



OFFICE OF THE GOVERNOR
HAGÅTÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 2015-015

RELATIVE TO REQUIRING ALL GOVERNMENT OF GUAM AGENCIES AUTONOMOUS INSTRUMENTALITIES, COMMISSIONS AND BOARDS TO DEVELOP AND IMPLEMENT A LANGUAGE ACCESS PLAN (LAP) TO ADDRESS THE COMMUNICATION NEEDS OF PERSONS OF LIMITED ENGLISH PROFICIENCY (LEP), THOSE WHO HAVE LITERACY CHALLENGES, INDIVIDUALS WITH DISABILITIES, AND THOSE WHO ARE DEAF OR HAVE HARD OF HEARING (DHH) IMPAIRMENTS, IN COMPLIANCE WITH U.S. PRESIDENTIAL EXECUTIVE ORDER 13166 AND RELEVANT U.S. DEPARTMENT OF JUSTICE AND TERRITORIAL REGULATORY AND ACCREDITATION MANDATES

WHEREAS, the Civil Rights Act of 1964 prohibits discrimination on the basis of race, national origin, gender and religion; and

WHEREAS, the United States Supreme Court in 1974 interpreted discrimination on the basis of language as a proxy for discrimination on the basis of national origin, and further held that under Title VI of the Civil Rights Act of 1964, federal financial aid recipients must provide non-English language assistance to persons of limited English proficiency (LEP) [see, *Lau v. Nichols*, 414 U.S. 563]; and

WHEREAS, Presidential Executive Orders 12250 (1980) and 13166 (2000) recommit the federal government to improve the accessibility of government-funded services to individuals with LEP; and

WHEREAS, President William J. Clinton, on August 11, 2000, signed EO 13166 entitled *Improving Access to Services for Persons with Limited English Proficiency* mandating that "recipients of Federal financial assistance provide meaningful access to applicants and beneficiaries with LEP" through the

establishment of a Language Access Plan (LAP) that meets the needs of clients with LEP; and

WHEREAS, the U.S. Department of Justice (U.S. DOJ) is empowered under EO 13166 to enforce, investigate, and sanction agencies that engage in national origin discrimination in federally-funded programs, and in 2002 adopted that certain *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (U.S. DOJ LEP Guidance 2002) to assist federal agencies and any federally-funded recipients to establish and implement LAPs that are in compliance with federal standards, EO 13166, and Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.); and

WHEREAS, consistent with Title VI, and in compliance with EO 13166, there also exists other federal mandates that reinforce the appropriate and adequate redress of communication needs by the populations served by our organizations, including the Rehabilitation Act of 1973; the Individuals with Disabilities Education Act (IDEA); the No Child Left Behind Act (NCLB); the Americans with Disabilities Act (ADA); and the Assistive Technology Act; and

WHEREAS, accreditation entities such as the Joint Commission on the Accreditation of Healthcare Organizations, which accredits hospitals and other health care institutions, and the National Committee for Quality Assurance, which accredits managed care organizations and behavioral health managed care organizations, support standards requiring cultural and linguistic competence in health care; and

WHEREAS, the U.S. Department of Health and Human Services (HHS), developed and disseminated *The Department of Health and Human Services Language Access Strategic Plan 2013* to provide guidance to health service organizations in complying with EO 13166 and U.S. DOJ LEP Guidance 2002; and

WHEREAS, the Federal Office of Minority Health under HHS, developed the *National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care* "intended to advance health equity, improve quality and help eliminate health care disparities by establishing a blueprint for health and health care organizations."; and

WHEREAS, improvement and delivery of quality services that are accessible, effective and cost efficient requires the Government of Guam to incorporate cultural competence into organizational policy of which linguistic competence is an important vehicle towards attaining better access to information and hence, better outcomes for those served; and

WHEREAS, the Government of Guam is heavily burdened with federal assistance mandates that include a requirement of non-discrimination based on national origin stemming from a person's limited ability to speak or understand English; and

WHEREAS, in order to meet these federal mandates, address disparities in access and outcomes and improve overall services, it is incumbent upon all line agencies and autonomous instrumentalities to adopt, promulgate and implement a Language Access Plan that meets the specific needs of the diverse populations who require support, services and assistance from our community.

