

OREGON DEPARTMENT OF TRANSPORTATION

TITLE VI COMPLIANCE PROGRAM

2012

*Resources for Equity and
Opportunity in Oregon
Transportation*

**Limited English
Proficiency Plan**



Office of Civil Rights

LEP PLAN | LIMITED ENGLISH PROFICIENCY

A Guide to Improving Access to Services to Federally Conducted and Federally Assisted Programs and Activities for Persons Who, as a Result of National Origin, are Limited in Their English Proficiency

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INTRODUCTION

Most individuals living in the United States read, write, speak, and understand English. There are many individuals, however, for whom English is not their primary language. The 2010 census shows that the U.S. population age 5 years and older includes over 37 million individuals that speak Spanish and well over 9 million individuals that speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or “LEP.” Of the 37 million Spanish speakers 44.7% reported that they spoke English less than “very well.” Among those that speak Asian or Pacific Island languages 47.9% reported that they spoke English less than “very well.”

Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other vital information. The Oregon Department of Transportation (ODOT) is committed to improving the accessibility of its programs, services and activities to eligible LEP persons, a goal that reinforces its overall commitment to promoting equitable access to all its programs, services, and activities to all segments of the population and particularly to those that may be the most vulnerable.

Oregon is home to millions of individuals from different cultures and backgrounds. A significant number are limited English proficient (LEP). 2010 census data shows that among those 5 years and older in Oregon, 6.1%, or 219,778 individuals, reported that they spoke English less than “very well.” Analysis of census data reveals that 66% of those that reported that they spoke English less than “very well” reside in an adjoining 3 county area representing Marion, Multnomah, and Washington counties.

According to the 2010 U.S. Census American Community Survey it is estimated that nationwide 8.7% of the population 5 years and older Speak English less than “very well.” In Oregon 6.1% of the State’s population is considered to be LEP.

**United States
Percent of specified language
speakers**

	Total	Speak English "very well"	Speak English less than "very well"
	Estimate	Estimate	Estimate
Population 5 years and over	289,215,746	91.3%	8.7%
Speak only English	79.4%	(X)	(X)
Speak a language other than English	20.6%	57.6%	42.4%
Spanish or Spanish Creole	12.8%	55.3%	44.7%
Other Indo-European languages	3.7%	67.7%	32.3%
Asian and Pacific Island languages	3.2%	52.1%	47.9%
Other languages	0.9%	69.0%	31.0%

**Oregon
Percent of specified language
speakers**

	Total	Speak English "very well"	Speak English less than "very well"
	Estimate	Estimate	Estimate
Population 5 years and over	3,602,925	93.9%	6.1%
Speak only English	85.6%	(X)	(X)
Speak a language other than English	14.4%	57.8%	42.2%
Spanish or Spanish Creole	8.6%	55.0%	45.0%
Other Indo-European languages	2.6%	72.7%	27.3%
Asian and Pacific Island languages	2.7%	50.7%	49.3%
Other languages	0.4%	68.1%	31.9%

Source: U.S. Census Bureau, 2010 American Community Survey

PURPOSE OF THE LEP PLAN

The Oregon Department of Transportation, as a recipient of funding from the United States Department of Transportation (USDOT), must assure that Limited English Proficient (LEP) people have meaningful language assistance by reasonable means when using ODOT services, or services provided by recipients of federal funds through ODOT. Funding assistance from the USDOT agencies, the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) require a plan for

providing this meaningful access in accordance with Title VI of the Civil Rights Act of 1964 and implementing regulations.

This plan was developed to provide ODOT divisions and business lines with guidelines and resources that will ensure that the Agency is fulfilling our commitment to the LEP public. The plan also has the purpose of establishing a clear expectation of how ODOT will assess the relevance of the LEP programs being executed by the agencies and organizations that are ODOT subrecipients of federal funds. This plan contains recommendations and resource material including ODOT's best practices. Our goal is to provide a framework that will help ODOT and its subrecipients better serve the LEP members of our communities. Finally, this plan serves to document the accomplishments of ODOT and its partners in providing equitable access to our programs and services.

