

**The Commonwealth of Massachusetts
Department of Housing and Community Development
Language Access Plan**

I. Introduction

The Massachusetts Department of Housing and Community is committed to ensuring equal access to its programs and services by all residents, regardless of primary language spoken or English proficiency. Title VI and Executive Order 13166 require recipients of federal financial assistance to take reasonable steps to ensure meaningful access to their programs and services by persons with Limited English Proficiency (LEP). Persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English can be considered LEP persons with LEP. On January 22, 2007, the U.S. Department of Housing and Urban Development (HUD) issued Final Guidance to recipients of HUD funding concerning compliance with the Title VI prohibition against national origin discrimination affecting persons with LEP.

DHCD has prepared this Language Access Plan (LAP), which defines the actions to be taken by DHCD and its subcontracting agencies, hereinafter referred to as “administering entities,” to ensure Title VI compliance with respect to persons with LEP.¹ DHCD will periodically review and update this LAP in order to ensure continued responsiveness to community needs and compliance with Title VI.

II. Background

Broadening access for persons with limited English proficiency (LEP) is a general Fair Housing principle that must permeate all policies and decision-making of the state funding agencies. In addition to the mandate to affirmatively further Fair Housing, Title VI of the Civil Rights Act of 1964 imposes legal obligations on the Commonwealth with respect to LEP. Title VI prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. The definition of “Program or activity” includes “a department, agency, special purpose district, or other instrumentality of a State or of a local government...or the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended”. As recipients of federal financial assistance, DHCD as a whole, as well as other entities of state and local governments, are covered by Title VI. Title VI also applies to organizations, corporations, partnerships, and sole proprietorships primarily in the business of providing housing. The following is a listing of responsible entities pursuant to HUD’s Final Guidance:

- State and local governments;
- Public housing agencies;

¹ This Appendix is similar to the July 2009 LAP that was created for DHCD’s Section 8/Housing Choice Voucher (HCV) program.

- Assisted housing providers, Fair Housing assistance programs; and
- Other entities receiving funds directly or indirectly from HUD.

Subrecipients and state grant recipients are also subject to HUD’s Final Guidance when HUD funds are passed to them through the grantee.

HUD’s Final Guidance posits a four-part test for evaluating compliance:

- 1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
- 2) The frequency with which LEP persons come in contact with the program;
- 3) The nature and importance of the program, activity, or service provided by the program, or the greater the possible consequences of the contact to the LEP persons; and
- 4) The resources available to the grantee/recipient and costs.

III. Role of DHCD and Entities Administering DHCD Programs

DHCD is comprised of the following four divisions which administer various state and federally funded programs:

- Division of Public Housing and Rental Assistance
- Division of Housing Development
- Division of Community Services
- Division of Housing Stabilization

The following is a listing of the primary entities administering DHCD programs:

- Regional Non-Profits/Administering Agencies (RAAs) administering federal and state rental assistance
- Housing Consumer Education Centers
- Local Housing Authorities administering state-aided public housing and state rental assistance
- Community Action Agencies administering LIHEAP and other Community Services division programs
- Sponsors/developers or borrowers and their management companies providing private housing with public subsidy administered through the state (including by the quasi-public agencies MassHousing, Massachusetts Housing Partnership, and MassDevelopment)
- Emergency Assistance Regional Networks offices

Due to the broad scope of DHCD program administration through a variety of public, non-profit, and private entities with varying resources, responsibilities, and staff capacities, DHCD will not attempt to create a detailed, “one-size fits all” LAP. Instead, DHCD’s LAP Guidance provided in the Appendix of this document is intended to direct DHCD program administering entities to create their own LAPs, and to provide further instruction to assist the creation of such LAPs.

DHCD will continue its efforts to translate DHCD program documents over time and will provide technical assistance to administering entities in carrying out DHCD programs in compliance with LEP requirements. As necessary, DHCD will issue new guidance and/or regulations relating to its programs in order to ensure effective implementation of LAPs.

