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Limited English Proficient (LEP) Guidance

Effective Date or Deadline

HUD's draft LEP guidance was published in the Federal Register on December 19, 2003. The final guidance has not yet been issued.

Background

On August 11, 2000, President Bill Clinton issued Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency."¹ Essentially, this executive order directed all federal agencies to develop a plan for providing meaningful access to federal programs for LEP persons and to ensure recipients of federal assistance take reasonable steps to also provide meaningful access to this population. Agencies were further directed to draft Title VI² guidance specific to its recipients of federal assistance but consistent with the guidance issued by the U.S. Department of Justice (DOJ).³ E.O. 13166 required, "This agency-specific guidance shall detail how the general standards established in the LEP Guidance will be applied to the agency's recipients..." DOJ was placed at the helm of this government-wide initiative, with the responsibility to approve the agency-specific guidance prior to publication in the *Federal Register*.

DOJ issued a document on August 16, 2000 which set forth general principles for agencies to apply in developing LEP guidance for recipients of federal funds. The document established a 4-factor analysis recipients must use to determine the extent of their LEP obligations under Title VI. The 4-factor analysis was described as follows⁴:

¹ E.O. 13166 can be read in its entirety at: <http://www.usdoj.gov/crt/cor/Pubs/eolep.htm>.

² Refers to Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on national origin, etc.

³ DOJ's policy guidance to federal agencies is found at: <http://www.usdoj.gov/crt/cor/Pubs/lepguide.htm>. General resource information can be found on the DOJ website www.lep.gov.

⁴ <http://www.usdoj.gov/crt/cor/Pubs/lepguide.htm>.

All Recipients Must Take Reasonable Steps To Provide Meaningful Access

Recipients who fail to provide services to LEP applicants and beneficiaries in their federally assisted programs and activities may be discriminating on the basis of national origin in violation of Title VI and its implementing regulations. Title VI and its regulations require recipients to take reasonable steps to ensure "meaningful" access to the information and services they provide. What constitutes reasonable steps to ensure meaningful access will be contingent on a number of factors. Among the factors to be considered are the number or proportion of LEP persons in the eligible service population, the frequency with which LEP individuals come in contact with the program, the importance of the service provided by the program, and the resources available to the recipient.

(1) Number or Proportion of LEP Individuals

Programs that serve a few or even one LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access. However, a factor in determining the reasonableness of a recipient's efforts is the number or proportion of people who will be excluded from the benefits or services absent efforts to remove language barriers. The steps that are reasonable for a recipient who serves one LEP person a year may be different than those expected from a recipient that serves several LEP persons each day. But even those who serve very few LEP persons on an infrequent basis should utilize this balancing analysis to determine whether reasonable steps are possible and if so, have a plan of what to do if a LEP individual seeks service under the program in question. This plan need not be intricate; it may be as simple as being prepared to use one of the commercially available language lines to obtain immediate interpreter services.

(2) Frequency of Contact with the Program

Frequency of contacts between the program or activity and LEP individuals is another factor to be weighed. For example, if LEP individuals must access the recipient's program or activity on a daily basis, e.g., as they must in attending elementary or secondary school, a recipient has greater duties than if such contact is unpredictable or infrequent. Recipients should take into account local or regional conditions when determining frequency of contact with the program, and should have the flexibility to tailor their services to those needs.

(3) Nature and Importance of the Program

The importance of the recipient's program to beneficiaries will affect the determination of what reasonable steps are required. More affirmative steps must be taken in programs where the denial or delay of access may have life or death implications than in programs that are not as crucial to one's day-to-day existence. For example, the obligations of a federally assisted school or hospital differ from those of a federally assisted zoo or theater. In assessing the effect on individuals of failure to provide language services, recipients must consider the importance of the benefit to individuals both immediately and in the long-term. A decision by a federal, state, or local entity to make an activity compulsory, such as elementary and secondary school attendance or medical inoculations, serves as strong evidence of the program's importance.

(4) Resources Available

The resources available to a recipient of federal assistance may have an impact on the nature of the steps that recipients must take. For example, a small recipient with limited resources may not have to take the same steps as a larger recipient to provide LEP assistance in programs that have a limited number of eligible LEP individuals, where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not crucial to an individual's day-to-day existence. Claims of limited resources from large entities will need to be well-substantiated.

