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FOOD AND NUTRITION SERVICE LANGUAGE ACCESS PLAN

PROVIDED BY: USDA-FNS CIVIL RIGHTS DIVISION

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1. POLICY

Timely and accurate communication with the public is essential to the Food and Nutrition Service (FNS) mission to increase food security, reduce hunger, and expand access to a healthy diet and nutrition education. USDA is committed to advancing equity for all, including historically underserved individuals with limited English proficiency (LEP), through meaningful language access to FNS benefits, information, and services in accordance with Executive Orders 13166, 13985, 14031, and 14091, as well as USDA Departmental Regulation (DR) 4330-005.

For individuals with LEP, FNS programs and staff are required to plan for and take reasonable steps to provide timely, accurate, and meaningful access to all programs or activities administered by FNS and recipients of federal financial assistance from the USDA.

This policy reflects that it is the responsibility of FNS, and not that of an individual seeking services, to take reasonable steps to ensure meaningful access, at no cost to the individual, to all programs and activities and to foster equity for individuals who interact, or may interact, with the agency over the phone, in writing, in person, or via electronic methods.¹

Ensuring the quality and accuracy of language assistance services provided by the Department is critical to providing individuals with LEP meaningful access to FNS programs and activities. Where applicable, considering the program's mission and operations, FNS staff shall take reasonable steps to effectively inform the public of the agency's programs and activities in relevant threshold languages.

2. PURPOSE

At the Food and Nutrition Service of the U.S. Department of Agriculture (USDA), our mission is to increase food security and reduce hunger in partnership with cooperating organizations by providing children and people with low-income access to food, a healthy diet, and nutrition education in a manner that supports American agriculture and inspires public confidence. No one in American should have to go hungry.

The purpose of this Language Access Plan (LAP) is to ensure that FNS programs and staff take reasonable steps to ensure meaningful access to the benefits, services, information, and other important aspects of programs we administer so that every eligible person can interface with our programs in the language that most effectively facilitates their communication.

¹ Although FNS's Language Access Plan (LAP) focuses on providing language assistance to persons with LEP, FNS also has a separate responsibility to ensure effective communication with individuals with disabilities, as required by Section 504 of the Rehabilitation Act of 1973. This may mean ensuring that communications are compliant with both this Plan and FNS's responsibilities under the Rehabilitation Act.

USDA requires its mission areas, agencies, and staff offices to develop a LAP to ensure individuals with LEP have meaningful access to its programs and activities. This FNS LAP sets standards, operating principles, and guidelines to:

- Improve access to FNS programs and services by individuals with LEP by coordinating implementation of language access services.
- Consult with stakeholders and individuals with LEP regarding FNS programs and activities.
- Provide the public effective notice of the availability of free language assistance services and how to request these services from FNS.
- Provide members of the public with LEP effective interpretation services.
- Translate vital documents and information into frequently encountered languages.
- Ensure agency employees and partners understand the importance of providing language access services throughout FNS programs as a means of effective customer service.
- Provide agency employees and partners with the knowledge and resources necessary for FNS programs to take reasonable steps to ensure meaningful access for individuals with LEP.
- Institutionalize the identification of barriers and gaps in services for individuals with LEP who access FNS programs and activities.
- Monitor the effectiveness of this plan and periodically revise and improve the plan and related services.

3. SCOPE

The LAP applies to all programs and activities administered by FNS, including FNS oversight, monitoring, and provision of technical assistance to state agencies, local agencies, and program operators that receive federal financial assistance. It guides both public-facing and administrative activities, as FNS delivers federally conducted activities and federally assisted services, programs, activities, and information.

It is important to note that while language assistance requirements apply to both the agency and state agencies, local agencies, and program operators that receive federal financial assistance, this plan articulates how FNS will meet those requirements. Federal financial assistance recipients may incorporate elements of this plan or may choose an entirely different approach to ensuring that programs they administer do not discriminate against people with limited English proficiency.

The LAP improves the internal management of and language access strategy for all FNS programs and activities. It does not intend to create new core services or requirements, but instead intends to eliminate or reduce, to the maximum extent practicable, LEP as a barrier to accessing FNS programs and activities. This LAP is not intended to and does not create any right or benefit, substantive, or procedural, enforceable by law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

4. ROLES AND RESPONSIBILITIES

A. FNS Administrator

- Sets the tone and direction and provide leadership and oversight for this LAP throughout FNS.
- Reviews available resources to support the LAP, including compliance monitoring efforts.
- Delegates coordination, implementation, and monitoring of the LAP throughout FNS at the national and regional levels to the FNS Civil Rights Division (CRD).
- Holds CRD accountable for ensuring implementation of this plan across the agency to support an equitable and inclusive operational and programmatic environment.

B. FNS Senior Leadership

FNS senior leadership— e.g., Senior Executive Service, Program Directors, Division Directors, Regional Administrators, Regional Program Directors—will proactively promote meaningful access for individuals with LEP and direct agency personnel under their supervision to take necessary steps to comply with this LAP.

C. CRD Director

The CRD Director is designated as the senior official responsible for language access. In that role, the CRD Director:

- Ensures, in coordination with the USDA Office of the Assistant Secretary for Civil Rights (OASCR) that FNS has a LAP, and that the LAP is consistent with:
 - a. Executive Order 13166;
 - b. USDA Departmental Regulation 4330-005, Prohibition Against National Origin Discrimination Affecting Persons with Limited English Proficiency in Programs and Activities Conducted by USDA (June 4, 2013);
 - c. USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency, 79 Fed. Reg. 70771-70784 (Nov. 28, 2014) (USDA LEP Guidance); and the
 - d. USDA Language Access Plan (Nov. 9, 2023).
- Ensures that the FNS LAP is maintained, reviewed, and updated as needed, in accordance with the USDA LAP.
- Designates a FNS Language Access Coordinator (FNS LAC)
- Serves and/or designates at least one FNS representative—who may be the FNS LAC—to serve on the USDA Language Access Coordinating Committee (LACC).

In addition, the CRD Director or their designee(s) (who may include the FNS LAC) will:

- Establish an enterprise approach to implement, coordinate, and monitor the FNS LAP and language access efforts across FNS to support an equitable and inclusive operational and programmatic environment.
- Collaborate with leadership in FNS program areas at the national and regional levels to implement, coordinate and monitor this LAP and to align agency policies and programs with language access best practices in accordance with the USDA LAP, including by identifying and addressing any gaps in language assistance services for individuals with LEP.