IV. Identifying LEP Individuals Who Need Language Assistance

Massachusetts is a highly diverse state in which numerous LEP households reside. According to data from the U.S. Census performed in 2000, 18.7% of all residents over the age of eighteen speak a language other than English, and of those residents, 21% speak English “not well” or “not at all.” Using available census data as a guideline, DHCD has estimated the LEP population (and what languages they speak) across counties based on the percentage of non-English speakers that indicated that they speak English “Not Well” or “Not at All.” Although HUD’s Final Guidance states that the safe harbor guidelines need only apply to the eligible population, and DHCD primarily covers incomes at 80% of the area median income and below, such data is not readily available from U.S. Census datasets. Thus, the estimates provided are likely overestimates of the eligible populations and may under-represent the share of some eligible populations. DHCD has petitioned the U.S. Census Bureau to make a more accurate dataset available, and will update the LAP if and when this dataset becomes available.

The most frequently spoken languages according to U.S. Census data among the LEP population in the Commonwealth are Spanish, French Creole, Italian, Portuguese, Russian, Chinese², Mon-Khmer (Cambodian), and Vietnamese. A summary of these groups can be seen below in Table 1, and Table 2 provides detailed information on these populations by county. These populations appear to fall within the “Safe Harbor” guidelines as defined by HUD’s Final Guidance on Limited English Proficiency issues. Conforming to “Safe Harbor” guidelines is meant to provide strong evidence to HUD that DHCD has made reasonable efforts to provide appropriate written language assistance to its LEP populations in its programs. The “Safe Harbor” guidelines are defined below.

² Note that the 2000 U.S. Census does not distinguish by Chinese language types.

HUD Safe Harbor Guidelines	
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 and more than 50 in number.	Translated vital documents.
More than 5% of the eligible population or beneficiaries and 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.

Table 1: Massachusetts LEP populations as a Percentage of Total State Populations		
Population	Number	Percentage (out of total MA population)
Population 18 years and over	4,853,130	100.00%
Speak only English	3,944,715	81.28%
Speak a language other than English	908,415	18.72%
Total MA LEP Population (people who speak English "Not Well" or "Not at All")	193,785	3.99%
Spanish or Spanish Creole	71,895	1.48%
French Creole	6,810	0.14%
Italian	6,525	0.13%
Portuguese or Portuguese Creole	39,620	0.82%
Russian	8,990	0.19%
Chinese	18,050	0.37%
Mon-Khmer, Cambodian	5,125	0.11%
Vietnamese	8,990	0.19%

Table 2: Detailed LEP Population data at the State and RAA Level (2000 Census)		Population 18 years and over	Speak only English	Speak a language other than English	Spanish or Spanish Creole	French Creole	Italian	Portuguese or Portuguese Creole	Russian	Chinese	Mon-Khmer, Cambodian	Vietnamese
Massachusetts	Number	4,853,130	3,944,715	908,415	270,460	31,845	56,195	134,960	27,575	60,150	13,830	23,465
	Percentage	100.00%	81.28%	18.72%	5.57%	0.66%	1.16%	2.78%	0.57%	1.24%	0.28%	0.48%
Massachusetts Speak English "Not Well" or "Not at All"				193,785	71,895	6,810	6,525	39,620	8,990	18,050	5,125	8,990
% of Language speakers who speak English "Not Well" or "Not at All"				21.33%	26.58%	21.38%	11.61%	29.36%	32.60%	30.01%	37.06%	38.31%
	Number	104,639	97,607	7,032	1,513	13	945	129	95	188	9	98
<i>Determined by Using Berkshire County Data.</i>	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				402	3	110	38	31	56	3	38
	Number	1,137,441	902,289	235,152	45,601	7,767	20,325	30,858	8,445	21,800	6,879	4,716
<i>Determined by using Middlesex County Data.</i>	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				12,122	1,661	2,360	9,059	2,753	6,542	2,549	1,807
<i>Determined by Using Barnstable, Dukes, and Nantucket County Data.</i>												
	Number	227,259	205,232	22,027	5,479	93	1,232	482	517	1,341	286	321
	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				1,456	20	143	142	169	402	106	123
<i>Determined by using Franklin, Hampden and Hampshire County Data.</i>												
	Number	460,414	373,791	86,623	42,197	241	3,746	5,709	3,620	2,096	589	1,717
	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				11,217	52	435	1,676	1,180	629	218	658
<i>Determined by using Suffolk County Data.</i>												
	Number	551,223	372,991	178,232	71,090	14,420	10,194	11,661	5,947	15,524	1,348	8,653
	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				18,897	3,084	1,184	3,423	1,939	4,658	500	3,315