AUTHORITY

Executive Order (EO) 13166 – Improving Access to Services for Persons with Limited English Proficiency, August 2000 is directed at implementing the protections afforded by Title VI of the Civil Rights Act of 1964 and related regulations. Accordingly, it prohibits recipients of federal financial assistance from discriminating based on national origin by failing to provide meaningful access to services to individuals who are LEP. This protection requires that LEP persons be provided an equal opportunity to benefit from or have access to services that are normally provided in English.

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 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.

FOUR FACTOR ANALYSIS

Following are factors to consider when determining what reasonable steps to take to provide LEP individuals with meaningful access to its programs, activities and services.

1. Determine the **number or proportion of people** served or likely to be encountered who would potentially be excluded from the program or activity absent efforts to remove language barriers; the “reasonableness” of a program’s/division’s efforts should correspond to this analysis.
2. Consider the **frequency of contact**. Title VI obligations will differ for programs/divisions and local agencies who have little contact with LEP individuals compared to an entity who serves a large LEP population and whose core business is to provide projects, products, and services to the general public.
3. Assess the **nature and importance of the program**, activity, or service provided by the agency or organization to the LEP community; the more important the activity, information, service or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely language services will be needed.
4. Consider the **available resources and costs**. “Reasonable steps” may cease to be reasonable where available resources and the costs imposed substantially exceed the benefits in light of the factors outlined in the U.S. Department of Justice (DOJ), LEP Guidance.

Number or Proportion of People

Analysis of 2010 U.S. Census data and the American Community Survey 2008-2010 for the State of Oregon identifies those areas within the state that have proportionally higher numbers of individuals that are categorized as LEP. Not surprisingly, these geographies fall within several of the State’s larger urban centers. Analysis was conducted using data obtained at the county level. Current American Community Survey data shows that Oregon statewide has an estimated 6.1% of the population that is considered as LEP. Oregon is comprised of 36 counties of which the most populace (population over 100,000) are:

Multnomah	730,140
Washington	532,620
Clackamas	381,775
Lane	348,550
Marion	320,640
Jackson	207,745
Deschutes	172,050
Linn	111,355
Douglas	105,240

Following is data extracted from the 2008-2010 American Community Survey showing those Oregon counties that have the highest concentrations (exceeding 5%) of individuals 5 years and over that reported that they speak English “less than very well.” These 6 counties represent 43.9% of the states population. They are:

Marion	11.6%
Washington	9.8%
Multnomah	9.4%
Umatilla	8.3%
Yamhill	6.8%
Polk	5.2%

There are 6 Oregon counties with populations over 100,000 with estimated LEP populations less than 5%. They are:

Clackamas	4.4%
Lane	3.2%
Jackson	3.0%
Deschutes	2.5%
Linn	2.6%
Douglas	0.9%

Based on American Community Survey 2008-2010 data, Oregon has 30 counties with LEP populations of less than 5%.

ODOT and those agencies and organizations that are federal aid subrecipients of ODOT, are required to analyze data to determine the needed actions to respond to

those LEP populations within their service area or jurisdiction. The number and proportion of LEP individuals within these geographies should be used to determine the level of required response to ensure access to programs, services, and activities by these vulnerable populations. Further analysis of census track and detailed identification of specific community language data needs to be conducted to more accurately determine where LEP populations exist at the community level to aid in comprehensive transportation planning and design of services and projects inclusive of the needs of those that are language challenged.

Frequency of Contact

Oregon LEP populations are concentrated in the northwest area of the state. This is not surprising since language diversity is common in a major population center, as is the case with the Portland metropolitan area. The metro Portland area includes a 3 county region of Multnomah, Washington, and Clackamas counties

South of the Portland metro area is Marion County that includes the City of Salem and the State Capitol. Marion County has the highest percentage of LEP population at 11.6%. The Portland metro 3 county region, Marion County along with Polk and Yamhill adjoining to the west represent 5 of the 6 counties that have LEP populations in excess of 5%. This 5 county region represents 40.1% of the total State population. Umatilla County in Eastern Oregon is the sixth county with an LEP population of 8.3%. Umatilla County has a strong agriculture economic base and represents 1.8% of the total state population.