On December 19, 2003, HUD released its draft LEP guidance “Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.” The guidance was published in the *Federal Register* for public comment.⁵ NAHMA members were particularly concerned by provisions in the draft guidance which called for providing translation of “vital” documents and oral interpretation services to LEP persons at the project’s expense. Likewise, the guidance would place responsibility for ensuring the accuracy of translations and the competency of interpreters on the recipient of federal funds—i.e. the owner of the project or a public housing agency (PHA).

NAHMA participated in an industry coalition to comment on the guidance. We contributed draft text for the comments and joined as signatories. Signed by nine organizations, the comments were sent to HUD on January 20, 2004. These consensus industry comments can be viewed on NAHMA’s HUD webpage.⁶

Addressing the LEP issue was NAHMA’s top regulatory priority of 2004. NAHMA has made numerous contacts with Administration officials at HUD, OMB and key congressional staff to express concerns about this initiative. We have requested that this item be addressed at every quarterly industry meeting with the Office of Multifamily Housing and every NAHMA membership meeting in 2004. In response to outstanding concerns raised at the June 2004 membership meeting, NAHMA convened a Limited English Proficient (LEP) Task Force. The Task Force was charged with reviewing options to address the LEP issue, including possible legal action, with a membership contribution campaign authorized as a fund-raising vehicle should legal action be approved by NAHMA’s Board of Directors. At our October membership meeting, the LEP Task Force recommended to the Regulatory Affairs Committee that NAHMA,

“...remain engaged in dialogues with federal policy makers throughout this period [prior to publication of the final guidance] to continue exploring options to achieve the goal of providing meaningful access to federal programs for LEP persons in a reasonable and fair way to all parties involved. Upon release of the final LEP guidance, the Task Force should reassess its full spectrum of options based on what the guidance entails.”

Representatives from HUD’s Office of Fair Housing and Equal Opportunity (FH&EO) and Office of General Counsel (OGC) attended NAHMA’s membership meeting on Tuesday, October 19 to conduct an LEP Training Session. FH&EO staff offered to make this presentation at NAHMA’s meeting in the hopes of addressing concerns and seeking to provide technical support and assistance related to this issue.

⁵ Please see <http://www.hud.gov/offices/fheo/library/lepFRguidance1.pdf> to read the guidance. Additional recommended reading includes HUD-FH&EO’s LEP website <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm> and the document issued by FH&EO “Know Your Rights: Are you Limited English Proficient” at: <http://www.hud.gov/offices/fheo/promotingfh/lepights.pdf>.

⁶ Please see <http://www.nahma.org/member/LEP%20conensus%20comments%20final%201-2004.pdf>.

Most recently, on December 14, NAHMA met with key HUD officials from the Office of Multifamily Housing, FH&EO and OGC to discuss our concerns with the LEP guidance and to offer recommendations which would help address those concerns.

To date, roughly 20 federal agencies / entities have issued some sort of LEP guidance available on www.lep.gov. Additionally, the U.S. Department of Commerce has developed “I Speak” language identification flashcards in 38 languages, which can be found on www.lep.gov. There are also LEP-related provisions in the streamlined Rural Housing Service multifamily housing program interim final regulations which note, “The Agency has incorporated language in subparts A and D of the interim final rule stating that borrowers and grantees must take steps to ensure the meaningful participation in Agency programs and activities by LEP persons free of charge.”⁷ For example, subpart D of the interim final rule states that leases and occupancy rules must be available in English and non-English languages in areas having a concentration of non-English speaking persons.⁸ It is not known how the IRS’ LEP guidance affects the Section 42 Low Income Housing Tax Credit properties or bond-financed properties.

Summary

This section will describe NAHMA’s most up-to-date understanding of HUD’s plans to implement LEP guidance. This information is derived from the December 19, 2003 draft guidance, numerous meetings with HUD officials in the Office of Multifamily Housing, Office of Fair Housing and Equal Opportunity (FH&EO) and the Office of General Counsel (OGC) and presentations from HUD officials at NAHMA membership meetings. Essentially, the draft guidance is intended to assist HUD recipients in providing meaningful access to HUD programs for LEP persons through language services.