		Population 18 years and over	Speak only English	Speak a language other than English	Spanish or Spanish Creole	French Creole	Italian	Portuguese or Portuguese Creole	Russian	Chinese	Mon-Khmer, Cambodian	Vietnamese
RCAP Solutions	Number	558,886	474,518	84,368	30,619	309	3,593	4,557	1,199	2,481	355	3,756
<i>Determined by Using Worcester County Data.</i>	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				8,139	66	417	1,338	391	745	132	1,439
	Number	1,137,441	902,289	235,152	45,601	7,767	20,325	30,858	8,445	21,800	6,879	4,716
<i>Determined by using Middlesex County Data.</i>	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				12,122	1,661	2,360	9,059	2,753	6,542	2,549	1,807
	Number	749,883	625,522	124,361	18,636	5,539	3,084	67,966	239	1,598	1,378	913
<i>Determined by using Bristol and Plymouth County Data.</i>	Estimate of Language Speakers who speak English "Not Well" or "Not at All"				4,954	1,185	358	19,953	78	480	511	350

 **Populations which meet the Safe Harbor Threshold at the Estimate of Language Speakers who Speak English “Not Well” or “Not at All”**

Additional LEP Population Identification Methods:

As some of DHCD's administering entities have regional service areas that cover more than one county, one method for adequately estimating LEP populations by service area is to rely on the county with the highest LEP population. Such a method has been used for DHCD's Section 8 Housing Choice Voucher (HCV) program.

Furthermore, administering entities are advised (see Appendix) to make further efforts to collect information i.e., through program applications, rent re-certification, and surveys, to determine the language groups that they are most likely to be encounter, by service area, and that may require language assistance. For example, DHCD is now requiring under its Section 8 HCV program that each regional administering entity (RAA) ask applicants and residents to identify their primary language and language communication needs upon selection from the waitlist (for new applicants) and at recertification (for existing residents).

DHCD and other state agencies have also engaged in survey methods to determine LEP needs by service and regional areas. DHCD has engaged in more preliminary and informal surveying of administering entities such as the Regional Administering Agencies (RAAs), Community Action Agencies, and Housing Consumer Education Centers. The Massachusetts Office of Refugees and Immigrants (ORI) also conducted a language access evaluation for the Department of Transitional Assistance (DTA), which includes a useful DTA identification of top language needs by regional area.

V. Types of Assistance Needed/Language Assistance Methods

Contacts between DHCD or its administering entities and persons with LEP are primarily phone calls, meetings, and written communications where information is exchanged. Examples include interactions by applicants with administering entity staff during the application process leading up to program participation, as well as periodic contacts and notices related to initial program eligibility, continuing eligibility, and termination from the program. Oral interpretation services may be needed for these contacts, and must be provided for these interactions depending on the nature and importance of the information being provided, as well as the availability of resources. Other contacts involve the exchange and review of printed materials, some of which must be translated because they are considered "vital documents" as discussed further below. A listing of the types of DHCD program documents that may be considered vital documents include, but are not limited to, the following:

- Application materials
- Release, consent, verification, and other materials necessary for eligibility determinations
- Notices concerning program eligibility, program rules, compliance or violation of program requirements, as well as notices of ineligibility and termination
- Applicant or participant request forms (i.e., transfer requests or requests for reasonable accommodations)
- Lease materials

- Other compulsory program materials
- Grievance and appeal materials

The majority of contacts with persons with LEP concerning DHCD programs occur directly through the administering entities rather than with DHCD program staff. The Appendix of this document is intended to provide guidance to the administering entities in planning for and responding to the communication needs of diverse LEP populations. DHCD will also actively pursue broadening LEP access to its programs, including in the key areas described below.

A. Inventorying Vital Documents for Translation

DHCD has engaged in the process of inventorying vital DHCD program documents across all of its divisions. HUD regards vital documents as “any document that is critical for ensuring meaningful access to the recipients’ major activities and programs by beneficiaries generally and LEP persons specifically.” DHCD will periodically review and update this inventory to reflect the documents that are vital to program applicants and participants.

B. Identifying Languages and Planning for Translation

Due to the significant costs involved, the translation of vital documents into numerous identified languages will require a multi-year process. Furthermore, due to the limitations of Census data (see section IV above) in identifying the appropriate languages for translation, DHCD divisions will make efforts over the next year in further identifying languages frequently encountered through its programs. DHCD will also continue its efforts in translating its program documents, with an initial focus on Spanish translations in order to accommodate the largest identified LEP population in Massachusetts, and then by two other languages identified by the divisions with a goal of translation in FY 2010 and additional languages in FY 2011 and thereafter, subject to future planning updates. DHCD will post translated documents on its website and will notify administering entities as relevant DHCD documents have been translated. DHCD’s website also currently includes the Google Translate tool and an accompanying disclaimer. Said tool includes language translation options of website content that may be helpful to some users in learning about DHCD and its programs; however, DHCD makes no representations, expressed or implied, as to the accuracy and/or completeness of such translated material.

