



**Macatawa Area
Coordinating Council**

A Cooperative Effort Among Units of Government

LEP PLAN

Limited English Proficiency

DRAFT

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**Resolution of the Macatawa Area Coordinating Council (MACC)
Adopting the Limited English Proficiency (LEP) Plan**

Resolution #20-08

WHEREAS, in accordance with Title VI non-discrimination laws in regard to providing appropriate access to services and activities provided by federal agencies and recipients of federal assistance, the Limited English Proficiency Plan was drafted to define how the Macatawa Area Coordinating Council will accommodate persons with Limited English Proficiency; and

WHEREAS, 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;

NOW THEREFORE BE IT RESOLVED, that the Macatawa Area Coordinating Council Policy Board approve and adopt the Limited English Proficiency Plan for the Macatawa Area Coordinating Council.

Pankaj Rajadhyaksha, Vice-Chair
Macatawa Area Coordinating Council Policy Board

Date

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 Proficiencyⁱ, 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 and 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 encounterⁱⁱ. These individuals are referred to as being limited in their ability to speak, read, write, or understand English, hence the designation, “LEP,” or Limited English Proficient. The Executive Order states that:

“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 as well.

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 organizations. Title VI covers a recipient’s entire program or activity. This means all parts of a recipient’s operations are covered, even if only one part of a recipient’s organization receives the federal assistance. Simply put, any organization that receives federal financial assistance is required to follow this Executive Order.

The Macatawa Area Coordinating Council (MACC) receives funds from the US Department of Transportation via the Federal Highway Administration.

The US Department of Transportation published *Policy Guidance Concerning Recipients’ responsibilities to Limited English Proficient Person* in the December 14th, 2005 Federal Register.ⁱⁱⁱ

The Guidance implies that the MACC is an organization that must follow this guidance:

This 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.

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 MACC 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 sub-recipients to take steps to ensure meaningful access to their programs and activities to LEP persons. More information for recipients and sub-recipients 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 previously. Each of the following factors is examined to determine the level and extent of language assistance measures required to sufficiently ensure meaningful access to MACC services and activities that may affect their quality of life. 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 for four 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 less than 'very well' as Limited English Proficient persons.

As seen in Table 1, the Census Data from 2018 regarding language characteristics is shown for the City of Holland, City of Zeeland, Ottawa County, and Allegan County. While both cities are located entirely in the MACC service area, only five townships in Ottawa County (Port Sheldon, Olive, Park, Holland Charter, and Zeeland Charter) and two townships in Allegan County (Laketown and Fillmore) are located in the MACC region. Language census data on those townships in particular were not available on the census website.

TABLE 1: 2018 Census Language Characteristics

	City of Holland		City of Zeeland		Ottawa County		Allegan County	
	#	%	#	%	#	%	#	%
Population 5 years and over	31,320		5,079		272,804		110,241	
English only	25,791	82.3	4,482	88.20%	248,930	91.20%	102,732	93.20%
Language other than English	5,529	17.7	597	11.80%	23,874	8.80%	7,509	6.80%
Speak English less than "very well"	1,991	6.4	159	3.10%	7,092	2.60%	1,822	1.70%
Spanish	4,493	14.3	474	9.30%	17,120	6.30%	N	N
Speak English less than "very well"	1,588	5.1	113	2.20%	4,558	1.70%	N	N
Other Indo-European languages	394	1.3	77	1.50%	1,684	0.60%	N	N
Speak English less than "very well"	35	0.1	43	0.80%	397	0.10%	N	N
Asian and Pacific Islander languages	565	1.8	46	0.90%	4,859	1.80%	N	N
Speak English less than "very well"	353	1.1	3	0.10%	2,031	0.70%	N	N
Other languages	77	0.2	0	0.00%	211	0.10%	N	N
Speak English less than "very well"	15	0	0	0.00%	106	0.00%	N	N

Source: U.S. Census Bureau website

DP02: SELECTED SOCIAL CHARACTERISTICS IN THE UNITED STATES

Factor 2: Frequency of Contact with LEP Individuals

The MACC has conducted an informal survey of our employees with regard to whether they have had encounters with LEP individuals in the performance of their job functions and found that they have had very few encounters with LEP individuals. It was noted that at community events in the past, staff have noticed that children, or someone else within the household, may translate materials or content for another family member.

