



LIMITED ENGLISH PROFICIENCY (LEP) PLAN

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The Lee County Metropolitan Planning Organization (MPO) is responsible for an on-going, cooperative, and comprehensive transportation planning process in Lee County. This planning process guides the use of federal and state dollars spent on existing and future transportation projects or programs, and the **Limited English Proficiency (LEP) Plan** plays an integral role in the process. This document will detail the LEP Plan, developed in conjunction with best practice standards for public involvement.

INTRODUCTION

On August 11, 2000, President William J. Clinton signed an executive order, **Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiency**, to clarify Title VI of the Civil Rights Act of 1964. Its purpose was to ensure accessibility to programs and services to eligible persons who are not proficient in the English language.

This executive order stated that individuals who do not speak English well and who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounter. It reads in part,

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.

Not only do all federal agencies have to develop LEP Plans, as a condition of receiving federal financial assistance, recipients have to comply with Title VI and LEP guidelines of the federal agency from which funds are provided.

Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Recipients of federal funds range from state and local agencies, to nonprofits and other organizations. Title VI covers a recipient's entire program or activity. This means all components of a recipient's operations are covered. Simply put, any organization that receives federal financial assistance is required to follow this Executive Order. The US Department of Transportation (DOT) published **Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Person** in the December 14, 2005 Federal Register. The guidance explicitly identifies MPO's as organizations that must follow this guidance:

*The guidance applies to all DOT funding recipients, which include state departments of transportation, state motor vehicle administrations, airport operators, **metropolitan planning organizations**, and regional, state, and local transit operators, among many others. Coverage extends to a recipient’s entire program or activity, i.e., to all parts of a recipient’s operations. This is true even if only one part of the recipient receives the Federal assistance. For example, if DOT provides assistance to a state department of transportation to rehabilitate a particular highway on the National Highway System, all of the operations of the entire state department of transportation—not just the particular highway program or project – are covered by the DOT guidance.*

The intent of this **Limited English Proficiency Plan** is to ensure access to the planning process and information published by the MPO where it is determined that a substantial number of residents in Lee County do not speak or read English proficiently. The production of multilingual publications and documents and/or interpretation at meetings or events will be provided to the degree that funding permits based on current laws and regulations.

LAWS AND POLICIES GUIDING LIMITED ENGLISH PROFICIENCY PLANS

As part of Metropolitan Planning Organization certification by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), the *LEP Plan* will be assessed and evaluated. The following matrix illustrates these laws, policies and considerations:

| Title VI of the Civil Rights Act of 1964 | Limited English Proficiency Executive Order 13166 |
|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| Federal Law | Federal Policy |
| Enacted in 1964 | Enacted in August 2000 |
| Considers all persons | Considers eligible population |
| Contains monitoring and oversight compliance review requirements | Contains monitoring and oversight compliance review requirements |
| Factor criteria is required, no numerical or percentage thresholds | Factor criteria is required, no numerical or percentage thresholds |
| Provides protection on the basis of race, color, and national origin | Provides protection on the basis of national origin |
| Focuses on eliminating discrimination in federally funded programs | Focuses on providing LEP persons with meaningful access to services using four factor criteria |
| <i>Annual Accomplishment and Upcoming Goals Report</i> to FHWA | <i>Annual Accomplishment and Upcoming Goals Report</i> to FHWA |

Who is an LEP Individual?

As defined in the 2000 United States Census, it is any Individual who speaks a language at home other than English as their primary language, and who speak or understand English “not well” or “not at all”.

Determining the Need

As a recipient of federal funding, the MPO must take reasonable steps to ensure meaningful access to the information and services it provides. As noticed in the **Federal Register/Volume 70, Number 239/Wednesday, December 14, 2005/Notices**, there are four factors to consider in determining “reasonable steps”.

- Factor 1: The number and proportion of LEP persons in the eligible service area;
- Factor 2: The frequency with which LEP persons encounter MPO programs;
- Factor 3: The importance of the service provided by MPO programs;
- Factor 4: The resources available and overall cost to the MPO.

The DOT Policy Guidance gives recipients of federal funds substantial flexibility in determining what language assistance is appropriate based on a local assessment of the four factors listed above. The following is an assessment of need in Lee County in relation to the four factors and the transportation planning process.