C. Utilizing Interpreter Services and Identifying Further Resources

DHCD will utilize bilingual staff resources as well as services which demonstrate a high degree of training and professionalism, including vendor services that have been approved by the Commonwealth, in order to accommodate necessary and direct communications between DHCD staff and persons with LEP. DHCD staff protocols will be used to instruct DHCD staff on the use of agency staff (as identified) for interpretation and translation assistance, as well as the use of over-the-phone interpretation services, in-person interpretation services, and translation services. Said protocols include guidance on requesting and utilizing new or existing contracts with professional interpreters and translators approved as vendors by the Commonwealth. Additional protocols are outlined in the Appendix.

Procedures for utilizing and prioritizing interpreter services are further explained in the Guidance below (see Appendix). DHCD will also work with administering entities to identify community groups, non-profits, and other organizations that may serve as a cost-effective resource for such entities when necessary and appropriate for their communication with persons with LEP.

D. Notice

DHCD will make key phrases, translated in various languages, available for inclusion in notices and/or documents not yet translated to notify persons with LEP of important and legal documents and of access to free language assistance. A notice translated in various languages will also be posted at DHCD regarding language identification upon walk-ins (via I-Speak Cards) for purposes of free language assistance.

VI. LEP Coordination and Complaint Procedures

Given the extent and variation of DHCD programs and populations served, LEP coordination will occur at the DHCD Division level. Within each division, a lead staff person will coordinate LEP efforts for that division, including identifying and responding to language assistance needs and complaints. DHCD's Legal division will assist DHCD division staff as needed and will provide staff trainings regarding language access obligations, protocols, and complaint resolution, including on an ongoing basis to address new staff. Complaints may also be filed with the Commonwealth's Office of Access and Opportunity. In the event that a complaint cannot be resolved by DHCD, the Office of Access and Opportunity will seek to resolve the complaint as appropriate.³

VII. Monitoring

DHCD will continually assess and update its LAP as needed, including upon additional identification of languages and types of vital documents that require translation, as well as necessary modifications resulting from stakeholder consultations or changes in statutory and/or administrative requirements.

DHCD also plans to seek certifications and may engage in periodic quality control reviews to ensure that its administering entities are appropriately creating and implementing LAPs as discussed in the Appendix.

VIII. Stakeholder Consultations

DHCD consulted stakeholders, including fair housing advocates, in the creation of this LAP. With respect to ongoing implementation of this LAP, DHCD will consult and engage stakeholders such as the quasi-public housing agencies and advocacy and community-based organizations that assist persons with LEP, as well as public housing, private housing, community service, and emergency assistance stakeholders.

³ See Administrative Bulletin #16 by the Executive Office for Administration and Finance (ANF).

APPENDIX

DHCD LAP GUIDANCE TO PROGRAM ADMINISTERING ENTITIES

Administering Entity Adoption of a Language Assistance Plan (LAP):

Each DHCD program administering entity (“administering entity”) is required to create a LAP as a minimum standard for addressing the needs of their LEP populations. Such entities must create and implement their LAPs in a manner that responds to the specific needs of the eligible LEP populations they serve. As DHCD is a recipient of federal assistance and is therefore subject to HUD’s Final Guidance, DHCD is requiring that all entities comply with HUD’s Final Guidance while administering DHCD programs. It is important to note that many of such entities are also recipients of federal assistance, and as such will have independent obligations to comply with HUD’s Final Guidance.

DHCD’s guidance herein is intended to provide further instruction, and not to substitute or minimize HUD requirements.

As indicated above, the HUD’s Final Guidance establishes a four-part test for evaluating compliance:

- 1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
- 2) The frequency with which LEP persons come in contact with the program;
- 3) The nature and importance of the program, activity, or service provided by the program, or the greater the possible consequences of the contact to the LEP persons; and
- 4) The resources available to the grantee/recipient and costs.

All administering entities must engage in HUD’s four-part analysis, and must document such analysis. Elements of the above-cited components of the test are incorporated into the guidance provided below.

