate languages that language assistance is available (see Notice to Individuals with Limited English Proficiency” statement under the “Notification” section of this document). Program and regional offices should consult the LEP NPC in determining appropriate language services.
  3. For “vital” documents accepting public comment that are not published in the Federal Register (e.g., significant guidance documents, strategic plans, public involvement advisories, etc.), the program and regional offices will include the document on EPA’s website. The document will be provided in the nationally prominent languages or other languages, as necessary, based on regional demographics or subject matter targeted to specific communities and audiences in the appropriate languages other than English or, at a minimum, a summary of the document in the appropriate languages and “notice” in the appropriate languages that language assistance is available (see Notice to Individuals with Limited English Proficiency” statement under the “Notification” section of this

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<sup>26</sup> Where a translated “version” of an FR Notice is posted on the internet, the program or regional office will include the following disclaimer along with the posted translated notice, in all the appropriate languages: *While we have taken steps to ensure the accuracy of this translated internet version of the Federal Register notice, it should not be relied upon as the official notice. The official notice can be found on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) {in Docket No. [insert docket]}.*

document). Program and regional offices should consult the LEP NPC in determining appropriate language services.

4. Program and regional offices will determine whether a complete translation is necessary, or whether translation of the vital information contained within the document provides adequate notice of the document's contents. In some instances, it may be appropriate to develop fact sheets summarizing the vital information, which can then be translated into the appropriate languages. Under some circumstances, the documents may not need to be translated in their entirety. At a minimum, the office will need to provide an accurate oral interpretation by a qualified interpreter of the important information in the English version until a written translation can be provided.
5. For those languages that are less prevalent, or for individuals with LEP who are not proficient in their own language, the program and regional office will advise individuals with LEP in a language they understand, and orally, as appropriate, that they can and how they can get assistance in receiving access to "vital" documents and information.
6. EPA program and regional offices should make every effort to post translated materials on their webpages. OEJECR will work with OPA to ensure that translated materials of national importance and interest are posted on EPA's website in the "other language" pages.

### **C. EPA's Product Review Process**

EPA program and regional offices will determine on an ongoing basis whether new documents need to be translated and made accessible for individuals with LEP. Additionally, EPA will consider whether other pre-existing vital documents should be translated into prominent languages other than English. EPA program and regional offices will consult with their respective DCRCs and/or RPROOs, as appropriate, product review coordinators and web editors when evaluating documents and outreach materials that need to be translated and made accessible for individuals with LEP. Additionally, each document that is requested for translation and will be widely distributed or posted on EPA's website requires review and approval by each program or regional office's respective product review officer or web editor-in-chief.<sup>27</sup>

### **D. Notification of Availability of Language Assistance Services**

EPA will include the below notice in each of the nationally prominent languages with respect to the following:

1. EPA's main website and each program and regional office's webpage;
2. With the English version of the program or regional office's "vital" documents intended for public outreach or a broad audience (e.g., brochures, factsheets).

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<sup>27</sup> EPA's Product Review Process was finalized by the Office of Public Affairs on March 25, 2016.



3. Any invite to public meetings, events, services, requests for comments, etc., including notice and information sent using listservs (e.g., EPA’s EJ Listserv).

*EXAMPLES:*

If you cannot speak, read, write, or understand the English language, please email [xxx@epa.gov](mailto:xxx@epa.gov) to request interpretation or translation services free of charge.

If you are a person with disabilities and need reasonable modifications and/or auxiliary aids and services, please email [zzzz@epa.gov](mailto:zzzz@epa.gov) to request services free of charge.

Each program and regional office may also include local contact information, such as telephone, mailing, and e-mail address information in the above statements, if appropriate. That additional information will also be translated into the 10 nationally prominent languages.

## **E. Staff Training**

OEJECR’s LEP NPC, in coordination with the Office of Public Affairs (OPA), will take the lead on developing and providing national training to EPA’s personnel regarding the main components of the EPA’s LEP Order, policies, protocols, and LEP contract services. This training will be provided through in-person “classroom” instruction, Microsoft Teams, Zoom.gov, webinars, or other online tools, as appropriate. In addition, OEJECR will be available to help program and regional RPROOs in providing training on their specific program or regional office LEP plans.<sup>28</sup> Ongoing training using a “train the trainer” model will be expected. This method will help ensure that the regional and program office RPROOs and their LEPR can then assist with training in each of their own program or regional offices and that EPA maintains a well-trained workforce for ensuring meaningful language access. OEJECR, will continue to develop and update guidance, standard operating procedures, and other vital LEP related materials, as appropriate, which will be accessible to all EPA employees and be made available through OEJECR’s LEP intranet page.<sup>29</sup> EPA will also utilize its social media platforms to provide translated vital information and increase messaging to populations with LEP.

## **F. Contact the EPA’s LEP NPC:**

Please email [LanguageInterpretationTranslationRequest@epa.gov](mailto:LanguageInterpretationTranslationRequest@epa.gov) to provide comments, get more information about EPA’s LEP program, or if you have questions about language assistance services.

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<sup>28</sup> EPA plans to provide training to the LEPRs in the first quarter of FY 2024 and plans to provide an EPA-wide training in the second quarter of 2024. LEPRs will provide language access training to their respective programs by the third quarter of FY 2024. In addition, EPA will provide language access training, annually, or as requested. EPA will post the language access training in the LEP intranet resource for reference.

<sup>29</sup> See <https://work.epa.gov/oejecr/limited-english-proficiency>.