The MACC's office is accessible to the public and therefore accessible to LEP individuals. The MACC also has staff that work outside of the office from time to time depending on the task

and it's possible that they could encounter LEP individuals. Additionally, regular public meetings are held monthly, which would potentially bring LEP individuals to these meetings. Given the number of LEP individuals, as displayed in Table #1 (above), the probability of our employees to encounter an LEP individual is low.

Factor 3: The Nature and Importance of the Program, Activity, or Service to LEP

The MACC serves individuals throughout the Metropolitan Planning Organization (MPO) region in a variety of ways including managing transportation planning, water quality improvements within the watershed, and other services to residents and other individuals, such as visitors and those traversing the state. The nature of the services that the MACC provides is very important to an individual's day-to-day life. Therefore the denial of services to an LEP individual could have a significant detrimental effect. Given the number of LEP individuals in the MACC area, we will ensure accessibility to all of our programs, services, and activities.

Factor 4: The Resources Available to the MACC 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:

"A recipient's level of resources and the costs imposed may have an impact on the nature of the steps it should take in providing meaningful access for LEP persons. Smaller recipients with more limited budgets are not expected to provide the same level of language services as larger recipients with larger budgets. In addition, "reasonable steps" may cease to be reasonable where the costs imposed substantially exceed the benefits. Recipients should carefully explore the most cost-effective means of delivering competent and accurate language services before limiting services due to resource concerns."

Based on this guidance, we have reviewed our resources and deemed that given the higher concentration of LEP individuals in parts of our MPO region, upon request, we will translate our vital documents into the language requested to ensure accessibility.

Although there will not be a fixed amount allocated from our yearly budget for the translation of documents, the cost associated with the necessary translation of document in order to comply with LEP requirements will be allocated on an as-needed basis.

SAFE HARBOR STIPULATION

Federal law provides a “Safe Harbor” situation so that recipients can ensure with greater certainty that they comply with their obligation to provide written translations in languages other than English. A “Safe Harbor” means that if a recipient provides written translation in 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 non-compliance, 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. 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.

Given that the number of LEP individuals in the MACC MPO region is above the Safe Harbor threshold, written translations of vital documents will be made upon request, or oral interpretation can be provided. The MACC will translate all vital documents, which may include but not be limited to: the complaint form, complaint procedures, and all public meeting notices.

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, in languages that an LEP individual would understand that free language assistance is available with advance notice.
2. Stating in outreach documents that free language services are available from the agency.
3. Working with community-based organizations and other stakeholders to inform LEP individuals of the recipient's services, including the availability of language assistance services.

Statements in languages that an LEP individual would understand will be placed in public information and public notices informing LEP individuals that those requiring language assistance and/or special accommodations will be provided the requested service free of charge, with reasonable advance notice to the MACC.

OPTIONS AND PROPOSED ACTIONS

Options:

Federal fund recipients have two (2) 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.^{iv}

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

Due to limited financial resources, it is necessary to limit language aid to the most basic and cost-effective services. However, when requested appropriate assistance will be provided.

WHAT THE MACC WILL DO.

What actions will the MACC take?

- Notify the public that interpreter services are available upon request, with seven day advance notice.
- With advance notice of seven calendar days, the MACC will provide interpreter services at public meetings, including language translation and signage for the hearing impaired.
- The MACC will utilize the *Translators Resource List* as provided by MDOT for translation services and verbal interpretation.
- The Census Bureau “I-speak” Language Identification Card will be distributed to all employees that may potentially encounter LEP individuals.
- Once the LEP individual’s language has been identified, an agency from the *Translators Resource List* will be contacted to provide interpretation services.
- Publications of the MACC’s complaint form will be made available online and upon request.
- In the event that a MACC employee encounters a LEP individual, they will follow the procedure listed below:

OFFICE ENCOUNTER

1. Provide an I-speak language identification card to determine the language spoken by the LEP individual.
2. Once the foreign language is determined, provide information to Title VI Coordinator who will contact an interpreter from MDOT’s *Translators Resource List*.
3. If the need is for a document to be translated, the Title VI Coordinator will have the document translated and provided to the requestor as soon as possible.