D. FNS Language Access Coordinator (LAC)

In addition to any role(s) designated by the CRD Director, the FNS LAC:

- Develops appropriate expertise and familiarity with federal and Departmental law, regulation, and guidance, and with best and promising practices across the Department and the federal government.
- Coordinates within FNS and consults as appropriate with the USDA LAC.
- Assists with identifying qualified multilingual personnel to serve as interpreters and translators to be included in an interpreter/translator database.
- Assists with identifying interpreter and translator qualifications and professional standards for multilingual personnel.
- Assists with drafting progress reports regarding implementation of this LAP for Senior Leadership.
- Develops a method for sharing language access information with FNS personnel through an appropriate digital platform.
- Provides technical assistance to agency employees as needed regarding the language assistance services needs of individuals with LEP accessing FNS programs and activities, including program websites and digital services, outreach strategies, program evaluation tools, and more.
- Provides leadership with respect to conducting outreach and engagement with communities with LEP, and entities that represent their interests, to improve delivery of FNS programs.
- Provides leadership on the collection and reporting of language access data.
- Researches and reports on the need for a Language Access Advisory Workgroup composed of FNS personnel for Senior Leadership's consideration.
- Convenes and coordinates the various working groups identified in this FNS LAP, including, for example, in part 6 (to develop an LEP Outreach Plan), part 11 (part 10 (to conduct a thorough review of all digital content, and part 17.B (self-assessment process).

E. FNS Communications Division

FNS Communications Division serves a supporting function on language access for individuals with LEP, and will:

- Model appropriate language accessibility in FNS communications, including plain language standards, Section 508 compliance, and in relevant languages, notifying the public of the availability of free language assistance.
- Ensure appropriate translation of FNS press materials that contain vital information and focus on areas where English is not the primary language.
- Host language access information and resources on FNS's website.

F. FNS Staff

FNS staff who interact with individuals with LEP will:

- Familiarize themselves with Executive Orders 13166, 13985, 14091, the USDA and FNS LAP, and fulfill all applicable training requirements.
- Familiarize themselves with the standards for effective and accessible communication.
- Take reasonable steps to provide meaningful access to Department programs or services to individuals with LEP.
- Be prepared to effectively use language assistance services when they encounter or have reason to believe that they may encounter individuals with LEP while fulfilling their mission, or upon request by a person with LEP who wishes to access agency programs or activities.

G. USDA Office of the Assistant Secretary for Civil Rights (OASCR)

OASCR provides oversight of all Language Access/LEP program functions within USDA.

H. USDA Language Access Coordinator (USDA LAC)

The USDA Language Access Coordinator (USDA LAC) sits in OASCR and is responsible for developing the Department-wide initiative on language access. The USDA LAC's role includes providing guidance and technical assistance for USDA agencies and offices, as appropriate, on their ongoing language access needs.

I. USDA Language Access Coordinating Committee (USDA LACC)

The USDA Language Access Coordinating Committee is led by OASCR or senior designee, with the collaboration of the Department's Senior Designee for Equity under Executive Order 14091 and is composed of representatives from both public-facing USDA agencies and offices, and administrative offices. It includes at least one FNS designee.

5. IDENTIFICATION OF COMMUNITIES WITH LEP AND THEIR INTERACTION WITH USDA

Contact between FNS and the public may involve individuals with LEP. Keeping in mind the mission, operation, and level of interaction with the public, FNS will consider the needs of

individuals with LEP early in the process of designing programs and activities. There is no “one size fits all” solution for language access.

To determine which type of language assistance services (interpretation and/or translated materials) will result in meaningful access, the FNS LAC will conduct a self-assessment of frequently encountered languages. In addition, each region will conduct a self-assessment to determine if additional languages are needed for their specific region. When requested, the FNS LAC will provide technical assistance as each region conducts its self-assessment.

According to the American Community Survey, the top five languages spoken in the United States by individuals with LEP are Spanish, Chinese (including the spoken languages of Mandarin and Cantonese and the written languages of Simplified and Traditional Chinese), Vietnamese, Korean, and Tagalog (including Filipino). At least every three years, the FNS LAC will work across FNS to reassess the top languages spoken by individuals with LEP, based on FNS constituency and/or geographic region, using language access data collected by FNS, language access data collected from recipient agencies that administer FNS-assisted programs and activities, or additional tools and resources identified in the USDA LAP.

CRD will work with national and regional office personnel to meet with stakeholders to discuss barriers that may prevent access to FNS programs and activities, as appropriate and when requested. Stakeholders may be representatives from state or local governments that administer FNS programs and activities, advocacy agencies, immigrant-serving organizations, and community-based organizations. These meetings will provide state agencies, local agencies, and program operators that receive federal financial assistance from FNS an opportunity to share their language access concerns and to foster collaboration and partnerships.

6. OUTREACH AND ENGAGEMENT WITH LEP COMMUNITIES

Effective outreach and engagement with communities with LEP, and entities that represent their interests, is critical to language access planning efforts to increase access to FNS programs and activities for these communities and to receive regular feedback on the implementation of this LAP or language assistance services. For tips, see Department of Justice, Civil Rights Division, *Ten Tips For Conducting Effective Community Outreach* (2015), available at <https://www.justice.gov/archives/crt/fcs/newsletter/Winter-2015/10Tips>.

FNS will, by three months after the effective date of this LAP, convene appropriate staff to address communications and technology concerns that are responsive to the multilingual needs of our programs’ customers (including at least one member of the group with expertise in needs and activities in Puerto Rico) to develop and issue an LEP Outreach Plan within the following three months. Once issued, the plan will be reviewed by the same group, at least annually. It will cover:

- **Relationship building:** Establishing and maintaining relationships with a variety of entities representing the interests of individuals with LEP, and of communities who have traditionally been marginalized because of their limited ability to speak English.
- **Outreach:** Communicating clearly through written, video and/or audio means about the nature, scope, and availability of language assistance services and how to request them.

- **Community participation:** Increasing efforts to encourage participation from local communities in, for example, FNS consultations, focus groups, and/or listening sessions, with the goal of learning about their concerns, needs, and perspectives.
- **Event accessibility:** Taking reasonable steps to ensure that community outreach events involving individuals with LEP are designed to provide meaningful access, where individuals with LEP can participate, receive information, and provide input in their primary language(s) at such events.
- **Information dissemination:** Create and maintain lists of non-English press to disseminate information about FNS programs and activities, and otherwise disseminating information about agency programs and activities in non-English languages.
- **Message amplification:** Reaching out and partnering with stakeholders to amplify FNS communications to specific communities that may include individuals with LEP.
- **Feedback mechanism:** Establishing formal and easily accessible mechanisms to receive feedback about the quality of FNS language assistance services.

7. NOTIFICATION OF THE AVAILABILITY OF LANGUAGE ASSISTANCE SERVICES

When language assistance services are not readily available, or when an individual does not know that language assistance services are free and available, individuals with LEP are less likely to participate in or benefit from FNS programs and activities. As a result, many individuals with LEP may not seek out FNS benefits, programs, information, and services; may not offer crucial information that would help determine entitlement or eligibility for benefits; and may be unable to file complaints.

FNS will take reasonable steps to provide public notification of how to obtain free language assistance services and how to offer feedback or make complaints about the availability of such services. This information will be offered in different mediums (for example, printed and electronic material, social media, radio, etc.) in consultation with program, outreach, public affairs personnel as well as impacted communities. It should be offered in the top language(s) spoken by individuals with LEP (under part 5, above), and more if appropriate based on a four-factor analysis (see part 9, below).