It is statistically more likely that ODOT programs and organizations, delivering services and other related transportation resources in the Portland Metro area and the Marion, Polk, and Yamhill County region, would encounter a need to provide LEP translation or interpretation services. It is estimated that 66.1% of the State's LEP population reside in this adjoining 5 county region. This represents an estimated 155,077 LEP individuals that are over 5 years of age and that speak English "less than very well." This is not to say that those cities, counties, and agencies that serve other portion of the State have any less responsibility to serve the needs of the LEP populations that they encounter. This particular analysis only addresses the potential frequency of LEP contact based on where these individuals reside and what language is their primary dialect.

ODOT divisions, regions, programs, and project teams, as well as ODOT sub recipient business units, have a responsibility to analyze the demographic data of each specific

geographic area that a program maintains operations or in which a project may have an impact. Frequency of contact is going to vary based on a specific geographic area or region. The design of LEP services should be based on this analysis. Some regions, communities, or neighborhoods may not have significant levels of LEP populations, while other geographical areas may have a high number of LEP individuals. Language diversity is another consideration – In certain high density urban areas it is possible that language assistance to multiple languages may be needed. By understanding where the LEP populations reside and what languages are spoken, a concise plan can be developed to establish the necessary language assistance. Whether the language assistance need is interpretation services or translation services, or both, these services can be applied with more accuracy if basic analysis has been conducted. In some instances assistance could be in the form of both services, as well as the potential for multiple languages, to effectively provide access to LEP individuals.

Nature and Importance of the Program

In addition to assessing the demographics related to LEP populations and the frequency of contact, it is also necessary to examine the nature and importance of the programs, activities and services that you provide to that population. As a general rule, the more important the activity, information, service or program, or the greater the possible consequences of the contact to the LEP individuals, the more likely services will be needed. If the denial or delay of access to services or information could have serious implications for the LEP individual, procedures should be in place to provide language assistance to LEP persons as part of standard business practices.

There are two main ways to provide language services: 1) oral interpretation either in person or via telephone interpretation services; 2) written translation services. Oral interpretation can range from on-site interpreters for critical services provided to a high volume of LEP persons, to access through commercially available telephonic interpretation services. Written translation can range from translation of an entire document to translation of a short description of the document. In some cases, language services should be made available on an expedited basis while in other cases, the LEP individuals may be referred to another office of the Agency for language assistance. The correct mix of interpretation and translation services should be based on what is both necessary and reasonable in light of the four factor analysis.

Transportation programs, activities and services touch the lives of a broad cross-section of the public including those that are LEP. ODOT provides a vital link for LEP individuals

to transportation services ranging from roadway planning and improvement projects, to motor vehicle licensing, public transportation, and public safety programs. Each area of ODOT's transportation system will have a different importance and affect on LEP individuals. From each region, division or project perspective, the importance of the activity, or the likelihood of consequences to LEP people, has to be reviewed and balanced against the other three factors.

For example, an LEP person's inability because of language barriers to effectively utilize public transportation may adversely affect their ability to obtain health care, education, or access to employment. It is necessary for each ODOT program to identify activities and services which would have serious consequences to individuals if language barriers prevented access to information or the benefits of those programs. For example, an ODOT program, or sub-recipient of ODOT's, may be responsible for providing emergency evacuation instructions in its facilities, stations and vehicles or may provide information to the public on security awareness or emergency preparedness. If this information is not accessible to the people with limited English proficiency, or if language services in these areas are delayed, the consequences to these individuals could be life threatening.