FIELD ENCOUNTER

1. Employee will immediately contact the Title VI Coordinator for assistance, and provide an I-speak language identification card to the LEP individual to determine the language spoken by the individual.
2. Once the foreign language is determined, provide information to Title VI Coordinator who will contact an interpreter from MDOT's *Translators Resource List* to provide telephonic interpretation.
3. If the need is for a document to be translated, the Title VI Coordinator will have the document translated and provided to the requestor as soon as possible.

IN WRITING

1. Once a letter has been received it will be immediately forwarded to the Title VI Coordinator.
2. The Title VI Coordinator will contact a translator from the MDOT's *Translators Resource List* to determine the specifics of the letter request information.
3. The Title VI Coordinator will work with the selected agency to provide the requested service to the individual in a timely manner.

OVER THE PHONE

1. If someone calls into our office speaking another language, every attempt will be made to keep that individual on the line until an interpreter can be conferenced into the line, and if possible, determine the language spoken by the caller.
2. Once the language spoken by the caller has been identified, we will proceed with providing the requested assistance to the LEP individual.

THE MACC'S STAFF TRAINING

The MACC's staff will be provided training on the requirements for providing meaningful access to services for LEP persons.

MONITORING AND UPDATING THE LEP PLAN

This plan is subject to revision based on the changes in demographics as reported in the 2020 U.S. census and any Environmental Justice (EJ) analysis done on a project. It should be considered in relationship to the need for LEP services provided by the MACC and should be viewed as an ongoing process. It is important to consider whether new documents and services need to be made accessible for LEP persons, and to monitor changes in demographics and types of services.

The MACC will update the LEP as needed. At a minimum, the plan will be reviewed and updated when data from the 2020 U.S. census is available, or when higher numbers of LEP individuals may be affected by projects or programs in the program or project-affected communities.

The MACC will examine and update its LEP Plan based on the following:

- The number of LEP persons who were encountered annually via survey of public meetings and other transportation-related events or hearings.
- Determine how the needs of LEP persons have been addressed.
- Determine whether local language assistance programs have been effective and sufficient to meet the needs of LEP persons.
- Determine whether transit system's financial resources are sufficient to fund language assistance resources needed during compliance reviews.
- Determine whether MACC and its contractors have fully complied with the goals of the LEP Plan.
- Determine whether complaints have been received concerning the agency's failure to meet the needs of LEP individuals.

DISSEMINATION OF THE MACC'S LEP PLAN

- The MACC LEP Plan and the Title VI Plan may be accessed via the MACC's website www.the-macc.org. The plan will be made available in languages other than English, i.e., Arabic and Spanish, and other languages as warranted or requested.
- The MACC's LEP Plan will be shared with local human service organizations, minority organizations, governmental entities, contractors and consultants, and road commissions.
- Any person with Internet access will be able to access and download the plan from the MACC website. Alternatively, any person or agency may request a copy of the plan via telephone, fax, mail, or in person, and shall be provided a copy of the plan at no cost.
- The plan may be published in Spanish, Arabic, and other languages when requested.

LEP COMPLAINT PROCEDURES

Complaints of discrimination involving LEP, Title VI, and related statutes will be investigated using the MACC Title VI complaint procedures. For a more comprehensive look at MACC's Title VI Plan, please visit the MACC's website at www.the-macc.org.

Questions or comments regarding this LEP Plan or questions related to Title VI should be directed to:

Macatawa Area Coordinating Council
Executive Director/Title VI Coordinator
301 Douglas Avenue
Holland, MI 49424
Phone: (616) 395-2688
Fax: (616) 395-9411
Email: info@the-macc.org

LEP PLAN ACCESS

A copy of the LEP plan document can be requested at the MACC's main office during normal business hours and MACC will make the plan available on the website at www.the-macc.org.

Any person or agency may also request a copy by contacting:

MACC Executive Director
301 Douglas Avenue, Holland, MI 49424
(616) 395-2688
info@the-macc.org

ⁱ The executive order verbatim can be found online at <http://www.usdoj.gov/crt/cor/Pubs/eolep.htm>.

ⁱⁱ Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons. Federal Register: December 14, 2005 (Volume 70, Number 239)

ⁱⁱⁱ The DOT has also posted an abbreviated version of this guidance on their website at: <http://www.civilrights.dot.gov/civil-rights-awareness-enforcement/language-assistance>

^{iv} <http://www.dotcr.ost.dot.gov/asp/lep/asp>

^v Department of Justice Final LEP Guidelines, Federal Register June 18, 2002-Vol. 67-Number 117.