In public-facing materials, programs are encouraged to include multilingual taglines to allow individuals, including those who do not speak the top identified languages, to be informed about the availability of language assistance services. As in DR 4300-003, *Equal Opportunity Public Notification Policy* (Oct. 17, 2019), available at <https://www.usda.gov/directives/dr-4300-003>, space availability may be considered in developing the appropriate tagline and notice. See FNS, *Assistance Tagline Translations*, at <https://www.fns.usda.gov/cr/assistance-tagline-translations>. Another sample tagline is available at lep.gov/translation. Using QR codes is encouraged and considered an optimal practice to facilitate access to these notifications and other digital content. A resource for using QR codes is available at <https://digital.gov/resources/introduction-to-qr-codes/>.

FNS will post this LAP and any additional policies on the <https://www.fns.usda.gov/civil-rights>, and also at <https://usda.gov/oascr/languageaccess>. In addition, FNS will post notices informing LEP individuals of their right to free oral language assistance services in frequently encountered languages. This may include, for example, visible signage in FNS public spaces announcing the availability of language assistance services, and translated promotional material (flyers, registration forms, etc.) with information about the availability of interpreting services during the event by request.

8. IDENTIFICATION OF INDIVIDUALS WITH LEP

Individuals with LEP do not speak English as their primary language and have a limited ability to read, write, speak, or understand English. Many individuals with LEP are in the process of learning English and may read, write, speak, or understand some English, but not proficiently. These individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still have LEP for other purposes (e.g., reading or writing).

At the first point of contact with a person with LEP, FNS personnel should determine the language used by the individual and their language assistance needs. If the individual with LEP does not self-identify, personnel may call the appropriate telephonic interpretation service provider to identify the language spoken. If an FNS employee has a face-to-face interaction, the employee may use the USDA “*I Speak Statements*” language identification card or promptly contact the telephonic interpretation service provider to identify the language spoken and to obtain interpreter services. Asking the individual about their specific community can also help to identify the language spoken.

FNS staff should not make assumptions about an individual’s primary language based on race, color, or national origin. In addition, having a strong accent is not necessarily an indicator that language access services are needed.

9. PROVISION OF LANGUAGE ASSISTANCE SERVICES

The obligation to provide meaningful language access is fact-dependent and required steps are generally evaluated using a four-factor analysis:

- (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by a program;
- (2) the frequency with which LEP individuals come into contact with the program;
- (3) the nature and importance of the program, activity or service provided by the recipient to its beneficiaries; and
- (4) the resources available and the costs of language access services.

FNS will work to proactively provide language access services (for example, in-advance translation of vital documents and in-language notification of language access procedures) for

any language spoken by more than 5% of the eligible population; what languages this includes will depend on the region of the office in question.

By three months after the effective date of this LAP, FNS will have put in place appropriate contracts or other methods for provision of language access services, including:

- Live interpretation services using qualified interpreters, accessible via: phone, web-based platform, and in-person
- Written translation of documents, including webpages.

A. Interpretation Services

Public-facing FNS offices should be prepared to provide real-time qualified interpreters free of charge either in-person, over-the-phone, or through video remote technology to communicate with individuals with LEP. FNS staff or contractors should utilize the mode of interpreting that is most appropriate for the situation: consecutive, simultaneous, or sight-translation.² This includes preparation for communication with individuals with LEP who also have communications disabilities. Instructions for using the agency-wide BPA are hosted on the [CRD SharePoint](#). All FNS remote services—such as hotlines or virtual meetings—should offer effective oral language assistance, for example, by offering multilingual options on automated phone systems, and by notifying members of the public attending virtual meetings of the availability of video interpretation services.

B. Translation Services

A vital document is paper or electronic written information and material that contains content critical for accessing a program or activity. The [USDA LEP Guidance](#) states,

Whether or not a document (or the information it solicits) is ‘vital’ may depend upon the importance of the program or activity, information, encounter, service, or benefit involved, and the consequence to the individual with LEP if the information in question is not provided accurately or in a timely manner.

Vital documents include, but are not limited to, paper and online applications, consent forms, eligibility determination notices, free language assistance notices, outreach materials, response-required documents, and more. Vital information may also involve specific communications regarding a case or matter between an individual and FNS.

As allowed by available resources, FNS will translate vital documents for the general public into the agency’s top languages, and consider translating into other languages as appropriate based on the application of the four-factor test, given program objectives, constituencies, and/or geographic regions. Accordingly, by three months after the effective date of this LAP, FNS will put in place a process to:

² For more information on the different modes of interpreting and when they are used, see District of Columbia Office of Human Rights, *Reference Guide: Types of Interpretation*, available at <https://ohr.dc.gov/sites/default/files/dc/sites/ohr/publication/attachments/Ref%20guide%20Types%20of%20interpretation.pdf>. Information to help staff work effectively with telephone interpreters can be found at *TIPS for Working with Telephone Interpreters*, https://www.lep.gov/sites/lep/files/media/document/2020-03/TIPS_Telephone_Interpreters_0.pdf.

- Review its existing documents, to identify which of them are “vital” and if so, whether under the four-factor test, what languages (if any) they should be affirmatively translated into prior to any request.
- Review new documents as they are generated, to identify which of them are “vital” and if so, what languages (if any), they should be affirmatively translated into prior to any request.
- Review any request for translation of a particular document.
- Provide for the use of qualified interpreters for oral translations for individuals with LEP who request access to vital documents but are not literate.

Recognizing that translating vital documents can be costly and time intensive, FNS staff conducting these reviews will seek stakeholder input in determining which documents should be prioritized for translation.

C. Plain Language

Plain language writing assists both native English speakers and those whose English proficiency may be limited. FNS is committed to improving its services by writing in plain language, and will ensure information is clear, understandable, and useful (See [Plain Writing | USDA](#)). When communicating with the public, FNS will use plain language in any new or substantially revised document that:

- Provides information about any of our services and benefits;
- Is needed to obtain any of our benefits or services; or
- Explains how to comply with a requirement that we administer or enforce.

D. Interpretation and Translation Technology

Government agencies are increasingly relying on machine translation software to convert written text on website and online automated services from one language to another. However, machine translation can be inaccurate. See <https://www.lep.gov/translation>. Accordingly, USDA’s LAP discourages machine translation without human review when the information communicated is vital to a person’s rights or benefits, when accuracy is essential, or when the source materials use non-literal language (e.g., slang, metaphors, agency-specific vocabulary such as program names), have unclear grammar or structure, contain abbreviations or acronyms, or are complicated, technical, or wordy.

If FNS is considering using emerging technologies for translation or interpretation applications through third-party services, direct government procurement, or modifying existing services, the Agency must consult with the USDA LAC by contacting the FNS LAC, and must consider the following:

- Accuracy of translation and interpretation
- Accuracy of domain-specific translation and interpretation (e.g., specific USDA policies)
- Speed to incorporate corrections to production systems
- Ability to share and learn from previous translation/interpretation work
- Cost per supported end-user

- Required training and enabling technologies
- Ability to capture feedback from customers on the level of quality of translation/interpretation
- Security and privacy
- Records retention and records management
- Origins of source data utilized for machine-generated and computer-assisted applications

E. Direct In-Language Services

In addition to interpretation, language access can also be provided by direct in-language communication—monolingual communication in a language other than English between multilingual staff and a person with LEP. Absent exigent circumstances, FNS staff who have not been formally assessed for their multilingual skills are discouraged from providing direct services in-language (Staff are free to use multilingual skills for general greetings in a foreign language and basic communication for the purposes of language identification). Unqualified staff could provide incorrect information, introduce conflicts of interest or other ethical concerns, or experience other potentially negative consequences for the Department and/or the individual with LEP.

