



## Questions and Answers for Limited English Proficiency (LEP) Four-Factor Analysis Webinar

(Date of Webinar: July 28, 2022)

In accordance with Executive Order 13166, the U.S. Department of Transportation (DOT) issued [Policy Guidance Concerning Recipient's Responsibilities to Limited English Proficient \(LEP\) Persons](#), modeled after the Department of Justice's guidance. As described in the guidance, DOT recipients must take reasonable steps to ensure meaningful access to their programs and activities by LEP persons.

**LEP Individuals** – Individuals with a primary or home language other than English and who have a limited ability to read, write, speak, and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).

**\*When determining the need for translations (written), use the safe harbor rule\***

Table 1

Size of Language Group	Recommended Provision of Written Language Assistance
1,000 or more in the eligible population in the market area or among current beneficiaries	Translated vital documents
More than 5% of the eligible population or beneficiaries <i>and</i> more than 50 in number	Translated vital documents
More than 5% of the eligible population or beneficiaries <i>and</i> 50 or less in number	Translated written notice of right to receive free oral interpretation of documents.
5% or less of the eligible population or beneficiaries and less than 1,000 in number	No written translation is required.

**Q: Can you elaborate on when to apply the four-factor analysis? In other words, public events, public meetings, presentations, etc.?**

**A:** Each local agency shall perform an annual assessment to determine if modifications are needed to their programs and activities to ensure meaningful access by LEP persons, culminating in developing a language access plan. This assessment is known as the Four-Factor Analysis.

It is expected that agency plans will provide meaningful access consistent with and without unduly burdening the agency's fundamental mission. If there are language barriers, it may prohibit LEP persons from:

- Obtaining services and information related to transportation services, programs, and projects.
- Taking advantage of the transit system could affect their jobs and social opportunities.
- Understanding the benefits, they are entitled to when their home or business property is acquired through eminent domain.

**Q: Do public surveys conducted by the local agency count as valid data?**

**A:** Yes. Any data that your local agency collects is data that you can use as a basis for your Four-Factor Analysis.

**Q: My county has numerous projects annually. Do we perform the four-factor analysis for each individual project for the zip code(s) of each project location? Or do we perform the analysis on a countywide basis annually?**

**A:** Diverse cities such as Sacramento or Hollywood will have various Title VI protected individuals within each service area. Therefore, it is essential to determine how the four-factor analysis will impact each project location. A Four-Factor Analysis conducted for each project will provide more localized and accurate demographics of those affected or involved in the project and the needed outreach.

For example, suppose there will be a planned street closure. In that case, the proximity of LEP individuals may have trouble understanding why that closure has occurred and any detours they may need to take to reach their destination.

The development of a language access plan will help agencies identify if a four-factor analysis must be performed as one inclusive of all agency boundaries or on a project-by-project basis.

**Q: What is considered to be a “vital” document?**

**A:** Vital documents are considered critical to the public or people's lives, such as if they contain information critical for obtaining federal services, benefits, and/or are required by law. These include, for example, applications; consent and complaint forms; notices of rights and disciplinary action; notices advising LEP persons of the availability of free language assistance; letters or notices that require a response from a beneficiary or client.

**Q: What are examples of steps that an LEP individual would have to take to get translation services/assistance?**

**A:** To request translation services/assistance, an LEP individual can call the local agency and request the services. Local agencies should have steps in place to address interpretation (oral) or translation (written) requests.

**Q: Is interpretation at a public meeting required only when requested? Or would you use a specific threshold?**

**A:** No. Interpretations made available at a public meeting should not be determined only when services are requested. The local agency should conduct a four-factor analysis to determine whether they should provide reasonable, timely, oral language assistance free of charge to any beneficiary that is LEP (depending on the circumstances, reasonable oral language assistance might be an in-person interpreter or telephone interpreter line).

Although there are no “safe harbors” or “thresholds” for oral interpretation services, local agencies should use the four-factor analysis to make the determination.