Before discussing the details of the guidance, it is worth discussing how HUD believes Title VI applies to LEP requirements. HUD officials in OGC and FH&EO have told NAHMA LEP obligations already exist under Title VI of the Civil Rights Act (non-discrimination based on national origin) and Title VIII obligations to affirmatively further fair housing. Policies or actions which have *the effect of* excluding eligible foreign-born individuals from participating in federal programs are prohibited under Title VI protections based on national origin. Although the HUD regulations to date have not specifically required affordable housing providers to pay for language services for non-native English speakers, the rationale follows that the inability to communicate in English may have the effect of limiting participation in the programs for LEP people, and failure to bridge the communication barrier may be discrimination based on national origin under Title VI since their language barrier is the result of their national origin.

HUD’s draft LEP guidance applies to its recipients of federal funds, including state and local governments, PHAs, assisted housing providers, and others. HUD officials verbally clarified that the recipient is the owner of an assisted multifamily housing project or the PHA for voucher and public housing programs. All parts of the recipient’s operations are subject to the guidance, and the guidance is also applicable to subrecipients when the recipient’s HUD funds are passed through to them.⁹

⁷ See Department of Agriculture “Reinvention of the Sections 514, 515, 516, and 521 Multifamily Housing Programs Interim Final Rule,” *Federal Register* Vol.69, No. 227, Friday November 26, 2004, page 69039.

⁸ See Department of Agriculture “Reinvention of the Sections 514, 515, 516, and 521 Multifamily Housing Programs Interim Final Rule,” *Federal Register* Vol.69, No. 227, Friday November 26, 2004, page 69136.

⁹ HUD’s draft guidance, *Federal Register* Vol. 68, No. 244, Friday December 19, 2003, page 70970.

Identifying LEP individuals is not necessarily intuitive. A non-native English speaker is not necessarily LEP. HUD's draft guidance reads, "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 LEP, entitled to language assistance with respect to a particular type of service, benefit or encounter."¹⁰ NAHMA has urged HUD to tighten its definition of who is LEP. Verbally, HUD has indicated language services would be expected if the head of household is LEP. We have urged the Department to reconsider and clarify that if any signatory to the lease is proficient in English, translation and /or interpretation services would not be required for that household.

Recipients must use the 4-factor analysis to determine the extent of their obligations to provide LEP services.¹¹ The 4-factor LEP assessment involves determining:

- The number or proportion of LEP persons served or encountered in the eligible service population;
- The frequency with which LEP persons come into contact with the program;
- The nature and importance of the program, activity, or service provided by the program to people's lives; and
- The resources available to the grantee/recipient and costs.

Based on the findings of the 4-factor analysis, recipients must determine how to provide LEP services. The requirements to provide language services can be met through oral interpretation, written translation, or some combination thereof depending on the circumstances. The recipient is responsible for ensuring the competency of interpreters and translators. Using children as interpreters is strongly discouraged. "Vital" documents should be translated into the languages of the non-native English speaking populations eligible to be served or likely to be encountered. Per the guidance, "Whether or not a document (or the information it solicits) is 'vital' may depend upon the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner." Examples of possible vital documents listed in the guidance include¹²:

- 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;
- Notices of eviction;
- Notices advising LEP persons of free language assistance;
- Leases and tenant rules; and/or
- Applications to participate in a recipient's program or activity or to receive recipient benefits or services.

In a meeting with NAHMA, FH&EO and OGC staff also mentioned safety information should be translated (for example, if hazards are found in the unit during an inspection) in addition to vital documents. Language services are considered an eligible project expense under the guidance, and must be provided to the LEP person free of charge.

¹⁰ HUD's draft guidance, *Federal Register* Vol. 68, No. 244, Friday December 19, 2003, page 70970.

¹¹ See HUD's draft guidance, pages 70970 through 70972 for a more substantive explanation.

¹² See HUD's draft guidance, page 70974.

For written translations, HUD specifies a “safe harbor” which “will be considered strong evidence of compliance with the recipient’s written-translation obligations.” The safe harbor is described as follows:

- (a) The HUD recipient provides written translations of vital documents from each eligible LEP language group that constitutes 5 percent or 1,000 persons, whichever is less, of the population or persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- (b) If there are fewer than 50 persons in a language group that reaches the 5 percent trigger in (a), the recipient does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.¹³

Members should be aware that the safe harbor applies only to translations of written documents. No safe harbor is suggested for oral interpretation. In fact, the guidance states the safe harbor provisions for translations, “do not affect the requirement to provide meaningful access to LEP persons through competent oral interpreters where oral language services are needed and are reasonable.”¹⁴

Once recipients have completed the 4-factor analysis and determined which language services are necessary, HUD advises development of an LEP implementation plan. Five steps are suggested, which consist of¹⁵:

- Identifying LEP individuals who need language assistance;
- Information about how language assistance measures will be provided;
- Training staff about LEP obligations
- Providing notice to LEP persons that language services are available free of charge in a language they will understand; and
- Monitor / update the LEP plan as appropriate.