F. Other Requirements When Communicating with Individuals with LEP

This guidance is intended to address persons who speak non-English languages by virtue of their national origin and is not a guidance document for accessibility in view of disabilities. Even still, some individuals with LEP face additional communication challenges. For example, individuals with LEP may have a hearing, visual, or speech disability that makes effective communication difficult. FNS staff should be mindful of the agency's responsibility, and the responsibility of state agencies, local agencies, and program operators administering FNS programs and activities, to ensure equally effective communication under federal disability rights laws in its programs and activities.³ In such cases, FNS must utilize alternative communication methods, including assistive technologies and other appropriate auxiliary aids and services, such as sign language interpreters, real-time computer-aided transcription services; written materials; exchange of written notes; telephone handset amplifiers; assistive listening devices; assistive listening systems; telephones compatible with hearing aids; closed caption decoders; open and closed captioning, including real-time captioning, videophones, and captioned telephones.

10. MULTILINGUAL DIGITAL CONTENT

FNS is committed to taking reasonable steps to provide meaningful access to individuals with LEP to digital content we produce, including multilingual and accessible content on public websites and electronic documents containing information about:

³ See Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the United States Department of Agriculture, 7 C.F.R. § 15e.160; Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance, 7 C.F.R. Part 15b; Nondiscrimination on the Basis of Disability in State and Local Government Services, 28 C.F.R. § 35.160; Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities, 28 C.F.R. § 36.303.

- FNS’s jurisdiction and mission.
- Contact information, including how to communicate with the agency.
- How to file complaints (including forms and instructions to fill out those forms)
- Press releases and important announcements impacting communities with LEP.
- Education materials for individuals or communities about relevant programs.
- How to access free language assistance services.

By three months after the effective date of this LAP, the FNS LAC will coordinate with appropriate staff to provide technical assistance in their conduct of a thorough initial review of all digital content—including websites, services, and voicemail menus—to identify if their vital information is accessible to individuals with LEP. This review should catalog content in frequently encountered languages and pinpoint areas for improvement. Consistent with U.S. Web Design System guidance, this assessment and resulting improvements should pursue the “consistent placement, interface, and behavior of the language selection component [that] allows users to easily find and access content in the language the user is most comfortable in,”⁴ and should utilize other appropriate federal resources as guidance.⁵ Websites should include the ability for users to request translations of the page and/or related documents, and to offer feedback about the quality of FNS language assistance services. A similar review should be repeated as needed—but at least every year.

All digital content must also comply with Section 508 of the Rehabilitation Act of 1973, which requires federal agencies to ensure that their electronic and information technology, including websites, electronic documents, and software applications, are accessible to individuals with disabilities. More information regarding compliance with Section 508 may be found at: <https://www.section508.gov/>

11. PROCUREMENT

It is the intent of this LAP to establish an enterprise approach to language access efforts. To that end, within one year of the LAP’s approval, FNS language assistance contracts will be

⁴ U.S. Web Design System, USWDS, *Language Selector*, available at <https://designsystem.digital.gov/components/language-selector/>.

⁵ For further resources on Multilingual Digital Content, see LEP.Gov, *Improving Access to Public Websites and Digital Services for Limited English Proficient (LEP) Persons* (2021), available at https://www.lep.gov/sites/lep/files/media/document/2021-12/2021_12_07_Website_Language_Access_Guide_508.pdf; General Services Administration, *Language Connections: Tips to Create, Maintain, and Present Non-English Digital Content* (2022), available at <https://digital.gov/event/2022/02/24/language-connections-tips-to-create-maintain-and-present-non-english-digital-content/>, *10 Tips to Create, Maintain, and Present Non-English Digital Content* (2022), available at <https://digital.gov/2022/05/23/10-tips-to-create-maintain-and-present-non-english-digital-content-a-qa-with-michael-mule/>, *Top 10 Best Practices for Multilingual Websites* (2022), available at <https://digital.gov/resources/top-10-best-practices-for-multilingual-websites/?dg>. The Consumer Financial Protection Bureau may also be a resource for multilingual user testing to ensure individuals with LEP have meaningful access to USDA web content. Consumer Financial Protection Bureau, *Strengthening information accessibility for consumers with limited English proficiency* (2023), available at <https://www.consumerfinance.gov/about-us/blog/strengthening-information-accessibility-for-consumers-limited-english-proficiency/>.

administered centrally under Language Access Contracting Officer's Representative(s) (COR) in CRD. Costs for these services will continue to be incurred by benefitting programs. This will ensure that appropriate quality standards are considered, duplication of efforts are eliminated, and that procurements are structured appropriately to capture data for assistance efforts and streamline requirements for reporting.

In 2021, the FNS Child Nutrition Programs executed BPAs with two vendors to meet the translation needs of all FNS programs and activities. FNS programs must explore the use of the existing BPA contractors before utilizing another contractor to meet program translation needs.

Services covered under the current BPA include translation into 54 languages, design/redesign (including illustrations and stock photos), and Section 508 remediation. Vendors utilize a memory software program to ensure consistency in translation of terms commonly used in FNS across program areas.

Currently, FNS divisions, offices, and program areas should submit translation requests to their respective COR. The COR should contact the contracting office to ensure they are accessing the most recent BPA. The COR for the BPA tracks the spending threshold and can provide the Performance Work Statement (PWS) for the BPA.

If the two vendors listed above cannot meet a program's translation needs, programs may coordinate with the LAC to secure another contractor. The FNS LAC is encouraged to identify existing Departmental and agency contracts that can be utilized. Any request for proposals or contracts will include performance standards and vendor responsibilities to include quality control and assurance procedures, assign liability, and contain dispute resolution provisions. The FNS LAC, in collaboration with the COR, may explore the option to utilize reimbursable agreements for services and interagency agreements to obtain services from other government agencies. The agency may collaborate with the USDA LAC to identify resource-sharing possibilities and currently available USDA language assistance services.

For any such procurement, FNS's LAC will coordinate with procurement to ensure that any Request for Proposals or contracts specify FNS needs and vendor responsibilities to include quality control and assurance procedures, assign liability, and contain dispute resolution provisions. At a minimum, contracts for language assistance services should include:

- **Civil rights:** Civil rights assurance clauses (consult with CRD);
- **Qualified linguists:** Methods for ensuring that interpreters and translators are fluent in both English and the relevant language and qualified for the services needed (e.g., to interpret or translate communication that is formal, casual, specialized, or regional, as needed); minimum scores for interpretation performance and the option for certification, though not mandatory.
- **Confidentiality/ethics:** Required knowledge of professional ethics and privacy regulations relevant to interpretation services; mechanisms to ensure confidentiality and avoid conflicts of interest.
- **Capacity:** Ability to meet agency demand for interpreters, and for translation, including the delivery of translations in editable electronic or other required formats; acceptable

emergency response time; reasonable scheduling of qualified interpreters; on-time service delivery; rapid rates of connection to interpreters via telephone, video, or electronically.

