



national **CAPACD**

//national coalition for asian pacific american community development

Access for LEP Persons Needing Community and Economic Development Assistance

A Policy Brief

The National Coalition for Asian Pacific American Community Development (National CAPACD) considers language access a critical issue for the successful community and economic development of AAPI communities. Within Asian American and Pacific Islander (AAPI) communities - largely a recent immigrant population – there is a significant number of individuals who are Limited English Proficient (LEP). LEP refers to persons whose primary language is not English and therefore have limited abilities to effectively communicate by oral or written means in English. According to the 1990 Census, 35% of AAPIs live in linguistically-isolated households, where none of the individuals aged 14 years or older speaks English “very well.” Certain groups are more linguistically isolated than others: 61% of Hmong American households; 44% of Vietnamese Americans; 41% of Korean Americans; and 40% of Chinese Americans.¹

Due to language barriers, LEP persons find it difficult to access critical government programs and services, such as police protection, emergency services, health care and housing and employment assistance. Under Title VI of the Civil Rights Act of 1964, federal agencies and federally funded entities are prohibited from discriminating on the basis of race, color or national origin. To avoid denial of service based on national origin, federal agencies and federally funded entities have a legal obligation to ensure that LEP persons are provided meaningful access to services.

Community and economic development involves strengthening the infrastructure of low-income neighborhoods, which includes assisting AAPIs to find (1) opportunities to maintain and expand small businesses, (2) jobs with higher wages and safe work conditions, and (3) affordable and adequate housing. National CAPACD calls on members of Congress and federal agencies to support the following initiatives:

1. Implement Executive Order 13166 in an effective and timely manner.

On August 11, 2000, President Clinton issued Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency) to address access by LEP persons to federal programs and activities. The Executive Order reaffirmed existing requirements under Title VI of the 1964 Civil Rights Act for recipients of federal funds.

The Executive Order also required all federal agencies (1) to develop internal plans to implement Title VI, or to ensure appropriate LEP access to their own federally conducted programs and activities and (2) to publish guidance for recipients of federal funds as to their obligations under Title VI, and to describe the steps recipients may take to satisfy these obligations. Federally funded entities include schools, local police departments, doctors, and hospitals.

The Executive Order initially set a deadline by December 2000. Following the changeover to a new administration, the Department of Justice (DOJ), carrying out its charge to oversee the guidances, issued a memo dated October 26, 2001, to all agencies reaffirming the administration's intent to carry out the Executive Order, and established a new deadline within 120 days of the memo's issuance for federal agencies to publish or republish guidance.

Not all federal agencies have complied. To date, only 10 agencies have published LEP guidance, among them the Department of Justice (DOJ), Department of Health and Human Services, Department of Labor, and the Department of Treasury. Agencies whose jurisdictions affect community and economic development, such as the Department of Commerce, Department of Housing and Urban Development (HUD), Federal Deposit Insurance Corporation and Small Business Administration, have not yet released LEP guidance.

National CAPACD urges that the following actions be carried out:

- *DOJ should issue clear standards for federal agencies and recipients of federal funds on how to implement Executive Order 13166 so that they can provide language assistance in a standard and consistent manner. This is particularly significant for recipients of federal funds from multiple agencies that need uniform guidelines to insure they are providing their services in compliance with Title VI.*
- *Federal agencies that have not yet developed an implementation plan or published guidance for federally funded entities should do so without further delay.*
- *Notwithstanding the necessity of full all federal agencies to implement the Executive Order, DOJ should increase enforcement efforts in accordance with existing regulations that require federally funded entities, including but not limited to public housing providers and health care facilities, to provide individuals with limited English proficiency with effective and complete language assistance.*

2. Provide federal agencies with funding support to assure language access.

The lack of clear and uniform guidance on the implementation of Title VI reflects the absence of proactive enforcement of this long-standing civil rights law among the federal departments and agencies. Many federal departments and agencies have an Office of Civil Rights or Office of Contract Compliance that is responsible for enforcing Title VI and other federal civil rights laws. These offices need to have sufficient resources (1) to educate both recipients of federal funds of their obligations and affected constituents such

as LEP individuals and communities of their rights under federal civil rights laws, (2) to assist recipients with compliance through technical assistance and (3) to vigorously pursue enforcement through initiation, investigation, resolution and litigation of complaints.