A. Identifying Programmatic Contact with LEP Persons

- *Identifying LEP populations* through use of U.S. Census data (see section IV above)
- *Identifying Frequency of Program Contact with LEP Populations by Service Area:* due to the fact that available U.S. Census data may not adequately measure current LEP needs in the administering entity service areas, administering entities are strongly encouraged to undertake additional measures for identifying LEP populations in their service areas.
 - *Collecting information from applicants and current program participants:* administering entities may elect to ask applicants to identify their primary language and whether they are of limited English proficiency upon program application, as well as upon programmatic updating of household information (i.e. at recertification for existing residents). In making such inquiries, the purpose and use of the information should be clear. Furthermore, households must be

informed that disclosure of such information is optional and that it will be kept confidential. The data may not be publicly disclosed in a manner that identifies particular households and may only be provided in aggregate form.

- *Surveying other organizations in the administering entity's service area:* administering entities may also find it helpful to survey other local or regional organizations, particularly those that primarily serve LEP and lower-income populations, to determine the likely frequency in which there will be contact with different LEP populations.

B. Establishing Staff Protocols for Communication with LEP Persons

Administering entities must create written protocols and procedures for the agency and specifically for front line staff most likely to encounter LEP persons. The protocols must address potential communications by phone, in-person, and in writing. Such protocols should include instruction on:

- Use of *I Speak* cards. In order to help identify LEP individuals and determine the appropriate language assistance, each administering entity must post and make available "I Speak Cards" at their offices (see HUD's website for the cards and other translated documents at <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm>). These cards should be prominently displayed in the reception area, with an explanatory sign in easily understood terminology, translated at least in the languages identified by the Safe Harbor guidance and languages of persons with LEP that the administering entity anticipates will have programmatic contact. Applicants and program participants can use these cards to indicate their primary language. Administering entity staff should then make appropriate arrangements for interpretation services, generally using a bilingual staff person, a qualified third party interpreter identified by the applicant/participant or administering entity, or, on a limited basis, a telephone interpretation service. In the instance that an LEP individual is unable to make use of "I Speak Cards" because of illiteracy or disability, administering entity staff must make reasonable efforts to ascertain interpretation needs and provide interpretation services in an alternative manner.
- Procedures for documenting the date and time of requests for interpreter or translation services, as well as the language and nature of the interpreter or translation services needed. Such procedures must be designed to preserve or toll timing-related rights until the appropriate services are provided.
- When/how to request interpretation or translation services from in-house bilingual staff
- When/how to request free interpreter or translation services by language type, i.e. from non-profit agencies that provide such services
- When/how to request, schedule, and use fee charging telephonic interpreter services
- When/how to request, schedule, and use fee charging in-person interpreter services
- When/how to request fee charging translation services

To assist staff in complying with protocols, administering entities are strongly encouraged to designate an LEP coordinator.

C. Providing Notice to LEP Persons

To ensure that LEP persons are aware of the language services available to them, the following actions should be taken:

- *Post I Speak cards*: see section B above
- *Partner with community agencies*: Each administering entity should contact local or regional community agencies who work with LEP persons to: a) inform them of HUD and DHCD program requirements regarding language services to LEP persons; and, b) solicit their assistance and cooperation in providing the necessary notification and assistance to LEP persons.
- *Incorporate multi-lingual messages into program outreach documents*: administering entities should use standard messages in outreach materials and notices, including how an LEP person may request interpreter services, in Spanish, Portuguese, Russian, French Creole, Italian, Chinese, Vietnamese, Cambodian, and other languages identified as necessary in the administering entity's LAP.
- *Notices of Oral Interpretation Services*: Each administering entity must prominently post at its central office and on its website multi-lingual notices of the right to request free oral interpretation services. Each administering entity must be able to identify: competently bilingual staff that can provide interpretation; qualified third party interpreters (i.e. multicultural social service organizations); and, telephone and in-person interpretation services for when such services are necessary to communicate with LEP individuals.