- **Project management/data collection:** Requirements for tracking usage in order to satisfy the self-assessment and monitoring requirements of part 17, below.
- **Reasonable cancellation fees.**
- **Effective complaint resolution** when translation or interpretation errors occur.

The government-wide Language Services Procurement Committee's Foreign Language Services Ordering Guide includes additional information regarding ensuring quality and accuracy in purchasing language assistance services. See Language Services Procurement Committee, Interagency Working Group on Limited English Proficiency, *Foreign Language Services Ordering Guide* (Jul. 2020), available at https://www.gsa.gov/cdnstatic/Foreign_Language_Services_%281%29.pdf.

12. QUALITY ASSURANCE AND CONTROL

FNS will use only qualified interpreters with demonstrated proficiency in both English and the other language, and knowledge in both cultures. Quality and accuracy are equally critical for interpretation and translation. But, as the [USDA LEP Guidance](#) states, “[T]he skill of translating is very different from the skill of interpreting, and a person who is a competent interpreter may or may not be competent to translate.”

A. Ensuring the Competence of Interpreters and Translators

FNS offices will take reasonable steps to ensure that qualified multilingual staff or contracted personnel who serve as translators, interpreters, or who communicate “in-language” with individuals with LEP are competent to do so and have the resources necessary to meet the Department’s requirements. Use of individuals who are not competent could result in a breach of confidentiality, a conflict of interest, or inaccurate, impartial, or incorrect interpretation, and is discouraged. Staff or contracted personnel should not provide interpretive or translation services unless they are able to:

- Demonstrate proficiency in and ability to communicate information accurately in both English and the other language. FNS will not utilize multilingual personnel, volunteers, or interns to provide interpretation or to translate vital documents unless it is determined that the employee, volunteer, or intern is competent to interpret/translate. FNS may use outside resources to determine the competence of multilingual personnel. For example, the Interagency Language Roundtable offers skill level descriptions at <https://www.govtldr.org/Skills/AdoptedILRTranslationGuidelines.htm>.
- Accurately interpret or translate materials using appropriate terminology particular to FNS programs or activities and using a degree of sophistication appropriate for the audience (for example, at an appropriate reading level). Use the appropriate mode of interpreting (e.g., consecutive, simultaneous, or sight translation).
- Understand and follow Department and other applicable confidentiality, impartiality, and ethical rules in compliance with Department expectations.

- Understand and maintain the role and observe professional standards for interpreters, translators, or multilingual staff.
- Where applicable, understand the appropriate use of current technologies for providing language assistance, including the proper review and use of machine translation.

Competence can often be achieved by use of certified interpreters or translators, but certification or accreditation may not always be possible or necessary. For those languages in which no formal accreditation currently exists, a particular level of membership in a professional translation association can provide some indicator of professionalism.

Staff should be mindful of the professional responsibility and ethical implications of relying on multilingual internal staff to provide language assistance services in select cases. If an agency office decides to consider using employees whose job duties do not already include the provision of spoken language assistance services to provide such services, they should consult with the FNS LAC to obtain resources for language testing, language assessment processes, and agency-specific qualification requirements.

B. Steps to Assist in Provision of Effective Services

In addition to ensuring that interpreters and translators are competent, the following are guidelines for provision of effective language access services:

- Staff should be aware of potential interpreter fatigue and the possibility that such fatigue can result in errors and should consider strategies to address interpreter fatigue for longer proceedings, where possible, including frequent breaks for the interpreter or the use of multiple interpreters.
- Qualified interpreters and translators must remain alert to the linguistic and cultural characteristics of both languages involved in the language services. FNS terms are specialized and a part of the USDA “culture.” Language services must be linguistically correct, textually coherent, and conceptually meaningful in relation to the USDA domain/culture, while considering the cultural perspective of the target population.
- FNS will participate in an interagency effort to develop and maintain a glossary of common phrasing and agency specific terms that can be provided to contracted translators and interpreters, so that they can prepare prior to an engagement.
- FNS will develop methods for testing the readability of translated materials. FNS could utilize its stakeholders, such as representatives from state or local governments that administer agency programs and activities, advocacy agencies, immigrant-serving organizations, and community-based organizations, to test readability of translated materials. If program participants are used to vet translated materials, do so with caution to ensure participants understand that their eligibility for programs is not affected by their participation in the vetting process. Additionally, because participants are not qualified translators, any revisions to agency materials must be made by qualified translators after receiving input from the vetting process.
- For both oral and written language assistance services, FNS will establish feedback methods by which individuals with LEP can provide feedback or make complaints about the quality of the services and will promptly respond to such contacts. One such method

will be that translated documents include a description of how to provide feedback or make a complaint.

13. LANGUAGE ACCESS PROCEDURES

While individuals with LEP have the right to refuse language assistance services, staff are encouraged in these situations to reiterate the Department's policy to ensure meaningful access and provide services at no cost. This policy should only be considered to have been declined after it has been offered by a qualified interpreter in the person's preferred language. Such refusal shall be documented by recording the date of the offer for interpretive services, general subject or relevant program affected, reason given for refusal, and name of the qualified interpreter who notified the customer of their right to receive language assistance services free of charge.

When arranging or requesting interpreting language assistance services, FNS staff should make every effort to ascertain that the interpreter matches the language and/or language variant that the individual(s) with LEP uses and that they can understand each other fully.

Absent exigent circumstances, FNS staff should avoid using the following individuals to provide language assistance services:

- Staff who are not qualified.
- Family members (especially minor children). Use of minor children as interpreters shall be avoided in all but the most exigent situations. Absent exigent circumstances, use of adult family members as interpreters shall be allowed only if the individual with LEP is offered a qualified interpreter and declines that interpreter, in writing. In such cases, staff are encouraged to consider retaining an interpreter to verify that critical information is being appropriately interpreted and that important information is not omitted.
- Neighbors.
- Friends.
- Acquaintances or bystanders.

Staff should also be mindful of asking community-based organizations or other volunteers to provide free language assistance services. Such individuals may not have the necessary skills, qualifications, or knowledge of rules of professional responsibility to provide accurate, impartial, and confidential interpreting. This may also unduly burden an organization's staff and resources, and it may constitute a gift under government ethics rules and/or a violation of the Anti-Deficiency Act, 31 U.S.C. §1342.⁶ Staff should consult USDA Office of Ethics: Ethics-FNCS@usda.gov on a case-by-case basis regarding any volunteer provision of language assistance services.

⁶ The Anti-Deficiency Act states: "An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342. A full description is located on www.govinfo.gov.

14. STAFF TRAINING

FNS staff (including contractors who perform customer-facing roles) need to know how to provide language assistance services. So that policies and procedures can be effective, FNS will ensure that appropriate new and existing staff and contractors periodically receive language access and effective communication training relevant to their job duties. Language access training needs are part of assessing professional development requirements for all staff. An all-employee training providing familiarity with the contents of this LAP will be required at least once every three years.