An assessment of what programs, activities and services are most critical should include contact with community organizations that serve LEP persons, as well as contact with LEP persons themselves to obtain information on the importance of the modes or the types of services that are provided to the LEP populations. Each ODOT program that has contact with LEP populations should seek this input as they identify these needs and as they make decisions on what are the appropriate actions necessary to ensure access.

Available Resources and Cost

A larger organization or business line with extensive resources may have to take greater steps than a smaller entity with limited resources. Providing translators on the premises may be appropriate in some circumstances however, written translation, access to centralized interpreter language lines, or mobilizing staff to provide services may be appropriate in other situations. "Reasonable steps" may cease to be reasonable where available resources and the costs imposed substantially exceed the benefits in light of the factors outlined in the U.S. Department of Justice (DOJ), LEP Guidance.

It is necessary to identify the resources available to ensure that an organization will be able to provide language assistance to LEP persons participating in programs or activities. The particular demographics, and frequency and importance of contacts, will dictate the level of services that should be committed. Some language services can be provided at little or no cost, such as using community volunteers or bilingual staff as interpreters. Using a telephone language line is less expensive than hiring an interpreter. An organization should carefully explore the most cost-effective means of delivering competent and accurate language services before deciding to limit services due to resource concerns.

Along with all State agencies, ODOT has its external internet site available on the State of Oregon site. The State internet allows a user to access agency web content in 26 different languages. This represents an excellent example of a readily available resource that has relatively little associated cost. Web-based LEP solutions can provide LEP individuals access to vital information and also provide a resource to access contacts or other resources within an agency.

The availability of web-based language services provides only a portion of the language accessibility needs of the LEP public. Each Division, Region, program, and organization is required to apply the four factor analysis, and based on the outcome of the analysis, be prepared to design appropriate responses to ensure program accessibility. In general, any vital communication that is made available to the general public has to be made accessible to those that are language challenged. Providing translation of documents on a “by request” basis is one approach that is reasonable. Including a statement in the document informing people that the document is available for translation “by request” can provide sufficient notice and access to LEP persons. Also, providing only summaries of large documents can help minimize strain on resources and contain costs.

It is important to develop a strategy and ultimately decide what resources are made available for front-line staff when, and if, they need to respond to an LEP person that is making direct contact by phone or in person. Using bi-lingual staff to interpret and translate is widely-used and has minimal cost impact. There is a caution with using staff or other “uncertified” translation services or interpreters. If the importance of the information that needs to be translated or interpreted is high and there is a need for absolute accuracy then a certified translator or interpreter should be used. An example of this would be a real estate transaction within right-of-way business lines or when there is a potential for the LEP person’s rights to be compromised.

As a result of conducting the four factor analysis it may become evident that it is necessary to provide LEP services at a public involvement event. It can be a challenge and often requires additional coordination and expense to include both translation of documents and interpretation services at the event. Using volunteers from a stakeholder group or from the community to act as interpreters is a viable approach to fill part of this need.

Various translation and interpretation businesses that are language services providers are available on ORPIN, the state procurement website. These resources for language assistance are under contract (price agreements) to provide on-demand services to state agencies and local governments without having to establish a competitive bid process or enter into a complex contract. Because there is a broad diversity of available services and service providers on ORPIN, an organization is capability to design an LEP solution specific to a programs needs and in this way potentially help to contain costs. See the attachment to this plan that lists those language services providers available under price agreement (**Appendix A**). This list of providers can change, so always confirm that the listed provider is still under contract.

The State of Oregon ORPIN website is at:

<http://orpin.oregon.gov>

If resources are not available to an organization or if the costs impacts are too great to provide services to LEP individuals it is necessary to be able exhibit how this determination was made. One way to accomplish this would be to create a record that clearly establishes that the 4 factor analysis (including demographic data analysis) was applied. It is recommended that a program or organization be prepared to present a rationale that explains why the availability of resources limited the ability to provide services. This may be simply that the proportion of LEP persons in a services area was very small, the information, products, or services provided were of low importance, or that the frequency of contact made it unreasonable to take action. This rationale could also be a cost/benefit analysis.