NOW, THEREFORE, I, EDDIE BAZA CALVO, Governor of Guam, by virtue of the authority vested in me by the Organic Act and laws of Guam, do hereby order and direct as follows:

1. The attached *Language Access Plan (LAP) for Persons who are Limited English Proficient (LEP) and/or Deaf or Hard of Hearing (DHH)* ("LEP/DHH Plan") is hereby adopted generally for the Executive Branch of the Government of Guam. The LEP/DHH Plan shall apply to all Executive Branch departments, line agencies, bureaus, autonomous and semi-autonomous agencies, instrumentalities, boards, commissions, councils, divisions, entities or sub-entities thereof.
2. All Directors, Boards, and Commissions of every Government of Guam or autonomous agency identify a Language Assistance (LA) Coordinator within their respective organizations and further, shall customize and tailor the attached LEP/DHH Plan as necessary in order to address the entity-specific needs of their organizations in order to comply with federal mandates and standards in order to ensure that programs and activities normally provided in English are accessible to LEP/DHH persons and thus do not discriminate on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964.

3. Every entity-specific LAP must include Policies and Procedures on how the LAP will be utilized within the organization and must assure that training of personnel on the LAP be instituted. LAPs must be in compliance with DOJ LEP Guidance 2002 standards which set forth a four-factor analysis to include:
 - a. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
 - b. The frequency with which LEP persons come in contact with the program;
 - c. The nature and importance of the program, activity, or service provided by the program to people's lives; and
 - d. The resources available to the grantee/recipient and costs.
4. The Clearing House, Office of the Lt. Governor, shall be designated as the depository of this Plan and all agency-specific LAPs to assure government-wide compliance so as not to jeopardize federal territorial funding.

SIGNED AND PROMULGATED at Hagåtña, Guam, this 31st day of December, 2015.



EDDIE BAZA CALVO

I Maga'Låhen Guåhan

Governor of Guam

Executive Order No. 2015-15

**GOVERNMENT OF GUAM
LANGUAGE ACCESS PLAN (LAP)
FOR PERSONS WHO ARE
LIMITED ENGLISH PROFICIENT (LEP)
AND/OR
DEAF OR HARD OF HEARING (DHH)**

I. DEFINITIONS.

A. *Limited English Proficiency* - A person with limited English proficiency (LEP) does not speak English as his or her primary language, and has a limited ability to read, write, speak, or understand English. Many LEP persons are in the process of learning English and may read, write, speak, and/or understand some English, but not proficiently. LEP status may be context-specific. An individual may have sufficient English language skills to communicate basic information (such as name, address, etc.), but may not have sufficient skills to communicate detailed information in English (e.g., medical information, eyewitness accounts, information elicited in an interrogation, etc.).

B. *Primary Source Language* - A language of the speaker which is interpreted into a second language. An individual's native tongue or the language in which an individual most effectively communicates.

C. *Interpretation* - The act of listening to a communication in one language (source language) and orally converting it to another language (target language) while retaining the same meaning.

D. *Translation* - The replacement of written text from one language (source language) into an equivalent written text in another language (target language).

E. *Bilingual* - Refers to the ability to use two languages proficiently.

F. *Bilingual Employee/Staff Interpreter and/or Translator* - Government of Guam staff employees with bilingual proficiency in source and target languages.

G. *LA Coordinator - Language Assistance Coordinator* is appointed by the head of an agency to oversee implementation and annual updates of the LEP/DHH plan.

H. *DHH - Deaf or Hard of Hearing*. A person who is disabled because of a hearing, communication, or speech disorder, or has difficulty in speaking or comprehending the English language, is unable to fully understand the proceedings in which the person is required to participate and thus is unable to obtain due process of law.

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II. POLICY STATEMENT.

This Language Access Plan (LAP) for Persons who are Limited English Proficiency (LEP) and/or Deaf or Hard of Hearing ("LEP/DHH Plan") was developed to provide timely, meaningful and equal access to programs, services, and/or information to persons who are limited English proficient (LEP) or Deaf and Hard of Hearing (DHH) in compliance with federal law.¹ The overarching goal is to ensure maximum communication between the Government of Guam Executive Branch and all members of our community with whom the Government interacts.

To the greatest extent practical, the Government of Guam will strive to meet the needs of LEP/DHH persons by ensuring the highest quality of language assistance and services.

Government employees will inform the public that language assistance services are available free of charge to LEP/DHH individuals by posting a sign in public areas similar in form to the copy attached as "Exhibit A." The LA Coordinator of each agency is tasked with monitoring the sufficiency of all signs to ensure maximum communication with the public.

All Government of Guam personnel shall coordinate language assistance services for individuals who are LEP/DHH through the LA Coordinator, who is authorized to activate interpreters and/or translators for this purpose.

III. BACKGROUND.

In an effort to promote the efficiency, accuracy, and integrity of Government services and to preserve constitutional and fundamental principles of fairness and access to services, the Government of Guam is committed to continuing to provide language access services to LEP/DHH persons who come in contact with the Government of Guam.

Language barriers can inhibit or prohibit individuals who are LEP/DHH from accessing and/or understanding and receiving meaningful access to programs, services and information.