The FNS LAC will develop a training plan that satisfies this requirement and provides additional training to audiences as appropriate in coordination with agency leadership. Topics for training will include:

- Language Access Needs Assessment
 - a. Affected demographic analysis
 - b. Vital document inventory
 - c. Four factor Analysis
- Providing Language Assistance
 - a. Identifying non-English Languages
 - b. Using agency-sponsored services
 - c. Best practices for working with interpreters
 - d. Documenting refusal of services
- Standard Operating Procedures / Guidance to Cooperators
- Requirements of Public Notification and Outreach
- Evaluation of Language Accessibility Efforts
- Complaints of National Origin Discrimination based on language

Additional training will be developed by three months after the effective date of this FNS LAP. In the meantime, FNS will continue to deliver to all public-facing staff a basic briefing on language access obligations and procedures for delivering interpretation and/or translation services and tracking the use of language assistance services.

15. ALLOCATION OF RESOURCES

Informed by the four-factor analysis, by three months after the effective date of this LAP, FNS programs, in consultation with CRD, will consider and document the appropriate resources needed for language access planning, outreach, and assistance services based on the range of interactions FNS has with individuals with LEP. As permitted by resource availability, FNS will aim to allocate resources in proportion to the level of current and projected interaction that programs have, or may have, with individuals with LEP, including any projected expansion of language assistance services.

16. HIRING PRACTICES AND MULTILINGUAL STAFF

FNS values the multilingual skills of its employees, including both staff whose job descriptions include provision of direct in-language communication and language assistance, and staff who volunteer to use their assessed language skills on behalf of the Department. Qualified multilingual staff can help FNS to meet Title VI and Executive Order 13166 requirements for federally conducted and federally assisted programs and activities. They can also help FNS's recipients of federal financial assistance to meet Title VI requirements to ensure meaningful access to individuals with LEP.

When making decisions about hiring or utilizing multilingual staff, hiring managers, in collaboration with the FNS Human Resources Division will:

- Assess the extent to which non-English language proficiency in particular languages is necessary or desired for particular positions or to fulfill FNS's mission.⁷
- Consider modifying job descriptions, postings and pay rates for roles that interact with individuals with LEP to include language proficiency as a position requirement informed by assessment of FNS language needs.
- Collaborate with USDA OHRM with respect to standard classification language that can be appended to existing position descriptions to aid in hiring positions with language requirements.

The FNS LAC will track the composition of existing and newly qualified multilingual staff by non-English languages spoken and level of oral and written proficiency. Maintaining an inventory of qualified multilingual staff can be useful for resource-sharing initiatives within and among offices. Managers should consider the amount of time an employee has spent providing language assistance services when assessing workload and productivity and ensure that new and existing personnel will periodically receive language access training relevant to their job duties. FNS will include language access training needs when assessing professional development requirements for all personnel. FNS is encouraged to refer qualified multilingual personnel to technical training (e.g., interpreter ethics, interactive online language access courses, etc.) to maintain and improve their language assistance skills.

In addition, FNS LAC will consult with the USDA Office of the Chief Diversity and Inclusion Officer (OCDIO) with respect to promising and best practices targeting outreach and recruitment and use of the OCDIO Inclusive Hiring Toolkit, and appropriate data collection relating to these positions and hires.

17. SELF-ASSESSMENT AND MONITORING

An effective language access plan incorporates a system for collecting, tracking, reporting, and monitoring the number of individuals with LEP served, language preferences, translated

⁷ Consider reviewing *Before You Hire – Ask Yourself: “What are my Project’s Language Needs?”*, available at https://www.lep.gov/sites/lep/files/media/document/2020-03/TIPS_Before_You_Hire.pdf or *TIPS on Building an Effective Staff Language Service Program*, available at https://www.lep.gov/sites/lep/files/media/document/2020-03/TIPS_Effective_Language_Program.pdf.

materials, and other data points, and then using the data to evaluate the language access services and the plan itself.

A. Data Collection and Reporting

The USDA LAP requires FNS to report certain language access data to the USDA LAC semi-annually, and additional data annually. This data is required to be provided electronically to the USDA LAC. The semi-annual and annual requests may be revised by the LAC, but until such revision, the request is listed in the USDA LAP's Appendix B.

By three months after the effective date of this LAP, the FNS LAC will, in consultation with appropriate FNS offices and staff, develop a method for recording and tracking the data needed, including all languages spoken and all language assistance services provided at the point of contact with individuals with LEP. Any personal identifiable information (PII) collected during any stage of this data collection, tracking, and reporting, must be kept confidential and accessible only to authorized personnel. The FNS LAC will evaluate this data and report the data to agency leadership and to the USDA LAC, as required.

FNS will also encourage state agencies, local agencies, and program operators that administer FNS-assisted programs and activities to assess the effectiveness of their language access plans by including language-specific data fields within online applications and capturing language assistance services provided in certification and other case management information systems.

B. Tri-Annual Self-Assessment:

The USDA LAP also requires FNS to conduct a self-assessment of its language access needs and services and to share that self-assessment with the USDA LAC and the LACC. The first such self-assessment is due within two years of the effective date of the USDA LAP, unless the USDA LAC sets an earlier date; subsequent self-assessments are due every three years. The topics of the self-assessment are set out in Part C.12 of the USDA LAP, as is the requirement that for each topic, FNS shall consider whether there is a need or opportunity to improve current policy, implementation, and resources, and whether there is a need or opportunity for any change to the FNS LAP.

The self-assessment process will be led by the FNS LAC, in collaboration with appropriate agency offices and staff. If during implementation of this LAP, the determination is made to issue regional or program-specific plan supplements, the tri-annual self-assessment requirement will apply to those as well.

18. FEDERALLY ASSISTED ACTIVITIES

FNS is not responsible for providing language assistance services on behalf of entities delivering FNS-assisted programs and activities. However, for FNS programs that provide federal financial assistance to state and local governments and other entities, FNS will ensure appropriate language access in those programs through compliance and monitoring, including but not limited to the following:

- Using assurances of nondiscrimination in all federal-state agreements and contracts.

- Reviewing and potentially updating assurance of nondiscrimination language periodically.
- Notifying recipients of their obligations through training sessions and surveys to determine future training needs.
- Providing technical assistance during compliance reviews, evaluations, and resolution processes.
- Recommending recipients to develop or adopt a language access policy, plan, and procedures.
- Detailing minimum compliance requirements, such as designating a language access coordinator and assessing obligations.

