

Joplin Area Transportation Study Organization



Limited English Proficiency Plan

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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. It had as its purpose, to ensure accessibility to programs and services to otherwise 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. These individuals are referred to as being Limited English Proficient, or “LEP.”

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 parts of a recipient's operations are covered. This is true even if only one part of the recipient receives the federal assistance. Simply put, any organization that receives federal financial assistance is required to follow this Executive Order.

The US Department of Transportation published *Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient Person* in the December 14th, 2005 Federal Register. The guidance explicitly identifies JATSO'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.

To assist the JATSO and Joplin in meeting Title VI and Limited English Proficiency requirements of the Federal Highway Administration and the Federal Transit Administration, the Joplin Area Transportation Study Organization is conducting an evaluation on what activities would be appropriate for compliance with Limited English Proficiency requirements for the JATSO.

ELEMENTS OF AN EFFECTIVE LEP POLICY

The US Department of Justice, Civil Rights Division has developed a set of elements that may be helpful in designing an LEP policy or plan. These elements include:

1. Identifying LEP persons who need language assistance.
2. Identifying ways in which language assistance will be provided.
3. Training staff.
4. Providing notice to LEP persons.
5. The recommended method of evaluating accessibility to available transportation services is the Four-Factor Analysis identified by the USDOT.

These recommended plan elements have been incorporated into this plan.

METHODOLOGY FOR ASSESSING NEEDS AND REASONABLE STEPS FOR AN EFFECTIVE LEP POLICY

The DOT guidance outlines four factors recipients should apply to the various kinds of contacts they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons:

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee.
2. The frequency with which LEP individuals come in contact with the program.
3. The nature and importance of the program, activity, or service provided by the recipient to the LEP Community.
4. The resources available to the JATSO and overall cost.

The greater the number or proportion of eligible LEP persons; the greater the frequency with which they have contact with a program, activity, or service; and the greater the importance of that program, activity, or service, the more likely enhanced language services will be needed. The intent of DOT's guidance is to suggest a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small organizations and local governments.

Smaller recipients with more limited budgets are typically not expected to provide the same level of language service as larger recipients with larger budgets.

The DOT guidance is modeled after the Department of Justice’s guidance and requires recipients and subrecipients to take steps ensure meaningful access to their programs and activities to LEP persons. More information for recipients and subrecipients can be found at <http://www.lep.gov>.

THE FOUR-FACTOR ANALYSIS

This plan uses the recommended four-factor analysis of an individualized assessment considering the four factors outlined above. Each of the following factors is examined to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to public transit services within the JATSO area. Recommendations are then based on the results of the analysis.

FACTOR 1: THE PROPORTION, NUMBERS AND DISTRIBUTION OF LEP PERSONS

The Census Bureau has a range of 4 classifications of how well people speak English. The classifications are ‘very well,’ ‘well,’ ‘not well,’ and ‘not at all.’

For our planning purposes, we are considering people that speak English ‘not well’ or ‘not at all’ as Limited English Proficient persons.

Table 1 shows the number and percent of persons in regards to their English language skills for the JATSO Metropolitan Planning Area and the portions each county within the planning area.

Table 1. Limited English Proficient Persons in the JATSO Planning Area			
	Total Population 5 years old and older	Number of Limited English Proficient Persons	Percent of Limited English Proficient Persons
Portion of Jasper County within JATSO	68,456	521	0.76%
Portion of Newton County within JATSO	14,006	61	0.43%
All of JATSO Planning Area	82,462	582	0.7%
Source: American Community Survey 2014			

Of the LEP persons within the JATSO metropolitan planning area 54.3 percent speak Spanish, 9.2 percent of LEP persons speak an Indo-European language (such as Urdu, Hindi, Portuguese, Bengali, Russian, Persian and German.), 36.4 percent of persons speak Asian-and Pacific Languages (E.g., Chinese, Korean, Japanese, and others and 0.0 percent speak other languages.

For our planning purposes, we are considering people that speak English ‘not well’ or ‘not at all’ as Limited English Proficient “LEP” persons.

Table 2 shows the actual numbers of language groups spoken by LEP persons, within the JATSO planning area.