LEP ASSESSMENT FOR THE LEE COUNTY MPO

Factor 1: The Number and Proportion of LEP Persons in the Eligible Service Area

The first step towards understanding the profile of individuals that could participate in the transportation planning process is a review of Census data. Tables 1 and 2 on the following pages display the primary language spoken and number of individuals that are LEP.

For our planning purposes, we are considering people that speak English “not well” or “not at all” and only the top four language groups are included in the analysis.

Table 1, derived from the 2000 US Census, shows the number and percent of persons who are age five (5) and older, with regard to their English language skills, for the cities and the unincorporated portions of the County within the MPO area. As indicated, over 13% of the MPO area population is not proficient in English. City of Fort Myers has the greatest concentration of LEP persons – over 21%. The second highest concentration is the City of Bonita Springs with 19.1%.

| Table 1: Limited English Proficient Persons in the MPO Planning Area and Local Jurisdictions **Data Taken from the 2010 American Community Survey (5 Yr Estimate) | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|-----------------------|---------------------------|
| Jurisdiction | Population 5 Years and Older | Number of LEP Persons | Percentage of LEP Persons |
| Unincorporated Lee County | 332,281 | 30,319 | 9.1% |
| City of Cape Coral | 141,209 | 13,277 | 9.4% |
| City of Fort Myers | 57,457 | 9,768 | 17% |
| City of Bonita Springs | 41,467 | 5,892 | 14.2% |
| MPO Area (includes all cities and unincorporated county) | 572,414 | 59,256 | 10.4% |

Table 2, shows the number and percent of LEP persons by language spoken at the individual's home. Of the LEP persons within the MPO area, 8.78% speak Spanish at home, making this the most significant percentage of the area's population. The second most common language of the area's LEP population is an Indo-European language, like such as Dutch, Italian, Portuguese, Russian, French or German at 3.64%. Asian and Pacific Islander languages, such as Chinese, Vietnamese, Thai, Laotian, Korean and Japanese represent .4%, and .68% speak "other" languages at home.

| Table 2: Language Spoken at Home by LEP Persons – Lee County MPO Area **Data Taken from the 2010 American Community Survey (5 Yr Estimate) | | | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------|------------------|-------------------------------|------------------------------------|-----------------|
| LEP Persons | Spanish Language | Other Indo-European Languages | Asian & Pacific Islander Languages | Other Languages |
| 5 years and older Total | 45,830 | 10,149 | 2,692 | 612 |
| Percent of all LEP Persons | 77.3% | 17.1% | 4.5% | 1% |

Factor 2: The Frequency in which LEP Persons Encounter MPO Programs

The small, but growing size of the LEP population in this region will likely increase the probability of future contact with the MPO. However, to date, no requests have been made by either individuals or groups directly to the MPO for Spanish or other language interpreters or publications.

Factor 3: The Importance of the Service Provided by the MPO Program

MPO programs use federal funds to plan for future transportation projects, and therefore do not include any direct service or program that requires vital, immediate or emergency assistance, such as medical treatment or services for basic needs (like food or shelter). Further, the MPO does not conduct required activities such as applications, interviews or other activities prior to participation in its programs or events. Involvement by any citizen with the MPO or its committees is voluntary.

However, the MPO must ensure that all segments of the population, including LEP persons, have been involved or have had the opportunity to be involved in the transportation planning process to be consistent with the goal of the Federal Environmental Justice program and policy.

The impact of proposed transportation investments on underserved and underrepresented population groups is part of the evaluation process in use of federal funds in three (3) major areas for the MPO:

- The biennial **Unified Planning Work Program**
- The five year **Transportation Improvement Program**
- The **Long Range Transportation Plan**, covering 20+ years.

Inclusive public participation is a priority consideration in other MPO plans, studies and programs as well. The impacts of transportation improvements resulting from these planning activities have an impact on all residents. Understanding and continued involvement are encouraged throughout the process. The MPO is concerned with input from all stakeholders, and every effort is taken to make the planning process as inclusive as possible.

As a result of the long range transportation planning process, selected projects receive approval for federal funding and progress towards project planning and construction under the responsibility of local jurisdictions or state transportation agencies. These state and local organizations have their own policies to ensure LEP individuals can participate in the process that shapes where, how and when a specific transportation project is implemented.