19. DEFINITIONS

- Agency.** A major program organizational unit of the Department with delegated authorities to deliver programs, activities, benefits, and services.
- Agency Heads.** Departmental Under Secretaries, Deputy Under Secretaries, Directors, Chiefs, and Administrators within the Office of the Secretary who receive delegated authority under 7 C.F.R. Agency Heads report to and receive their delegated authorities from Under or Assistant Secretaries as prescribed in 7 C.F.R.
- Agency and office, or agency/office.** All USDA units—including mission areas, agencies, and staff offices—that provide programs, activities, or communication with the public.
- Direct in-language services.** Monolingual communication in a language other than English between multilingual staff and a person with LEP (e.g., Korean to Korean).
- Equity.** The consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.⁸
- Federally conducted programs and activities.** Program services, benefits, resources, or information delivered directly to the public by USDA. This means that the agency staff directly interacts with the intended beneficiaries (program users and communities) and the agency is responsible to implement a language access plan to serve the intended beneficiaries.
- Federally assisted (or federally supported) programs and activities.** Programs and activities provided by a non-federal entity that receives Federal financial assistance. This means that the recipients of federal funding (sometimes referred to as the providers of the program) directly interact with the intended beneficiaries (program users and communities) and those recipients/providers are responsible to provide meaningful access

⁸ Executive Order 14091, *Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, 88 Fed. Reg. 35, 10825 (Feb. 16, 2023), available at <https://www.govinfo.gov/content/pkg/FR-2023-02-22/pdf/2023-03779.pdf>.

to LEP persons. The USDA agency or office that distributes the Federal financial assistance provides oversight, monitoring, and technical assistance to those recipients to comply with LEP requirements.

- h. **Federal financial assistance.** Grants and loans of Federal funds; the grant or donation of Federal property and interests in property; the detail of Federal personnel; the sale and lease of, and the permission to use Federal property or any interest in such property or the furnishing of services without consideration, or at a consideration which is reduced for the purpose of assisting the recipient; and any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance.
- i. **Interpretation.** The process by which the spoken word is used—generally in real-time—when transferring meaning between languages.
- j. **Language Assistance Services.** Oral and written language services used to provide individuals with LEP meaningful access to, and an equal opportunity to participate fully in, the services, activities, and other programs administered by the Department.
- k. **Meaningful access.** Access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English-proficient individuals. Language assistance offers meaningful access if it delivers accurate, timely, and effective communication at no cost to the individual with LEP needing assistance.
- l. **Persons (or individuals or communities) with Limited English Proficiency (LEP).** Persons who do not speak English as their primary language and have a limited ability to read, speak, write, or understand English are limited English proficient, or LEP. This includes individuals who may be competent in English for certain types of communication but have limited proficiency in English in other areas (reading or writing).
- m. **Primary language.** The language in which an individual most effectively communicates when interacting with the Department. An individual's primary language may be a language variant.
- n. **Program or activity.** The term “program or activity” and the term “program” mean all the operations of the Department. For the purposes of this Plan, the definition of “program or activity” is identical to that used under the regulations implementing Section 504 of the Rehabilitation Act of 1973: “[A] federally conducted program or activity is, in simple terms, anything a Federal agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by the regulation: those involving public contact as part of ongoing agency operations and those directly administered by the department for program beneficiaries and participants.
- o. **Qualified multilingual staff.** An employee who has proficiency in English and the ability to read, write, or speak in at least one other language at the proficiency level required by the agency/office.
- p. **Qualified translator.** An in-house or contracted translator who has been professionally trained and/or demonstrated competence to translate through national certification or comparable testing and is authorized to do so by contract with the Department or by approval of an agency/office. Qualified translators must also demonstrate knowledge of professional standards, and adherence to the corresponding professional code of ethics, as well as familiarity with required USDA terminology.

- q. **Qualified interpreter.** An in-house or contracted interpreter who has been professionally trained and/or demonstrated competence to interpret through court certification, the State Department, or comparable testing and is authorized to do so by contract with the Department or by approval of an agency/office. Qualified interpreters must also demonstrate knowledge of professional standards, and adherence to the corresponding professional code of ethics, as well as familiarity with required USDA terminology.
- r. **Quality assurance.** The process to ensure accuracy, consistency, quality, and reliability of language assistance services.
- s. **Secretary.** The Secretary of Agriculture or any officer or employee of the Department whom the Secretary has heretofore delegated, or whom the Secretary may hereafter delegate, the authority to act in his stead.
- t. **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.
- u. **Tagline.** A short notice in non-English languages informing the general public that a document (e.g., notices of language assistance services, notices of rights, forms, correspondence, etc.) or electronic media (e.g., website, announcement via email, etc.) contains vital information and explaining how to request the document or electronic media provided in other languages.⁹
- v. **Transcreation.** A translation-related activity that combines translation, cultural adaptation and (re-)creation of text in order to adapt or re-create a message in a different language while making sure the new text is suitable, relevant and useful for the intended local audience and application.
- w. **Translation.** The process of converting written text from a source language into an equivalent written text in a target language as fully and accurately as possible while maintaining the style, tone, and intent of the text, while considering differences of culture and dialect.¹⁰
- x. **Vital document.** Paper or electronic written material that contains information that is critical for accessing an agency/office's programs or activities or is required by law. Translation of vital documents is required if requested. For more information, see C.8.c.

⁹ LEP.gov, *Federal Agency Translated Taglines*, available at <https://www.lep.gov/translation#toc-taglines>.

¹⁰ American Translators Association, *Translator vs. Interpreter: What's the difference?*, available at <https://www.atanet.org/client-assistance/translator-vs-interpreter/>.



20. RESOURCES

- U.S. Census Bureau, [American Community Survey 5-Year Estimate](#).
- U.S. Census Bureau, *Language Identification Flashcard* (2004), available at <http://www.justice.gov/crt/lep/resources/ISpeakCards2004.pdf>
- Department of Justice, *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs* (2011), available at https://www.lep.gov/sites/lep/files/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf.
- Department of Health and Human Services, Assistant Secretary for Planning and Evaluation, Offices of Human Services Policy, *Tips on Equitable Communication Practices in a Policy Context*, available at <https://aspe.hhs.gov/sites/default/files/documents/25db6496702d8ee5dace292f7d3925f0/Tips-Equitable-Comm-Practices.pdf>
- LEP.gov tools and tips:
 - Providing Meaningful Access for Limited English Proficient Individuals, and other training videos, available at <https://www.lep.gov/videos>.
 - Before You Hire – Ask Yourself: “What are my Project’s Language Needs?”, available at https://www.lep.gov/sites/lep/files/media/document/2020-03/TIPS_Before_You_Hire.pdf
 - TIPS on Building an Effective Staff Language Service Program, available at https://www.lep.gov/sites/lep/files/media/document/2020-03/TIPS_Effective_Language_Program.pdf.
 - LEP.gov, *Translation, Federal Agency Translated Taglines*, available at <https://www.lep.gov/translation#toc-taglines>
 - *TIPS for Working with Telephone Interpreters*, available at https://www.lep.gov/sites/lep/files/media/document/2020-03/TIPS_Telephone_Interpreters_0.pdf

APPENDIX: FNS DRAFT ON FEDERAL FINANCIAL ASSISTANCE

FNS requires recipients of federal financial assistance take reasonable steps to ensure meaningful access to federally assisted programs or activities for individuals with LEP. FNS also ensures these recipients foster equity¹¹ for individuals who interact, or who may interact, with these entities over the telephone, in writing, in person, or via electronic or digital methods in accordance with *Executive Orders 13166, 13985; 14031; and 14091*¹²; *DR 4330-005*; the *USDA LAP*; and the [USDA LEP Guidance](#).¹³

A. Assurance of Nondiscrimination

FNS informs recipients of their language access obligations in various ways. FNS ensures all federal-state agreements and contracts with recipients for contain an assurance of nondiscrimination that requires compliance with all federal statutes relating to nondiscrimination.¹⁴ These include but are not limited to *Title VI of the Civil Rights Act of 1964*, which prohibits discrimination on the basis of race, color or national origin; *Title IX of the Education Amendments of 1972*, which prohibits discrimination on the basis of sex;¹⁵ *Section 504 of the Rehabilitation Act of 1973* and *the Americans with Disabilities Act of 1990 (ADA)*, as amended by the *ADA Amendments Act of 2008*, which prohibits discrimination on the basis of disability, and other statutes and implementing regulations. FNS will periodically review the assurance of nondiscrimination language within these federal-state agreements to determine if standard terms require update or improvements to ensure recipients meet their language access requirements.

