



## PROGRAM LETTER 04-2

TO: All LSC Program Directors

FROM: Helaine M. Barnett, President

DATE: December 6, 2004

RE: Services to Client Eligible Individuals with Limited English Proficiency

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Helaine M. Barnett

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The purpose of this Program Letter is to provide a context and guidance for LSC programs with eligible individuals in their service area who are persons with limited English proficiency (LEP). This Program Letter aims to ensure access to justice for communities of potentially eligible clients who do not speak English proficiently.

If an LSC funded program has undertaken all the activities described in this Program Letter and the attached *Guidance to LSC Programs (Guidance)*, it is likely providing appropriate access to justice for eligible LEP residents in its service area. However, a program that has not considered and, if necessary, adjusted its delivery system to respond to the special needs of these eligible individuals, should do so consistent with this program letter and *Guidance*. Moreover, even programs that have established effective LEP initiatives should review them regularly (consistent with this Program Letter and *Guidance*) to ensure that they continue to be appropriate for the LEP communities the program serves. LSC anticipates that other Program Letters on the provision of services to eligible individuals including applicants for service and program clients with limited English proficiency will be issued over time as we learn better and more effective ways to reach and respond to the needs of these eligible individuals.

### ***Background***

Far more immigrant and first generation American client eligible individuals live in virtually every LSC program service area than ever before. This is true even in communities that historically did not contain immigrant and refugee populations. Based on the 2000 Census, the 21 million people with limited English proficiency represent more than eight percent of the total U.S. population. Given this demographic profile, it often falls to legal services programs to help immigrants with limited English proficiency protect and assert their most fundamental rights.

As part of their legal obligation to refrain from national origin discrimination, LSC programs must ensure that they are providing appropriate service to persons with limited English proficiency. *See* LSC Grant Assurance 7<sup>1</sup>; *see also* section 1006(b)(6) of the LSC Act.<sup>2</sup>

To determine how programs should address their need to provide high quality, efficient and effective legal services to eligible individuals with limited English proficiency, LSC published two requests in the *Federal Register* for suggestions and information on the best approaches for LSC programs to adopt. Additionally, LSC convened an advisory group of LSC funded programs and other legal services providers who had addressed, or were in the process of developing, LEP strategies for their organizations. This Program Letter and *Guidance* were developed in consideration of the responses to the publications in the *Federal Register*, the expertise of the advisory group, and comments from the field to two circulations of draft Program Letters on the topic. LSC relied on this input to determine the parameters of a delivery system that it believes is likely to provide appropriate access to services for persons with limited English proficiency.

LSC expects that programs will consider, pursue and act upon this Program Letter and *Guidance* over the next twelve months. This will help eligible individuals who may have legal needs and will enable programs to more adequately carry out their mission of providing high quality civil legal services to those who would otherwise do without. LSC has posted examples of LEP policy and practices at [www.lri.lsc.gov](http://www.lri.lsc.gov), and will add to that resource as programs provide LSC with information about the work they have undertaken in this important area of service. Communication with programs on successes and challenges they experience in serving eligible individuals with limited English proficiency will inform further Program Letters from LSC on this subject.

### ***Summary of Guidance for LSC Funded Programs:***

#### ***1. Identifying Individuals with Limited English Proficiency***

To begin addressing the needs of eligible individuals with limited English proficiency, programs should consider how they will define this universe of clients

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<sup>1</sup> Assurance number 7 of the Grant Assurances for 2004 provides that the program “will not discriminate on the basis of race, color, religion, gender, age, disability, national origin, sexual orientation, or any other basis prohibited by law against: (1) any person applying for employment or employed by the Applicant; or (2) any person seeking or provided assistance from the Applicant or other program(s) supported in whole or in part by this grant.”

<sup>2</sup> Section 1006(b)(6) of the LSC Act provides that “In areas where significant numbers of eligible clients speak a language other than English as their principal language, the Corporation shall, to the extent feasible, provide that their principal language is used in the provision of legal assistance to such clients under this title.” 42 U.S.C. §2996(e) (2004).

and potential clients, and then consider the methods available for identifying whether a particular individual falls within the LEP definition.

## ***2. Context for Examining LEP Concerns***

As part of its efforts to assess and adopt any appropriate and necessary programmatic changes and so that its staff can adequately serve LEP clients, LSC suggests that LSC programs examine their responses to LEP issues in the following contexts:

- Assessing client needs and program resources in their service area;
- Creating program policy that reflects these needs and resources and provides for training of program staff and the implementation of the program policy; and
- Approaching LEP strategy and implementation in the context of a statewide effort.

## ***3. Elements of a Written LEP Policy***

A program should have a written LEP policy which should include the following elements:

- Assessment of Language Needs – Development of a mechanism for determining when an individual has limited proficiency in English, the preferred language of the individual and the individual’s need for an interpreter.
- Staff - Plans for recruiting and hiring bilingual staff for major language groups in the program’s service area or for training existing staff to speak or interpret for individuals who speak those major languages.
- Training - Plans for orientation and regular training of all staff who interact with eligible individuals on the program’s LEP policy, on how best to access language services, on how to respond appropriately to LEP individuals and on how best to use bilingual staff and interpreters when speaking with eligible individuals.
- Interpreters/Translators - Plans for obtaining competent interpretation services for each of the major languages in the program’s service area.
- Translating Documents - Plans for translating all vital program documents into languages of the target LEP communities in the program’s service area.

- Outreach - Strategies for dissemination of information about the availability of bilingual staff or free interpreters and how a program's community outreach materials can be revised and translated into appropriate languages to inform the public that free legal services are available to eligible clients in their language through interpreters and translators.
- Oversight - Steps necessary for the continued oversight and updating of the LEP policy and procedures

***How LSC will Review a Funded Program's LEP Efforts:***

Not less than twelve months after the date of this Program Letter, LSC will begin to review LEP activities of LSC programs.

- Annually in grant applications, applicants will be asked to describe their efforts to reach and serve LEP eligible individuals.
- A program's periodic legal needs assessment will be reviewed to determine the extent to which it includes an assessment of the legal needs of LEP eligible individuals and LEP communities.
- LSC will review a program's activities in the area of service to LEP eligible individuals, which may be part of an on-site visit to assess program performance.
- LSC will consider a program's LEP activities in a statewide context.

The attached Guidance details the specific criteria that programs should consider and elaborates on the factors and considerations referred to in this Program Letter.