Factor 4: The Resources Available and Overall MPO Cost

Given the size of the LEP population in the MPO area and current financial constraints, full multi-language translations of large transportation plan documents and maps is not considered as warranted at this time. However, continued growth of the MPO area and its Spanish-speaking population makes offering Spanish translations a sound community investment.

As a result, the MPO intends to initiate a program to make the Executive Summaries for the **Long Range Transportation Plan**, the **Transportation Improvement Program**, the **Public Involvement Plan**, and other key documents available in Spanish. To accommodate the cost, these summaries may be presented in alternative formats, such as brochures or newsletters, which are designed to capture all of the significant points of the full document. The MPO recently added an MPO en Espanol page to its website. The MPO will continue efforts to collaborate with state and local agencies to provide language translation and interpretation services when practical and in consideration of the funding available. The translation of these documents will begin after the final English version has been completed. Spanish language outreach materials from organizations such as federal, state, and local transportation agencies will be used when possible.

MEETING THE REQUIREMENTS

Engaging the diverse population within the MPO area is important. The MPO is committed to providing quality services to all citizens, including those with limited English proficiency. Spanish is the most dominant language spoken by LEP individuals in this MPO's service area. All language access activities detailed below will be coordinated in collaboration with the MPO Board and Staff.

Safe Harbor Stipulation

Federal law provides a "safe harbor" stipulation so recipients of federal funding can ensure compliance with their obligation to provide written translations in languages other than English with greater certainty. A "safe harbor" means that as long as a recipient (the MPO) has created a plan for the provision of written translations under a specific set of circumstances, such action will be considered strong evidence of compliance with written translation obligations under Title VI.

However, failure to provide written translations under the circumstances does not mean there is noncompliance, but rather provides for recipients a guide for greater certainty of compliance in accordance with the four factor analysis. (Page 5)

Evidence of compliance with the recipient's written translation obligations under "safe harbor" includes providing written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000 persons, whichever is less of eligible persons served or likely to be affected. Translation can also be provided orally.

The “safe harbor” provision applies to the translation of written document only. It does not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and reasonable to provide.

Providing Notice to LEP Persons

US DOT guidance indicates that once an agency has decided, based on the four factors, to provide language services, it is important that the recipient notify LEP persons of services available free of charge in a language the LEP persons would understand. Example methods for notification include:

1. Signage that indicates when free language assistance is available with advance notice;
2. Stating in outreach documents that language services are available;
3. Working with community-based organizations and other stakeholders to inform LEP individuals of MPO services and the availability of language assistance;
4. Using automated telephone voice mail or menu to provide information about available language assistance services;
5. Including notices in local newspapers in languages other than English;
6. Providing notices on non-English-language radio and television about MPO services and the availability of language assistance; and
7. Providing presentations and/or notices at schools and community based organizations (CBO).

The MPO will publicize the availability of Spanish interpreter services, free of charge, at least seven (7) days prior to MPO Board and Committee meetings, workshops, forums or events which will be noticed on the MPO website, in meeting notices (packets), and using the following additional tools as appropriate:

- Signage
- Public outreach materials
- Community-based organizations
- Local newspapers
- Lee County Library System

The MPO defines an interpreter as a person who translates spoken language orally, as opposed to a translator, who translates written language and transfers the meaning of written text from one language into another. The MPO will request language interpreter services from Lee County MPO Committee members.

The MPO can notice meetings in the **Nuevos Ecos** newspaper that serves the Hispanic community throughout the Lee County area. As covered under Title VI requirements for nondiscrimination, at each meeting, the MPO will provide Title VI material and include this material in an alternative language when applicable.

Language Assistance

As noted on Page 8, the MPO intends to initiate a program to make the Executive Summaries for key documents available in Spanish. Key documents include the **Long Range Transportation Plan**, the **Transportation Improvement Program**, the **Public Involvement Plan**, and other key documents available in Spanish.

A goal of the MPO **Public Involvement Plan** is to provide user-friendly materials that will be appealing and easy to understand. The MPO may provide Executive Summaries in alternative formats, such as brochures or newsletters, depending on the work product.

MPO Staff Training

The MPO will incorporate the **LEP Plan** in the **Public Involvement Plan** at its next update. In order to establish meaningful access to information and services for LEP individuals, the MPO will properly train its employees to assist in person, and /or by telephone, LEP individuals who request assistance. MPO Board members will receive a copy of the **LEP Plan**, and have access to training, assuring that they are fully aware of and understand the plan and its implementation.