NAHMA strongly opposed the December 19 draft LEP guidance. The major points of objection initially raised were:

- Obligations to provide written and/or oral translations free of charge to the tenant at the project’s expense have never been understood to be the owner/agents’ responsibility in providing safe, decent, sanitary affordable housing;
- No additional funding was proposed to offset the additional expenses of implementing potentially costly guidance; and
- The draft guidance exposes owners/agents to legal liability by repeatedly placing the responsibility for ensuring the competency of translators and accuracy of translations on the owner/agent.

Additional concerns members raised included:

- Whether local courts would accept legal documents in printed in foreign languages; and later,
- The guidance would complicate eviction proceedings involving LEP tenants; and
- Whether tenants’ privacy was violated by the interpretation requirements.

¹³HUD’s draft guidance, page 70975.

¹⁴ HUD’s draft guidance, page 70975.

¹⁵ See HUD’s draft guidance, pages 70975 through 70976.

Within HUD, each office has been working with FH&EO to identify how their programs and recipients are affected by the guidance.

Since releasing the draft guidance, HUD indicated it would provide some translated documents. The Office of Multifamily Housing has identified the vital documents to be translated are the four HUD model leases and the resident rights and responsibilities brochure. NAHMA expects translations will be available in: Spanish, Russian, Korean, Chinese, French, Vietnamese, Amharic, and Portuguese. OGC staff has stated the official executed documents would continue to be in the English language.

In meetings with NAHMA staff, as well as other industry representatives, representatives from HUD FH&EO and OGC emphasized they are not approaching LEP with a “gotcha” mentality. The guidance does not create any new private right of action for individuals. HUD will respond to complaints according to the same procedures that are already in place for discrimination complaints. Their hope is to achieve voluntary compliance. They are looking for housing providers to make their “best sincere effort” to provide meaningful access to the programs for LEP persons.

Although the final guidance has not yet been released, HUD believes affordable housing providers would be well served in the meantime to begin developing LEP language assessment plans using the 4-factor analysis. It is worth noting that members who performed an abridged analysis in preparation for the October LEP training session reported multiple languages in single properties. One member reported that he expected to serve 18 different language groups in the 19 properties surveyed; also, he reported 7 different language groups to be served just in one property.

The Department plans to issue the final LEP guidance this year, possibly in the first quarter. Likewise, the Office of Multifamily Housing expects its translated documents to be available in the first quarter of 2005. FH&EO intends to conduct training on the guidance and provide technical assistance. HUD also intends to create a clearinghouse for translated materials.

Issues of Concern to NAHMA

We fear the Department’s current plans for the final guidance will, for the first time, expressly obligate owners to provide language services (translated documents and oral interpretation) at the project’s expense. We are deeply concerned the LEP guidance will raise unrealistic expectations about the level of service which must be provided to LEP persons at the project expense, leave owners and agents open to unwarranted fair housing complaints, and further complicate the already difficult process of evicting noncompliant tenants.

The uncertain costs associated with this LEP initiative and its potential to complicate legal proceedings for evicting noncompliant tenants remain our paramount concerns. Likewise, we have grave reservations about its legal liabilities for owners and the very definition of who is a LEP person.

For purposes of efficiency, consistency, cost-effectiveness and quality control, HUD should translate all documents it deems “vital” for any and all languages that may be required. Rents are being held to market levels, and the properties are not in the position to absorb substantial additional costs for translating documents and providing language services. HUD staff has acknowledged that costs for interpreter can run \$400 for a full day with some interpreters, or \$45 per hour. Written translations can cost 15 cents per word or more. Furthermore, virtually all of these properties are owned by single asset entities with limited resources for outside funding. Any LEP requirements adopted would have to come from other important budgeted expense lines, and this is particularly the case for properties owned by non-profit organizations. Any standard regulatory or certification document that can reasonably be

anticipated to be needed in an alternate language should be provided by the Department, either through the HUD Web Site, or directly as part of the standard library of forms and materials provided in the various Handbooks and HUD forms library. If there is an expectation that a document could be necessary in alternate language format, HUD, as the agency stipulating the content of the forms and certifications to be attested to, should provide the full document so that no claim could later be made by HUD or a Contract Administrator that affordable housing providers are not in compliance with program regulations. Likewise, HUD's initiative in providing all translations would protect owner/agents from unnecessary and unduly expensive fair housing complaints.