There are some factors that need serious consideration if a program or organization limits LEP services. First, always consider if there is a potential for an LEP persons to be adversely impacted, be excluded from use or benefits of a program, or even to be injured if LEP services are not provided. Secondly, consider that valid concern may be raised if a program fails to respond to the needs of the LEP public, particularly if the

number of LEP persons that need language services is high, and/or the frequency of use is high, and/or the importance of the need is high. An attempt to exhibit that a lack of available resources or funding has limited the ability of the organization to provide adequate language services may cause the program, and ultimately the Agency, to come under regulatory or legal scrutiny. It is always good business practice to make every attempt, within reason, to provide full, comprehensive, LEP services and to ensure that these individuals are provided meaningful access to the benefits of our transportation programs.

LANGUAGE ASSISTANCE MEASURES

Executive Order (EO) 13166 directs recipients of Federal financial assistance to take reasonable steps to provide LEP individuals with meaningful access to their programs, activities, and services.

Because the needs of LEP populations vary throughout Oregon, the definition of meaningful access to ODOT services is also varied. As such, each division within ODOT or recipient of federal funds through ODOT will determine the extent of obligation a project or federal funding recipients has to LEP people by using this plan as a guide.

The following chart, although not exhaustive, illustrates ODOT Division and Program activities and responsibilities relative to LEP services.

Activity	Division/ Program	Title VI Program
• Assessing and addressing the needs of eligible persons	X	
• Taking reasonable steps or ensuring that responsible steps are taken to ensure meaningful access	X	
• Developing and implementing monitoring control mechanisms to ensure ongoing compliance	X	
• Compliance, monitoring and oversight	X	X
• Providing technical assistance and guidance		X

The key to providing meaningful access for LEP persons is to ensure effective communication exists between ODOT each effected division/program and the LEP

person(s). To accomplish effective communication the following actions and discussions are considered appropriate at the divisional and program level:

1. Perform a needs assessment
2. Provide for oral language assistance
3. Notify LEP customers of the availability of language assistance services
4. Translate vital documents in languages other than English
5. Train staff
6. Develop written procedures
7. Monitor and evaluate access to language assistance
8. Responding to a complaint

1. Needs Assessment

Each Division and Program is to continuously assess language assistance needs of the population to be served by identifying the following:

- Languages likely to be encountered and number of LEP persons in the eligible population likely to be directly affected by its program
- Public contact where languages assistance is needed
- Resources needed to provide effective language assistance, including location, availability and arrangements necessary for timely use

2. Oral Language Assistance

Providing LEP persons with oral language assistance at public service counters or when telephone contact is appropriate. Such assistance may take the form of bilingual staff, contracting with an outside interpreter service or the use of voluntary community interpreters who are skilled and competent in interpreting. Employment of bilingual staff in divisions and programs is recommended, when feasible, where the percentage of LEP customers or potential customers is statistically significant, or where the frequency of contact with such persons will provide for efficient and effective communication. A decision to employ bilingual staff should be based on a needs assessment with due consideration given to budget constraints and in accordance with department policy. ODOT Human Resources can provide additional information on bilingual staff recruitment, bilingual pay procedures, departmental positions requiring bilingual skills, and names and locations of staff that speak an alternative language and language spoken.

ODOT Headquarters' main telephone lines are housed in the Director's office. The "Ask ODOT" toll free line is highly published and receives a high volume of phone calls. The main receptionist in the Director's office also receives a fair amount of calls based on the publication of this number as an alternative to the toll free "ask ODOT" line. A phone triage for language assistance is being established to respond to LEP callers. The system will be implemented to provide an option for the ODOT staff member answering these telephone lines to forward a caller to a voicemail resource that will provide the caller with language appropriate instructions on how to leave a message, to explain their reason for calling, and to obtain a response if requested. ODOT is looking at several language services providers that are capable of providing these services and that have price agreements with the State of Oregon. Currently, ODOT staff that are assigned to answer calls say that calls received in languages other than English are rare.