D. Language Assistance: Oral Interpretation and Written Translation

- *Determining the Importance of the Program/Activity/Service*: administering entities must clearly identify for program staff the oral and written communication aspects of its programs, activities, and services that if not interpreted and/or translated, would effectively deny or delay meaningful access to such programs, activities, and services. Examples include contacts during the application process leading up to program participation, as well as contacts relating to continuing program eligibility and program termination.
- *Assessing Available Resources*: Administering entities must continually assess resources that are available for reasonably ensuring that LEP persons have meaningful program access. DHCD recognizes that many administering entities will find that their available financial resources are insufficient to fully provide such access at this time, or that the costs imposed would substantially exceed the benefits. Therefore, administering entities must determine methods for utilizing alternative resources, and prioritize the use of their available financial resources for situations where alternative resources are not available or are insufficient. For example, DHCD encourages administering entities to make use of staff

resources and to establish a network of volunteers, including with like or partner agencies, to assist in situations where interpretation or translation is needed.

I. Oral Interpretation

LEP individuals must be informed that the administering entity will provide them with free access to oral interpretation services via bilingual administering entity staff or qualified, trained organizations or contractors as needed. Oral interpretation must be provided in a timely manner (must not effectively deny or cause an undue burden or delay relating to important services, benefits, or rights) and must only be provided by competent interpreters. See HUD's Final Guidance for further discussion on interpreter competency and appropriate use of interpreters.

Oral Interpretation – Staff: Where feasible, administering entity should use bilingual staff to communicate with LEP individuals in their primary languages, including assisting such individuals with understanding program materials and filling out forms, answering questions about the program, and responding to submission of materials and information requests. At the present time, many administering entities employ bilingual staff members. For example, languages spoken by the Regional Administering Agency (Section 8) employees include Spanish, Russian, French, Greek, Italian, Portuguese, Khmer, French Creole (Haitian and Cape Verdean), Mandarin, Vietnamese, Khmer (Cambodian), Yorula (Nigerian) and Laos. Administering entities are encouraged to consider the language needs of their populations during the staff recruitment process and when making hiring decisions, and may include the ability to speak a language other than English among their hiring priorities. While multilingual staff members are a valuable resource, DHCD also encourages administering entities to be mindful of creating a burden on staff members who volunteer for interpreting services.

- *Oral Interpretation—Non-Profit Assistance:* Where feasible, the administering entities should make an effort to partner with non-profits and community groups which can provide competent oral interpretation services to community members. Some administering entities have already developed these partnerships with local organizations, such as the Vietnamese Civic Association, the Cambodian Mutual Assistance Center, the Somali Development Center, the Office for New Bostonians and others. The Massachusetts Department of Mental Health (DMH) has created a *Multicultural Populations Resource Directory* (updated online as of September 2008), which provides information on many organizations across the state that serve populations in other languages.
- *Oral Interpretation – Telephone Support:* Subject to budgetary constraints and service availability, administering entities must utilize the services of a professional telephone interpretation services in limited instances where there are no viable alternatives (i.e. bilingual staff, non-profit assistance). When these contacts involve review of program forms and procedures, the administering entity should schedule the call so that the telephone translator has the opportunity to first review the relevant form or procedure. Administering entities must only utilize interpretation services which demonstrate a high degree of training and professionalism among the interpreter staff. Administering entities

must train staff on how to access this service, and the service must be made available as needed for any LEP applicant or participant, subject to funding constraints.

- *Oral Interpretation – In-Person Assistance:* In limited instances where in-person assistance is necessary to ensure meaningful access and bilingual administering entity staff is determined to be insufficient, the administering entity must provide qualified in-person interpretation services at no cost to the LEP individual either through local community organizations or through contracts with qualified and trained interpretations services. Examples of contacts where in-person, professional assistance is likely to be required include termination and eviction hearings due to the significance of these interactions. However, in consideration of balancing costs with maximum delivery of program benefits, DHCD and its administering entities should generally strive to rely on the assistance of bilingual staff members or the assistance of non-profit organizations, and where appropriate, the use of telephone assistance. If the LEP person does not wish to use the free interpretation services provided by the administering entity, the LEP person may provide their own qualified interpreters at their own expense; however, see below regarding use of family and friends as interpreters.
- *Oral Interpretation – Use of Other Interpreters:* If the LEP individual requests his/her own qualified, trained interpreter, this must be allowed even though at the individual's own expense. Administering entity use of family members and friends, especially minor children, as interpreters will generally be discouraged. Children under the age of fourteen should generally not be allowed to provide interpretation. Exceptions may be made where the contact with the LEP person is of a routine nature, one that does not involve confidential matters, or significant/complex matters impacting the applicant or resident's eligibility status, payments, or program compliance issues. Staff should be advised to be alert to the potential for any conflict of interest or competency issues that may arise from the involvement of family or friends, such as in domestic violence situations. If administering entity staff have questions about the appropriateness of allowing family and friends as interpreters, they should consult with the administering entity LEP coordinator or DHCD for guidance.