- *Congress should appropriate sufficient funding to federal agencies to fulfill their obligations under Title VI. Currently, federal agencies lack resources to ensure that federally conducted and assisted programs and programs are delivered to LEP recipients in a culturally and linguistically competent manner.*

3. Federal agencies directing community and economic development programs and services should ensure that their programs meet linguistic and culturally competent standards.

From the immigrant worker to low-income resident and owner operating a business in an economically distressed neighborhood, language barriers have a significant effect on their abilities to improve their economic situation. Language barriers keep immigrants from moving into higher paying jobs and learning about wage and hour and occupational health and safety laws. Similarly, low-income residents who are forced to live in overcrowded or substandard housing often are unaware of their legal rights as tenants. And finally, business owners are susceptible to closing in debt or failing to expand their businesses because they are unable to access mainstream economic opportunities, such as contracting, loan and other business development assistance programs.¹¹

National CAPACD urges federal agencies and the entities that receive federal funds to operate programs and services affecting community and economic development to conduct the following activities:

- ***Federal agencies and federally funded entities should:***
 - *Provide translated written materials and interpreter services that assist LEP persons to learn about their legal rights in employment and housing and the available public benefits that assist them to procure job training and placement and find affordable and adequate housing. Additionally, they should fund language assistance efforts to facilitate the loan application process, contract procurement and business development for LEP business owners. Regardless of the small size of the LEP language group, at minimum, LEP persons should be given notice in her primary language of the right to oral translation of written materials.*
 - *Collaborate with community-based organizations to carry out education and outreach, particularly on issues related to fair housing and Temporary Assistance for Needy Families, to the AAPI community.*
- *Federal agencies and federally funded entities should use professionals that are qualified and appropriately compensated to provide translation and interpretation services. Wherever possible, qualified in-person interpreters should be used instead of phone interpreters. Alternatively, federal agencies and federally funded entities should use and appropriately compensate community-based organizations that have ties with the community for language and interpretation services.*

LEP individuals should not be asked to rely on family and friends, particularly minors, as interpreters because they may not have full bilingual or comprehension skills, resulting in inaccurate interpretations. Moreover, they may be inappropriate parties to ask to pass confidential or sensitive information, such as financial disclosures.

- *HUD should take proactive measures to enforce Title VI regulations in fair housing, including funding the use of LEP testers.*
- *Federal agencies and federally funded entities that implement welfare policy should recognize and address the issues of language barriers and lack of access to federal programs and activities that affect LEP persons.*

While AAPIs are motivated to find jobs, they often are unable to benefit from the services at welfare agencies because linguistic and culturally appropriate services (including translated materials or language interpreter services) are not available to assist with employment skills, training and placement.

According to a 2002 focus group study conducted in Los Angeles, clients polled at AAPI community based organizations identified the lack of language assistance as the leading barrier to finding employment.ⁱⁱⁱ They reported that welfare department caseworkers were unresponsive to their needs to find employment, and failed to inform them of available services such as childcare, health care and transportation, which would have facilitated their transition into work.

- *Federal agencies should consider language access and cultural competence in all federal funding reviews. The participation of Asian Americans and Pacific Islanders on federal grant review panels should be increased.*

ⁱ President's Advisory Commission on Asian Americans and Pacific Islanders, [A People Looking Forward: Action for Access and Partnerships in the 21st Century](#), Interim Report to the President and the Nation, Executive Summary, (Jan. 2001), p. 42; hereinafter cited as the [White House Report](#).

ⁱⁱ White House Report, p. 44

ⁱⁱⁱ Asian Pacific American Legal Center (APALC), et al., "Immigrant and Refugee Children Left Behind..." A Focus Group Study, (Los Angeles: APALC, 2002).

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