There is an emphatic need to place an absolute firewall between the printed translated materials and the owner/agent so that our ability to conduct legal responsibilities is not compromised. This firewall can be achieved by HUD providing translations for all materials which could be considered "vital documents," providing a disclaimer on all translated documents, and assuming the responsibility for costs of language services. In a recent meeting with NAHMA, FH&EO and OGC staff said because E.O. 13166 applies to recipients of federal assistance, creating this firewall may not be possible. Additionally, the Department has been noncommittal on the issue of creating a "hold harmless" provision that specifically states owners are only required to use the translated documents provided by HUD.

NAHMA also believes it is absolutely imperative for HUD to place a disclaimer on all translated documents which stipulates the document is supplementary information provided by HUD, does not replace the official document which will be executed in English and is not an exact word-for-word translation of the owner's document. A disclaimer establishing the English language documents as the governing versions is a necessary standard to guide local courts in determining the proper weight to place on foreign-language materials submitted in support of any legal action. This is especially important in light of the General Counsel's recently reiterated policy that no HUD staff member or agency testimony can be compelled in any court action. HUD's policies, documents and handbook requirements in this area must be very clearly articulated, since we cannot call on HUD to explain its policies in court. OGC is considering our recommended disclaimer, but believes it will have to go through full Departmental clearance; FH&EO staff feel DOJ would have to approve as well.

Unfortunately, there are times when it is necessary to evict noncompliant tenants. We remain concerned that without the firewall and disclaimer to disassociate the owner/agent from the translation and language services, the LEP guidance may inadvertently make eviction more difficult and lead to extensive litigation.

NAHMA members have received letters from practicing landlord-tenant attorneys which surmised that failure on the part of the owner/agent to provide all vital documents in the tenant's native language would create a defense against eviction. Defenses in eviction matters could lead to failure to evict, failure to attempt to evict, increased time before eviction can be finalized, and greatly increased legal expenses—a project expense which comes in place of some other budgeted item whenever the challenge is made. Unless the final guidance and translated documents state otherwise, an expectation could be created at the local level in which courts would not rule against tenants who did not receive all relevant documents in their native language. The Department maintains that the LEP guidance does not create a private right-of-action for tenants to seek relief through the courts under Title VI. However, the Department's release of written LEP policy guidance coupled with issuance of some translated documents (presumably without the requested disclaimer) could lend credibility to such a defense in state courts. NAHMA has voiced substantial concern about HUD's current plans to provide translations of only the model leases and resident rights and responsibilities brochure into only certain languages because the owner/agent is left to guess which documents would be considered "vital" in legal proceedings, and then incur substantial costs to translate them at the project's expense. We will continue gathering letters from local landlord-tenant attorneys for the Department's consideration.

We believe there must be greater clarity in defining who is “Limited English Proficient.” It is agreed that non-native English speakers are not necessarily LEP persons. The definition of who is LEP should not include any member of a household where at least one of the signatories to the lease in that household is proficient in English. Since all members of the family over eighteen years of age must sign the lease and related documents, which include all family income and background information, if any of those family members are capable in English, the standard for providing alternate language services to that family should not apply. Recent changes in requirements for all family members of age to be full participants in the certification process have significantly diminished the older head of household practice. That designation is a hold-over from the era when only the head of household was involved in the certification process. It has been displaced in recent years by the requirement for all family members of majority age to fully certify. Since all family members over eighteen years of age are now equal in the Office of Housing's view, the head of household distinction no longer has a material effect. Therefore, the translation and/or interpretation requirements and expectations should not be triggered simply because any one individual, including the head of household, is LEP. Greater clarity on the definition of LEP is essential.