Guam's population is 159,358 based on the 2010 U.S. Census of Population and Housing, and is the gateway to the United States from Asia and neighboring Pacific islands. Guam is a "melting pot" of cultures with two official recognized languages for conducting business: English and native Chamorro. Although English is the primary language in Guam, other languages spoken in Guam include Chamorro, various Filipino dialects (e.g., Tagalog, etc.), Korean, Japanese, Chinese, Chuukese, Kosraean, Pohnpeian, Yapese, Palauan, Vietnamese and sign. The most significant population increases in Guam

¹ Title VI of the Civil Rights Act of 1964; 45 C.F.R. § 80 et. seq.; and 28 C.F.R. § 42 et. seq.

reported by the U.S. Census Bureau is Carolinian, from 123 in 2000 to 242 in 2010, an increase of 96.7%; Yapese, from 686 in 2000 to 1,263 in 2010, an 84.1% increase; and Chuukese, from 6,229 in 2000 to 11,230 in 2010, an 80.3% increase.

In addition, Guam receives over 1.3 million tourists each year. According to the Guam Visitors Bureau, in FY2015, Guam welcomed 1,372,531 tourists, a 2.3% increase over 1,341,054 tourist arrivals in FY2014; and a 2.5% increase over 1,337,665 tourist arrivals in FY2013.

Guam has a limited population base and is geographically isolated, located about 8 hours by air from the island state of Hawaii, and about an additional 5 hours by air from Hawaii to the continental United States (West coast). Guam is located approximately 6,600 miles from San Diego, California. Therefore, interpreters and translators for certain languages may be unavailable or extremely limited on island. Compounding the geographic isolation is Guam's time zone. Guam falls under Chamorro Standard Time (ChST), which is typically a day ahead and the opposite time of day from the continental United States.

Whether a person is a resident of Guam or a temporary visitor, contact with the Government is inevitable. From the airport to the seaport, and at points in between, all Guam visitors and residents receive services from the Government. Some provide their own interpreters as an alternative to paid interpreters or bilingual Government employees. LEP/DHH persons occasionally rely on their children to interpret for them, and on occasion, may call upon neighbors or strangers to act as interpreters or translators. However, an untrained "interpreter" may be unable to understand the concepts or terminology he or she is being asked to interpret or translate. Thus, we must minimize these instances and, if necessary, rely on trained interpreters that may be retained by the Government of Guam, as well as provide training to all employees on the proper use of interpreters and bilingual staff. Trained interpreters are professionals who are procured and compensated, as is the case with interpreters registered and used by the Judiciary of Guam.

Federal law prohibits national origin discrimination and requires federally assisted law enforcement entities such as the Government of Guam to take reasonable steps to provide meaningful access to programs, services and information to individuals who are LEP/DHH. The Government of Guam's LEP/DHH Plan is consistent with Title VI of the Civil Rights Act of 1964, which states: *"No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."*

After a U.S. Supreme Court ruling in 1997, Congress redefined the Title VI Act that holds responsible the entire organization who is a recipient of federal funds if a discrimination complaint is filed, and not just the specific program under which the complaint was filed.

Title VI of the Civil Rights Act of 1964 prohibits:

- A. Providing different services to individuals as it relates to race, color, and national origin.
- B. Denying the opportunity to participate as a member of a planning or advisory body, ensuring adequate representation.
- C. Selecting the location of a facility with the purpose or effect of excluding individuals to avoid excluding individuals based on race, color, or national origin

IV. FOUR-FACTOR ANALYSIS.

The Office of Civil Rights (OCR) recommended a four-factor analysis be conducted to determine reasonable steps in implementing a LEP/DHH policy and plan. These factors are:

1. The number or proportion of LEP/DHH persons served or encountered in the eligible service population.
2. The frequency with which LEP/DHH persons come in contact with the program.
3. The nature and importance of the program, activity, or service provided by the program. (Rank activities or services based on level of importance; reasonableness.)
4. The resources available to the recipient.

V. PROCEDURES.

The following procedures are established to guide personnel in providing services to LEP/DHH persons:

A. Determining the Need for an Interpreter.

To the greatest extent possible, whether in person or over the telephone, Government of Guam employees should attempt to ascertain what language a LEP/DHH individual is speaking in order to provide adequate services. If an employee is unsure about the language being spoken, the supervisor or division head should be contacted. The supervisor or divisions head can coordinate with the LA Coordinator to obtain language assistance services as quickly as possible in order to effectively communicate with the individual.

In an emergency situation, employees who are unable to determine the language being spoken by a LEP/DHH person should refer the customer, client, and/or phone call to the LA Coordinator. If it is a phone call, the employee shall remain on the line until either a supervisor or division head or the LA Coordinator answers the call, whichever can be done in the shortest amount of time. Bilingual employees can also be contacted to assist.