II. Written Translation

Administering entities must translate documents that are vital to meaningful program access. As stated above, HUD regards vital documents as “any document that is critical for ensuring meaningful access to the recipients’ major activities and programs by beneficiaries generally and LEP persons specifically.” Meaningful program access generally requires awareness of, and ability to participate in, procedures for applying to the program, for meeting the requirements of the program, and for enjoying the benefits of the program. Meaningful program access also requires awareness of rights and services; otherwise, LEP persons may effectively be denied such access. HUD’s Final Guidance specifies the following as a “safe harbor” for written translations discussed above.

Written or “vital documents” could include:

- Consent and complaint forms;
- Intake forms with the potential for important consequences;
- Written notices of rights, denial, loss, or decreases in benefits or services, and other hearings;
- Notice of eviction;
- Notices advising LEP persons of free language assistance;
- Notices of public hearings, especially those that meet Community Planning and Development's citizen participation requirements;
- Leases and tenant rules; and/or
- Applications to participate in a recipient's program or activity or to receive recipient benefits or services.

“Vital documents” under DHCD programs may include: notices concerning program eligibility, compliance or violation of program requirements as well as notices of termination and ineligibility; verification materials; request forms; and appeal notices and decisions.

- *Translation Services*: administering entities must only utilize translation services with staff that demonstrate a high degree of training and professionalism.
- *Non-Vital or Non-translated Written documents*: For documents not considered “vital documents” or not immediately translated, a notice must be placed on the document which states in Spanish, Portuguese, Russian, French Creole, Chinese, Italian, Vietnamese, Cambodian, and other languages identified under the administering entity's LAP, “This is an important document. Please contact [administering entity and telephone number/address] for free language assistance.” The administering entity must be prepared to reasonably provide oral interpretation or translation services to assist LEP persons in understanding non-vital documents or vital documents yet to be translated.
- *Legal documents*: In the case of legally binding documents such as a lease, although a translated copy of the document should be provided, the English version of the document is the one that is legally binding and considered the official document. The translated document is to be used as a reference tool only. A brief statement should be included on these documents in the language which the document has been translated into which states “This document is for informational purposes only. The English version of this document is considered the legally binding document.”
- *DHCD Translation of Written documents*: For DHCD program documents, including those that are highly individualized (such as ineligibility, termination or appeal notices), DHCD will, to the extent feasible, translate templates of these documents and will share them with applicable administering entities as they become available. Portions of the document specific to the individual circumstance will be translated as needed by the administering entity.
- *Written documents -- Online Access*: As appropriate and as needed, DHCD will make available translated documents online.

E. Timing Related Rights

An LEP person must in no way be penalized or denied meaningful and effective access because of an administering entity's inability to provide timely translation or interpretation services. This would include "stopping the clock" during the application or appeal process to allow time for translation and/or interpretation.

F. Staff Training and Coordination

- *Dissemination of the LAP*: administering entities must ensure that its LAP is disseminated to relevant program staff.
- *Staff Training*: administering entities must ensure that its relevant staff are trained on their responsibilities in regards to the LAP. Training should also be tailored for frontline staff who are likely to have initial contact with LEP populations and who will be responsible for implementing the protocols described above.
- *Quality Control*: Administering entities should conduct periodic quality control reviews to ensure that staff are implementing the LAP appropriately. DHCD may also engage in periodic quality control reviews to ensure that the LAP is being appropriately implemented.

G. Monitoring and updating the Language Access Plan

Each year, administering entities should review and update its LAP, if needed. The review should assess:

- Whether there have been any significant changes in the composition or language needs of the program population served by the administering entity (this should be determined on an annual basis primarily by the data collected by the administering entity and supplemented on a decennial basis by data from the U.S. Census);
- A review to determine if additional vital documents require translation;
- A review of any issues or problems related to serving LEP persons which may have emerged during the past year; and,
- Identification of any recommended actions to provide more responsive and effective language services (for example, adding documents to be translated, creating or expanding partnerships with community organizations, or changing staffing priorities).

H. Certification to DHCD

All administering entities must certify to DHCD that they have created and are implementing a LAP tailored to the DHCD programs it administers and the LEP populations that it serves. DHCD will incorporate certification requirements into its grant awards and funding renewal processes.