3. Notification of Availability of Language Assistance Services

LEP persons have the right to free language assistance in their spoken language. Divisions and Programs are responsible for informing the public of this right. Language identification cards or posting signs in public areas are methods that can be used to provide notice (**see the printable "I Speak Card" attached in Appendix B**).

Published and distributed notices of public involvement activities and events should have information available on how LEP individuals can obtain translated material or how they can request an interpreter at the event. This should always be applied if LEP analysis shows that LEP populations are stakeholders in the subject matter that will be presented.

A notice in Spanish regarding Title VI, ADA, and LEP policy and information on how to access services is available in **Appendix C**. It is recommended that this notice in English and Spanish be posted in main lobby or other areas of ODOT facilities that are accessible to the public, and which, based on the 4 factor analysis, are likely to have LEP traffic.

A resource is provided in **Appendix D** for suggested language to use for Title VI and ADA notices in publications and communications. This notice language is available in English and Spanish.

4. Translation of Written Materials

It is appropriate to have written materials that are routinely provided in English to applicants, customers and the general public translated into languages that are regularly encountered. The translation of vital documents into languages other than English is

particularly important where a significant number or percentage of the customers served or eligible to be served have limited English proficiency. Written materials include electronic documents and web-sites. “Vital Documents” are documents that convey information that critically affects the ability of the recipient/customer to make decisions about his/or her participation in the program. Examples of vital documents include but are not limited to: applications, public notices, consent forms, letters containing important information regarding participation in a program, eligibility rules, notices pertaining to the reduction, denial or termination of services or benefits, right to appeal, notices advising of the availability of language assistance, and outreach and community education materials. It is recommended that programs develop criteria for deciding which documents are vital thereby subject to translation.

Translating documents to a fourth (4th) grade literacy level ensures the targeted audience understands the information. Community based organizations or focus groups can assist with testing translations for language and literacy level appropriateness.

5. Training

Training staff on policies and procedures of language assistance and how to determine whether a customer needs language assistance services is essential to bridging the gap between policies and actual practices. Training should include how to obtain language assistance services and communication with interpreters and translators. Because LEP persons can file a complaint on the basis of national origin, staff should be trained on how to properly handle a Title VI complaint. Refer to Office of Civil Rights Title VI website for the Title VI Complaint Process for reference.

6. Development of Written Procedures

To implement a successful language assistance program, provide guidance to employees through written procedures that address the following:

- Identifying and assessing language needs
- Oral language assistance; including vendor charges for services, procedures on how to access and to request Department translation assistance
- Written translation of materials and publications
- Oral and written notification of the availability of language assistance
- Staff training on language service provision
- Monitoring access to language assistance

7. Monitoring and Evaluation

Monitoring and evaluating accessibility and quality of language assistance needs of LEP persons ensures that LEP persons can meaningfully access programs and activities and is the responsibility of the divisions. One mechanism for monitoring is to seek feedback from customers and advocates. At a minimum, divisions should conduct an annual assessment to determine:

1. Current LEP composition of its service area;
2. Current communication needs of LEP persons;
3. Whether existing assistance meets LEP needs;
4. Whether staff is knowledgeable about policies and procedures and how to implement them;
5. Whether sources of and arrangements for assistance are still current and viable.

Data collection and record keeping are key elements to an effective monitoring and compliance system. Analysis of data collected provides an overview of how services are provided. Data collection mechanisms include the following, however keep in mind that when collecting data on race or ethnicity, this information is voluntary and should not include personal information such as name, address or phone number:

- ⇒ race of LEP person
- ⇒ ethnicity of LEP person
- ⇒ primary language of the population in the program service area
- ⇒ primary language of customers served
- ⇒ data upon which the division based language needs assessment
- ⇒ number of LEP persons, by language group, who received language services
- ⇒ names and categories of staff who received training and training dates

8. Responding to a Complaint

It is always necessary to notify the appropriate senior manager if an issue over LEP services has occurred. The senior manager's first responsibility is to attempt to provide the need services in the most expedient manner. ODOT's Title VI Program manager shall be apprised of the issue as soon as possible and consulted with to determine the effectiveness of the response and what potential next steps need to be taken.