**Q: Would you use county-wide data if you are considering what translation needs are for a transit service area that is county-wide?**

**A:** If it is a county-wide service, such as transit, then the local agency should be using county-wide data to match the services the agency is providing. As a precaution, the local agency should also look at the language needs by zip codes to see if they match the county-wide data as language needs at the zip code level may be different.

**Q: Are there state-wide contracts for tele-interpreters for smaller agencies? Is that something Caltrans could consider to provide?**

**A:** No, state-wide contracts for tele-interpreters are not available for smaller agencies. Caltrans recommends hiring bilingual staff or reaching out to community-based organizations for resources if the agency is unable to hire a contractor.

Caltrans does not plan to have a state-wide contract for tele-interpreter services for smaller agencies at this time. As a reminder, it is the responsibility of each local agency to consider all of the four factors in the four-factor analysis to determine the best course of action for providing interpreting or translating services.

**Q: What if there is no census data available for an unincorporated area of the county? I believe data isn't collected if there are under 5,000 residents, but is there any way to find that data elsewhere?**

**A:** Please refer Census-related questions to the email address [census.data@census.gov](mailto:census.data@census.gov) or contact the County office to see if there are any Census data available for an unincorporated area.

**Q: If the margin of error on the [C16001 table](#) causes the size of the language group to go over 1000, will translations need to be provided?**

**A:** Yes. If the population size is over 1000, translations need to be provided.

**Q: Is it accurate that if there are more than 1000 people within a Label on the [C16001 table](#), that all critical documents are to be translated? (From the Los Angeles County list, it seems that every single language would require translation of vital documents.)**

**A:** From a practical and cost-based perspective, we recognize that it would be impossible to translate every piece of outreach material into every language. However, it is important to ensure that written materials routinely provided in English also are provided in regularly encountered languages other than English and that vital documents are translated into the non-English language of each regularly encountered LEP group eligible to be served or likely to be affected by the program or activity.

In the case of many larger documents, the translation of vital information contained within the document will suffice. Overall, it is essential for federal agencies to continually survey/assess the needs of eligible service populations to determine whether certain critical outreach materials should be translated into other languages.

**Q: In areas where projects are near or cross a border (zip code, county, etc.), would we include the adjacent area into the tabulation?**

**A:** Yes, include the adjacent area in the tabulation where the projects are near or cross a border. This effort will allow the local agency to consider the needs of all impacted residents.

**Q: Does Factor 1 only consider statistical census / American Community Survey (ACS) data, or can you add local knowledge? For example, census data includes prison population which is normally not part of population affect by projects or programs.**

**A:** For Factor 1, you can add local knowledge as well. It is best to show data for your analysis. You will know best who to include in the eligible population. Different programs have different numbers of people who are being served or impacted.

**Q: What if we wanted to find out what percentage of Sacramento County residents speak another language at home? Could we get this info on the US Census website?**

**A:** Yes, the info can be found on the US Census website. View the [C16001 table](#), then search under "Geos," "County", "California", then select "Sacramento County, California." The table will list estimates for other languages spoken at home.

**Q: Can you get data from a county, zip code, and also streets? (i.e. 3 streets near a school that wants to develop an office, but needs that community's input)?**

**A:** When viewing the [C16001 table](#), you can search data for geographies such as county, place, 5-digit zip code, metropolitan statistical area, tract, division, elementary school district, block, voting district, etc.

## LEP Resources:

### Sample of Title VI LEP

- [Caltrans Language Access Plan 2020 \(PDF\)](#)
- [SACOG's Title VI LEP Plan 2018 \(PDF\)](#)

### Guidance

- [U.S. Department of Transportation \(DOT\) LEP Guidance](#)
- [U.S. Department of Justice \(DOJ\) LEP Guidance \(PDF\)](#)

### Publications

- [I Speak Cards \(PDF\)](#)
- [Highway Emergency Language Protocol \(PDF\)](#)
- [U.S. DOJ Know Your Rights Beneficiary Brochure](#)

### Resources

- [CA Department of Human Resources Bilingual Services Program](#)
- [U.S. DOJ Language Access Planning](#)

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