B. Recipient Notification

In addition to federal-state agreements, CRD notifies recipients about their language access obligations through virtual and in-person training sessions that cover the [USDA LEP Guidance](#), program regulations, and [FNS instruction 113-1: Civil Rights Compliance and Enforcement –](#)

¹¹ FNS recognizes that ensuring equity for individuals with LEP is not limited to the provision of language assistance services and aims to create comprehensive mechanisms that facilitate equity in planning, outreach, stakeholder engagement, allocation of funds, delivery of services, staff training, procurement, as well as performance and evaluation as established by the *FNS Language Access Plan*.

¹² Executive Order 13166, [Improving Access to Services for Persons with Limited English Proficiency](#), 65 Fed. Reg. 159, 50121 (Aug. 16, 2000); Executive Order 13985, [Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#), 86 Fed. Reg. 14, 7009 (Jan. 20, 2021); Executive Order 14031, [Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders](#), 86 Fed. Reg. 105, 29675 (June 3, 2021); Executive Order 14091, [Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#), 88 Fed. Reg. 35, 10825 (Feb. 22, 2023).

¹³ 79 Fed. Reg. 70771 (Nov. 28, 2014)

¹⁴ 7 CFR 15.4 Assurances required

¹⁵ The May 5, 2022, USDA guidance memorandum, *Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update*, directs states and local agencies, program operators and sponsors to update their non-discrimination policies, informational materials and websites to include prohibitions against discrimination based on gender identity and sexual orientation. FNS has determined that the inclusion of sex on its own includes the coverage of gender identity and sexual orientation as outlined in Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation and the May 5th guidance memorandum.

[*Nutrition Programs and Activities*](#). CRD is required to conduct Civil Rights trainings annually for recipients. CRD also surveys participants to determine future training needs. Additionally, CRD, in collaboration with FNS divisions, offices, and program areas, provides recipients with technical assistance during Civil Rights compliance reviews, program management evaluations, and complaints resolution processes. FNS, in collaboration with other federal agencies such as DOJ, develops and distributes program-specific language access technical assistance resources for recipients¹⁶.

C. Minimum Compliance Requirements

FNS recommends each recipient develop or, in the case of a subrecipient with limited resources, adopt their respective recipient's language access policy, plan and procedures. FNS ensures each recipient understands that "the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a recipient's program or activities," and therefore "in the event that a recipient elects not to develop a written plan, it should consider alternative ways to articulate in some other reasonable manner a plan for providing meaningful access."¹⁷

For most recipients, a plan is crucial and includes a method for:

- Designating a language access coordinator;
- Assessing language assistance services obligations;
- Identifying individuals with LEP who need language assistance;
- Selecting competent and qualified language assistance services;
- Limiting or restricting use of family, friends, and children as interpreters;
- Translating vital information;
- Training personnel;
- Providing notice to individuals with LEP;
- Ensuring access to websites, digital services, and customer service telephone voicemail menus;
- Recording and tracking language assistance data;
- Engaging with communities with LEP; and
- Monitoring and updating the language access plan.

Effective plans also set clear goals, management accountability, and opportunities for community input and planning throughout the process.¹⁸

¹⁶ [*Meaningful Access for Persons with Limited English Proficiency \(FNS SP 27-2016, May 25, 2016\)*](#); [*Ensuring Language Access for Limited English Proficient \(LEP\) Individuals and Effective Communication for Individuals with Disabilities In Consideration of the Recent Unwinding of the Supplemental Nutrition Assistance Program \(SNAP\) Emergency Allotments \(EA\) and Upcoming Unwinding of COVID-19- Program Flexibilities \(FNS CRD - 001-2023, May 30, 2023\)*](#); [*Language Access in Digital Portals and Data Collection Systems \(August 11, 2023\)*](#); [*Improving Access to Public Websites and Digital Services for Limited English Proficient \(LEP\) Persons*](#).

¹⁷ [*USDA Guidance to Federal Financial Assistance Recipients Regarding the Title VI Prohibition Against National Origin Discrimination Affecting Persons With Limited English Proficiency \(79 F.R. No. 299, p. 70783, November 28, 2014\) \(USDA LEP Guidance\)*](#)

¹⁸ *Ibid.*, p. 70784.

D. Evaluation of Recipient Language Access Efforts

CRD effectuates *Title VI* compliance by conducting compliance reviews and complaint investigations involving its federally assisted programs and activities administered by state agencies, local agencies, and other program operators. CRD utilizes comprehensive Civil Rights compliance review tools with extensive language access questions to determine whether state agencies are meeting their language access obligations. Similarly, FNS programs utilize management evaluation, quality assurance, and program access review tools that also contain language access questions, although currently to a lesser degree. Additionally, FNS program personnel review state agency program policies, plans, and procedures for concurrence. A review may entail evaluating recipients' method for:

- Recording and tracking language access data at the point of contact and beyond;
- Utilizing qualified and competent linguists for interpretation and translation services;
- Examining interpretation and translation vendor contracts, including quality control efforts;
- Evaluating procedures for qualifying bilingual employees;
- Identifying frequency of use of family, friends, and children as interpreters;
- Determining whether recipients process language access complaints appropriately;
- Processing complaints that allege discrimination involving language access; and
- Engaging with community organizations to determine whether the recipient's language services are effective

Additionally, when reviewing and/or authorizing the FNS-related content within websites and digital services, FNS will remind state agencies, local agencies, and other program operators to ensure meaningful access for individuals with LEP during the development and implementation stages of these services. During the review process, FNS will determine whether customer service voicemail menus intended for the public are accessible to individuals with LEP and whether the recipient notifies the public about the availability of free language assistance services in a language that they can understand. This may include testing of customer service lines for language access during reviews. State agencies and other recipients that do not provide meaningful access to customer service lines or effective notice are required to take corrective actions.

CRD and FNS divisions, offices, and program areas, will collaborate if a complaint is filed and/or if noncompliance regarding language access is determined when evaluating a FNS federally assisted program or activity. In all cases, FNS will seek the cooperation of the recipient in achieving and maintaining compliance with *Title VI* and its implementing regulations at 7 CFR §§ 15.1 et seq.