A formal Title VI complaint involves a well-defined complaint process that needs to be adhered to and requires the involvement of the Office of Civil Rights. The ODOT Title VI Complaint Process is posted on the OCR website at http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/titlevi/title_vi.shtml. If the complaint

meets the criteria and definition what is national origin discrimination under the law then the complaint needs to be forwarded to the appropriate federal agency for investigation as required by regulation.

STATUS OF LEP EFFORTS

The highest potential frequency of LEP contact with ODOT is likely going to occur with the Department of Motor Vehicles (DMV). DMV serves 2.9 million Oregon residents each year in 62 field offices spread throughout the State. DMV has established a policy in its field office to have bi-lingual personnel on staff in those locations that have high LEP contact. DMV utilizes targeted recruitments specifying bi-lingual position description requirements to fill these specialized jobs. In addition, DMV headquarters utilizes bi-lingual staff assigned to their call centers. DMV has developed policy and procedures to provide guidance for front line staff as they encounter and respond to LEP customers. DMV core program documents, such as the driver instruction manual, are provided in Spanish and made available in other languages as requested. Licensing testing is available in Spanish as well as other languages.

ODOT Office of Civil Rights and DMV will continue to seek out ways to better serve those LEP populations that rely on the wide variety of services that they provide. This can be accomplished by maintaining quality LEP demographic data, by always applying the latest technological solutions and by seeking out public comment from members of the public that have a vested interest in the effectiveness of DMV's LEP resources. One way in which DMV has stepped forward to help fill this need has been the establishment of a Latino Task Force that meets regularly with the Administrator and key staff to provide comments, discuss issues, and advise the Division as they develop and revise policy, procedures, and processes.

A high frequency of contact with LEP individuals is also very likely in the area of public transportation. ODOT and its transportation partners are meeting the requirements of EO 13166 through a variety of accommodations for the LEP public.

The largest provider of public transportation in the State of Oregon is TriMet. TriMet serves a population base in a tri-county region that covers 570 square miles and serves approximately 1.5 million people or close to 40% of the state's population.

In a December 2009 publication from the National Cooperative Highway Research Program titled, "Research Results Digest - State DOT Best Practices for Title VI,"

TriMet's LEP program is highlighted as an example of a LEP program that represents best practice.

The research document says:

“TriMet in Portland, Oregon, is another large urban system with a thoroughly developed LEP program that states could look to for guidance in developing a more comprehensive state plan. In 2006, TriMet developed a Language Implementation Plan that was phased in over 4 years. The list of goals is broken into six categories:

- *Capital Projects and Facilities,*
- *Legal/Human Resources,*
- *Marketing and Customer Service,*
- *Operations,*
- *Diversity and Transit Equity, and*
- *Additional Services.*

States can take a look at the items covered in TriMet's Language Implementation Plan for their own LEP plans on the FTA website as well as in Appendix G (5). Again, these items can be phased in, but regardless of how a plan is implemented, the process should be documented.”

In 2006 TriMet received a grant from the Federal Transit Administration's Civil Rights Division to create and implement a Limited English Proficiency (LEP) Plan to better serve communities with primary languages other than English. Four percent of TriMet's riders meet the U.S. Department of Transportation definition of Limited English Proficiency, meaning they do not speak English well or at all. For sixty-five percent of this group Spanish is their primary language. Russian, Chinese, Vietnamese and Korean are the other largest LEP populations in the region.

As a demonstration project, TriMet launched a targeted outreach campaign and developed new culturally appropriate rider information to assist Spanish-speaking LEP riders.