Table 2. Language Spoken by LEP Persons in Joplin Metropolitan Planning Area					
	Spanish Language Spoken	Indo-European Language Spoken	Asian and Pacific Islander Language Spoken	Other Language Spoken	Total LEP
5-17 years-old	59	0	0	0	59
18-64 years-old	257	54	212	0	523
65 and older	0	0	0	0	0
Total	316	54	212	0	582
Source: American Community (ACS) Survey 2014					

FACTOR 2: FREQUENCY OF CONTACT WITH LEP INDIVIDUALS

Traditionally, JATSO open houses and workshops have been located within facilities offered by the City of Joplin. JATSO staff has found there have been no formal records, indicating direct contact with the LEP population at public involvement meetings, other public meetings or in day-to-day activity since the JATSO was formed.

FACTOR 3: THE NATURE AND IMPORTANCE OF THE PROGRAM, ACTIVITY, OR SERVICE TO LEP COMMUNITY

As the agency responsible for coordinating the regional transportation planning process, the

JATSO must make sure that all segments of the population, including LEP persons, have been involved or have had the opportunity to be involved with the planning process. The impact of proposed transportation investments on underserved and under represented population groups is part of the evaluation process. JATSO provides oversight and helps ensure that LEP and other protected classes of persons are not overlooked in the transportation planning process.

JATSO's main function is to support cooperative, comprehensive, and continuing transportation planning as outlined in federal transportation acts. In doing so, JATSO develops three main documents: the Metropolitan Transportation Plan (MTP), Transportation Improvement Program (TIP) and Unified Planning Work Program (UPWP), and as needed, other studies. The MTP provides direction for transportation investments out to 20 years in the future. The TIP is a program or schedule of short-range transportation improvements and activities intended to be implemented through a combination of State, Federal and local funding. The UPWP outlines tasks to be performed in the upcoming year.

Denial or delay of access to services or information provided by JATSO would not have life threatening implications on a LEP individual, due to the structure of JATSO board as an advisory and planning organization. It is also believed that denial or delay of access to services or information provided by JATSO would not have serious implications on a LEP individual, especially compared to the services, such

as health, emergency transportation, water, sewer, fire protection, police protection and other emergency services, provided by JATSO member organizations. JATSO does not operate under any emergency capacity.

FACTOR 4: THE RESOURCES AVAILABLE TO THE JATSO AND OVERALL COST

US Department of Transportation Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons published in the Federal Register: December 14, 2005 (Volume 70, Number 239) states:

Certain DOT recipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written LEP plan.

While JATSO does serve few LEP persons and has very limited resources it has been decided to include a LEP section in the Public Involvement Plan with the acknowledgement that current demographic trends indicate the number of LEP persons may increase within the JATSO planning area. Currently JATSO uses oral translation, due to the limited contact with the LEP population. Funding available for LEP services would be derived entirely from existing JATSO operating funds, and competes with other operational requirements of the JATSO.

Since all members of JATSO are required to adhere to Presidential Executive Order 13166, it is reasonable that utilization of member organizations' LEP resources is a preferred option for the JATSO.

SAFE HARBOR STIPULATION

Federal law provides a "Safe Harbor" stipulation so that recipients can ensure with greater certainty that they comply with their obligations to provide written translations in languages other than English. A "Safe Harbor" means that if a recipient provides written translations certain circumstances, such action will be considered strong evidence of compliance with the recipient's written-translation obligations under Title VI.

The failure to provide written translations under the circumstances does not mean there is noncompliance, but rather provides a guide for recipients that would like greater certainty of compliance than can be provided by a fact-intensive, four-factor analysis. For example, even if a Safe Harbor is not used, if written translation of a certain document(s) would be so burdensome as to defeat the legitimate objectives of its program, it is not necessary. Other ways of providing meaningful access, such as effective oral interpretation of certain vital documents, might be acceptable under such circumstances.

Strong 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, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. JATSO's Translation of other documents, if needed, can be provided orally.

This safe harbor provision applies to the translation of written documents 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 are reasonable.

No LEP language groups in the JATSO planning area constitutes the 5% or 1,000 persons of population threshold for which written translations of vital documents can be provided meet the safe harbor standard. However, given the small number of LEP language group members, the JATSO budget and the number of staff, it is deemed that written translations of core documents would impose a cost that would substantially exceed the benefits and defeat the legitimate objectives of our programs. It is more appropriate for JATSO to proceed with oral interpretation options for compliance with LEP regulations.

PROVIDING NOTICE TO LEP PERSONS

USDOT LEP guidance says:

Once an agency has decided, based on the four factors, that it will provide language service, it is important that the recipient notify LEP persons of services available free of charge. Recipients should provide this notice in languages LEP persons would understand.