B. Notice.

Signs will be posted in the various public areas of an agency to inform potential LEP/DHH persons that language assistance services can be made available in various languages. Posted signs should provide detailed information such as points of contacts in the agency, telephone numbers, website information, and how to acquire services. A sample form copy of a sign is attached as "Exhibit A." In addition, LEP/DHH information will be posted on the individual agency's website. Government employees will inform the public that language assistance services are available free of charge to LEP/DHH individuals. The LA Coordinator is tasked with monitoring the sufficiency of all signs to ensure maximum communication with the public.

C. Staff Training.

The LA Coordinator will work with the Department of Administration or appropriate Human Resources Division to provide training to key staff on how to properly identify LEP/DHH persons, differentiate various languages being spoken, understand cultural differences and issues, and deliver services to LEP/DHH persons. Training of staff will be periodic and documented by the LA Coordinator with copies to DOA or the appropriate Human Resources Division. As new employees are hired, information on the LEP/DHH Plan will be provided in their orientation.

Prospectively, the Government of Guam will explore recruitment opportunities of bilingual staff (e.g., bona fide qualifications) to maximize communication among employees and the public, especially for public service counters and information. The LA Coordinator will develop protocols and provide training to bilingual employees and will inform all employees of the availability and appropriateness of when bilingual employees can be contacted.

Bilingual assistance provided by bilingual employees who are fluent in the source language of a LEP/DHH person is informal and limited to providing basic information related to the particular services of a department or agency where the employee is assigned in order to better assist a LEP/DHH person to receive access to government services, procedures, and documents. There is no additional compensation for language assistance services provided by a bilingual employee.

VI. COMPLIANCE MONITORING AND UPDATING OF PLAN AND POLICY.

The LA Coordinator for each Government of Guam agency, in conjunction with the Department of Administration or applicable agency Human Resources Division, will review and update this plan annually on a calendar year basis and make recommendations for improvements based on the review. The evaluation should include problem areas or gaps in services, and a corrective action plan to address and resolve those problem areas. Evaluation criteria may include, among other data:

- assessing the number of LEP/DHH persons requesting interpreter services from the particular Government of Guam agency;
- Assessing current language needs to determine if additional services and/or translated materials should be provided (e.g., agency forms, informational brochures, etc.); and
- Assessing the knowledge agency employees possess of LEP/DHH policies and how to provide language assistance services to LEP/DHH persons.

The director or head of an agency is responsible for implementing this LEP/DHH Plan and ensuring that annual updates occur. The LA Coordinator is responsible for drafting annual updates to the LEP/DHH Plan, analyzing data and trends, ensuring brochures and signs are translated, mitigating problems, training personnel on procedures, and making adjustments to procedures as needed in consultation with the director or head of an agency. Any agency-specific modifications, revisions or updates to this plan will be posted on the particular Government of Guam's agency website.

Additional LEP resources can be found at www.lep.gov, a federal interagency website.

EXHIBIT A

Government of Guam Notice to Individuals with Limited English Proficiency

Welcome to the Government of Guam
Please inform us if you require language assistance services.
We will make every attempt to locate an interpreter to assist you.

For further assistance, please call this number: _____. Thank you.

CHAMORRO

Saludu para I fanatto-mu guini gi gobietnu Guåhan.
Put fabot, na'tungo'ham yanggen un nisisita ayuda gi trinanslâdan lengguåhi.
Bai in espiha empeñu na u guaha entetpeti para u inasiste hao.
Para mãs na ayudu, ågang ham put fabot gi: _____. Si Yu'os ma'ásé

TAGALOG

Maligayang dating sa sangay ng pamahalaan ng Guam.
Ipagbigay alam lamang kung kayo ay nangangailangan ng tulong ng tagapagsalin.
Sisikapin naming maghanap ng tagapagsalin para tumulong sa inyo.
Maari lamang tawagan ang _____ kung kina kailangan. Salamatpo.

CHUUKESÉ

Ran annim. Kose mochen kpwe afata kich ika pwe en
mei osupwangen weweiti fosun Merika.
Kich sipwe achocho kutta emon chon Chiakuu epwe enisuuk.
Ka tongeni kokori ei nampa: _____. Kinosou chapur.

CHINESE (Simplified)

欢迎。如果你需要语言协助服务请通知我们。
我们将尽一切努力找到一个翻译来帮助你。

如需进一步帮助，请拨打此号码 _____. 谢谢。

KOREAN

환영. 당신이 언어 지원 서비스를 필요로 하는 경우 우리에게 알려 주시기 바랍니다.
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추가 지원, 전화: _____. 고맙습니다.