NAHMA strongly urges HUD to remove any suggestion from its website and publications that tenants may be victims of discrimination if the owner / management agent could not understand their language. As currently written, the “Know Your Rights Are You Limited English Proficient?” document advises residents that a property manager’s failure to provide a translator may constitute discrimination. HUD worked with DOJ to produce this document, and it was modeled on DOJ’s draft “know your rights” template. HUD maintains the document should not be a cause for concern, since it lists examples that “might be” considered discrimination; it does not say each example “is” discrimination. NAHMA contends an average person would not be likely to draw this distinction; therefore, the document should be removed and modified.

Finally, NAHMA raised a concern about whether tenants’ privacy might be violated by the oral interpretation requirements. HUD responded tenants’ privacy is being violated now, then, because tenants have to use friends, neighbors, family members to interpret for them. HUD felt the concern could be accommodated by having the tenant sign something to acknowledge the privacy waiver by having an interpreter—but that form would have to be in a language they understand.

Positive Aspects of This Policy/Proposal

NAHMA whole-heartedly supports the goal of ensuring that persons with limited English proficiency have access to federal programs. Many persons with limited English proficiency are already living in properties managed and/or owned by NAHMA members. It is *the methods* HUD has proposed to advance the goal, as described in its LEP guidance and subsequent conversations with Department officials, with which we have serious reservations.

It is appropriate for affordable housing providers to direct LEP persons to resources available to assist with translation and/or interpretation needs, and we are interested in continuing dialogue with the Department on this point. Nevertheless, we firmly believe the responsibility for bearing the associated costs and ensuring accuracy of translated documents should reside with the Department.

Additionally, assurances from HUD’s Office of General Counsel (OGC) that the executed leases will continue to be in the English language addressed key concerns we raised about enforceability.

NAHMA's Position

- HUD, rather than the project, should bear the cost of translating documents and providing oral interpretation;
- For purposes of efficiency, consistency, cost-effectiveness and quality control, HUD should translate all documents it deems “vital” for any and all languages that may be required;
- HUD must ensure the final guidance does not result in unintended consequences which will make it more difficult to evict LEP tenants who are not in compliance with HUD regulations;
 - This may possibly be addressed through the disclaimer and disassociation of the owner/agent from the translated documents or interpretation service.
- It is absolutely imperative for HUD to place a disclaimer on their translated documents that they are HUD's translations, they are supplementary information only, they do not replace the official document executed in English and are not exact translations;
- Owner/agents should not be held responsible for ensuring the competency, accuracy or quality of translations, interpreters, or interpretations;
- There must be an absolute “firewall” which separates the issuer of the document (HUD) from the owner/agent in terms of content and distribution of the materials;
- The role of the owner / agent should be limited at most to directing tenants/applicants to available language assistance programs, NOT to provide interpreters / translations at the project's expense;
- The definition of who is LEP should be tightened; if any signatory to the lease in a household is proficient in English, there should not be an expectation/requirement to provide language services to that household;
- The translations should be intended for and used as a supplementary information resource only—they should not replace the official, executed English Language documents;
- HUD's translated documents should identify the language into which the document is translated so that owner/agents know what language document they are offering;
- The final guidance should provide a safe harbor which holds owners/agents harmless if they use the HUD documents;
- HUD should specify that using the translations it provides satisfies owner / agent obligations under the LEP guidance;
- HUD must take care its policies do not trigger additional obligations for translations / interpretations under state and/or local law;
- The document posted on HUD-FH&EO website, “Know Your Rights Are You Limited English Proficient?” should be removed from FH&EO's website and modified.

In short, we strongly believe that HUD itself should provide translation and oral interpretation services directly to the LEP population in order to achieve cost effectiveness, uniformity in the delivery of service, and to minimize the burden on affordable housing providers. The suggested duplicative efforts across the

country by small, medium or large housing providers will never reach the efficiency or sensitivity of a service which can be provided by HUD at a much more reasonable cost, with an assured level of quality control, and most importantly, not subject to unnecessary and unduly expensive Fair Housing complaints. Generally speaking, the management of affordable housing bears no relationship to linguistic abilities, translation services or the ability to differentiate between high quality interpretation and inadequate interpretation. To impose this requirement on housing providers is no less burdensome than asking them to become practitioners of some other profession requiring years of extensive training and specialized personal abilities. Nevertheless, we are committed to working in partnership with federal policy makers to achieve a reasonable, fair and cost-efficient way to implement the purpose of this initiative.