The guidance provides several examples of notification including:

1. Signage when free language assistance is available with advance notice.
2. Stating in outreach documents that language services are available from the agency.
3. Working with community-based organizations and other stakeholders to inform LEP individual of the recipient's services, including the availability of language assistance services.
4. Using automated telephone voice mail attendant or menu which can provide information about available language assistance services and how to get them.
5. Including notices in local newspapers in languages other than English.
6. Providing notices on non-English-language radio and television states about the available language assistance services and how to get them.
7. Providing presentations and/or notices at schools and religious organizations.

The JATSO will provide statements in public information and public notices, as outlined in our Public Involvement Plan, that persons requiring language assistance or special accommodations will be provided, with reasonable advance notice to the JATSO.

OPTIONS & PROPOSED ACTIONS

Federal fund recipients have two main ways to provide language services: oral interpretation either in person or via telephone interpretation service and written translation. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis.

JATSO is defining an interpreter as a person who translates spoken language orally, as opposed to a translator, who translates written language and a translator as person who transfers the meaning of written text from one language into another. The person who translates orally is not a translator, but an interpreter.

Considering the relatively small scale of the JATSO in Joplin, the small number of LEP individuals in the service area, and limited financial resources, it is necessary to limit language aid to the most basic and cost-effective services. Many options were discussed and considered by JATSO staff.

- Identifying existing staff of JATSO member organization to be used as translators and interpreters. JATSO members employ over 500 people. It is assumed that some staff would be proficient in a second language, particularly Spanish, and would be available, with advanced notice to provide interpretation services. A survey of staff and their language skills could be conducted and the development of a formal procedure/policy may be put in place. Minimal direct expenses would be incurred.
- Entering into a bulk telephonic interpretation service contract to achieve economies of scale.
- Several national and international companies offer this type of service for a pay-as-you-go fee.
- Using community volunteers. This option could be used where advanced notice is provided that translator services would be required. A list of volunteers would need to be developed.
- Development of written translation and oral interpreter service providers' database. Several interpretation services are under State of Missouri contracts that provide for cooperative purchasing.
- Utilize JATSO member organization's LEP services outlined in their LEP plans, as they are developed.
- Ensure JATSO members are aware of the USDOT LEP guidance and support their LEP planning activities, as appropriate.
- Revisit the plan when events (2010 decennial census or other indication of increase of LEP persons) warrant.

WHAT THE JATSO WILL DO: WHAT ACTIONS WILL THE JATSO TAKE?

With advance notice of seven calendar days, the JATSO will provide interpreter services at the Policy Board meetings, through the City of Joplin, as administrator for the JATSO. Interpreter to include foreign language and hearing impaired. All LEP services will be available free of charged.

The JATSO will utilize a database of interpreters, primarily but not exclusively based on the Missouri Office of Administration cooperative purchasing agreement for translation services and verbal interpretation. (See Attachment A: Missouri Office of Administrator --- Cooperative Procurement Program --- Translation and Interpretation Services)

Placement of statements in notices and publications that interpreter services are available for these meetings, with seven days' advance notice.

Publication of JATSO and federal complaint forms on the website, available at public meetings, and reference to these forms on what they are for and where to get them, in the LEP and Public Involvement Plans.

Notices of the JATSO non-discrimination policies and information on the local and federal complaint process will be placed on the website and available in public meetings.

JATSO STAFF TRAINING

JATSO staff will be provided training on the requirements for providing meaningful access to services for LEP persons.

INCLUSION IN THE PUBLIC INVOLVEMENT PLAN

The JATSO will include a Limited English Proficiency policy in the updates of the JATSO Public Involvement Plan through 1) statements and notices that interpreters will be provided, upon prior request for language assistance as well as for sign language, and 2) maintenance of a contact database for interpretation providers.

LEP PLAN ACCESS

The JATSO will post the LEP Plan on its website at: jatso.net

Any person, including social service, non-profit, and law enforcement agencies and other community partners with internet access will be able to access the plan. For those without personal Internet service, several area libraries offer free Internet access. Please contact your local library to determine if this service is available. Copies of the LEP Plan will be provided to the each JATSO member organization, the Missouri Department of Transportation, Federal Highway Administration, the Federal Transit Administration, and any person or agency requesting a copy.

Any questions or comments regarding this plan should be directed to the JATSO staff.