TriMet has outlined a program that would assist all LEP populations by:

- Translating vital documents and replacing text with universal icons whenever possible;

- Notifying populations of the availability to have non-vital documents translated;
- Establishing guidelines for interpretive services to aid LEP populations;
- Developing an employee training curriculum so employees are better equipped to serve the unique needs of LEP customers;
- Expanding community partnerships that serve LEP populations.

Making the system accessible and easy has been made an agency priority. To aid riders who have limited English proficiency, TriMet produces customer information in Spanish, Chinese, Vietnamese, Korean and Russian, and provides interpreters for the agency's customer service call center, 503-238-RIDE. The automatic stop announcements on all bus and MAX vehicles are provided in English and Spanish.

Serving the urban communities of Marion County is the Salem-Keizer Transit (SKATS) which provides transit and para-transit service to the Salem-Keizer area and Marion and Polk counties. All Salem-Keizer Transit services operate Monday through Friday. Cherriots provides fixed route bus service within Salem and Keizer with connections to Wilsonville and Grand Ronde. Chemeketa Area Regional Transportation System (CARTS) provides service to rural communities in Marion and Polk counties including Woodburn, Silverton, the Santiam Canyon, Dallas and more. Other Salem-Keizer Transit services include CherryLift ADA service, travel training and rideshare information including carpool and vanpool matching. In fiscal year 2010 SKATS provided service for over 4.2 million passengers.

SKATS has bi-lingual audio stop notification on all fixed route stops and provides bus schedules, service announcements, and other vital communication in Spanish. Their internet website is provided in full in Spanish.

COMPLIANCE AND ENFORCEMENT

ODOT Directors, Program Managers, and Region and Area Managers are responsible for ensuring that meaningful services to LEP persons are provided in their respective divisions, programs and regions. Additionally, designated Title VI Program Title VI Liaisons will be identified to continuously monitor their respective divisions, programs, and regions to ensure LEP requirements are fulfilled and report annual accomplishments and upcoming goals relating to LEP activities to the Civil Rights Title VI Program. Within each region the assigned Civil Rights Specialist will monitor compliance and provide guidance on LEP requirements.

In determining whether LEP compliance is met, the Title VI Program will assess whether the division's procedures allow LEP persons to overcome language barriers and participate in a meaningful way in the division's programs, activities and services. The division's appropriate use of methods and options detailed in this LEP Guidance document including analysis and documentation will be viewed as evidence of intent to comply with LEP requirements and Title VI of Civil Rights Act of 1964.

GUIDANCE/RESOURCES

The following guidance documents and resources are provided to assist ODOT Divisions and Programs with implementing LEP requirements and may be used in conjunction with this LEP Guidance Document.

The U.S. Department of Transportation Guidance to Recipients on Special Language Services to Limited English Proficient Beneficiaries, Federal Register/Vol. 66, No. 14/Monday, January 22, 2001 (Civil Rights Title VI Program Resource Directory, Tab 29).

The U.S. DOJ Policy Guidance, Enforcement of Title VI of the Civil Rights Act of 1964-National Origin Discrimination Against Persons With Limited English Proficiency, Federal Register/Vol. 65, No. 159/Wednesday, August 16, 2000.

<http://www.usdoj.gov/crt/cor/>

U.S. Department of Justice Clarifying Memorandum, dated October 26, 2001

<http://www.usdoj.gov/crt/cor/lep/Oct26BackgroundQ&A.htm>

State Personnel Board, Bilingual Services Program (916) 651-9017

United States Census 2000 Language Identification Flashcard (attached)

Technical Assistance

The ODOT Office Civil Rights, Title VI Program is responsible for providing ODOT Divisions and Programs with technical assistance. This includes advising divisions and

programs of LEP requirements and its implementation, and assistance in developing individual division and program plans.

APPENDIX A

ORPIN Language Providers List

APPENDIX B

I Speak Card

APPENDIX C

Title VI, ADA, and LEP policy

APPENDIX D

Title VI and ADA Notice for Publications

APPENDIX E

Title VI and Environmental Justice Brochures in Spanish