International Municipal Lawyers Association

2014 Annual Conference

Baltimore, Maryland

Immigrant Friendly Cities: Ensuring Compliance with Title VI's LEP Requirements

Thomas Webb
Assistant Solicitor
Baltimore, Maryland

©2014 International Municipal Lawyers Association. This is an informational and educational report distributed by the International Municipal Lawyers Association during its 2014 Annual Conference, held September 10 – 14 2014 in Baltimore, MD. IMLA assumes no responsibility for the policies or positions presented in the report or for the presentation of its contents.

Immigrant Friendly Cities: Ensuring Compliance with Title VI's LEP Requirements

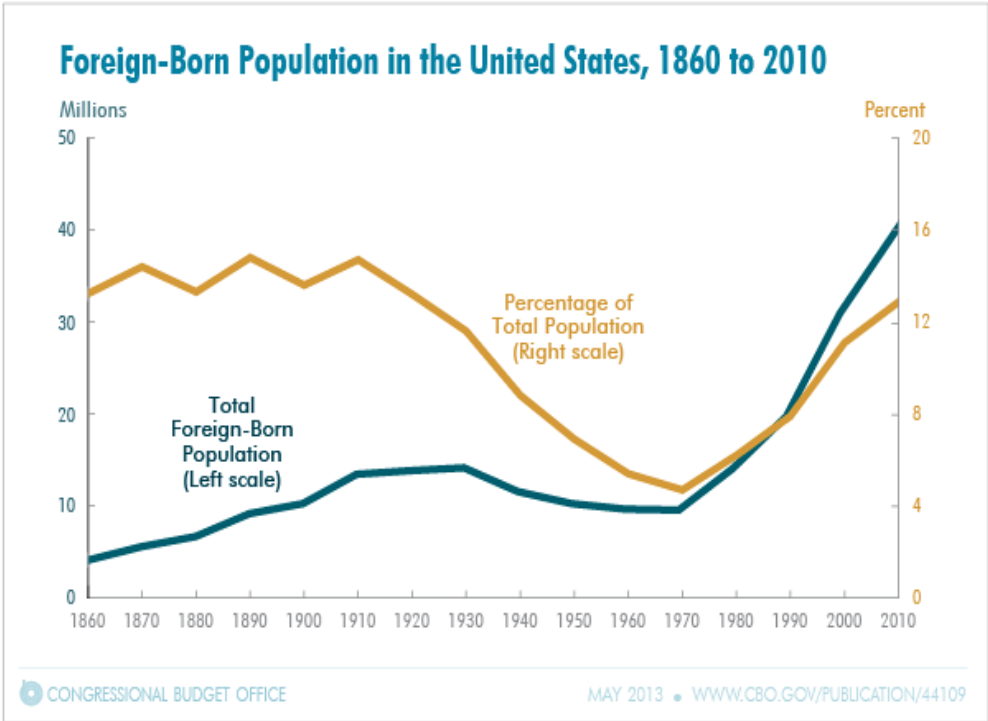
Contents

I.	Introduction	Page 3
II.	LEP Communities, Federally Funded Programs, And Governing Law	Page 5
III.	Title VI Enforcement	Page 9
IV.	Ensuring Compliance	Page 12
V.	Conclusion	Page 15

Immigrant Friendly Cities: Ensuring Compliance with Title VI's LEP Requirements

I. Introduction

The United States has witnessed a surge in immigration over the last half-century. In 1970, foreign-born individuals made up 4.7% of the population.[1] This number has almost tripled since, standing now at 13%.[2] New immigration, plus births to immigrants, added more than 22 million people to the U.S. population in the last decade, equal to 80 percent of total population growth.[3] Approximately 1 in 4 children under 18 now have at least one foreign born parent.[4] Not since the early twentieth century have foreign-born made up such a large proportion of the United States' population.[5]



[1] U.S. Census Bureau, The Foreign-Born Population in the United States, available at https://www.census.gov/newsroom/pdf/cspan_fb_slides.pdf
[2] Id.
[3] Steven A. Camarota, Immigrants in the United States, A Profile of America's Foreign-Born Population, Center for Immigration Studies, available at, http://www.cis.org/sites/cis.org/files/articles/2012/immigrants-in-the-united-states-2012.pdf.
[4] Id.
[5] Id.

This influx of immigrants has changed the landscape of American cities. In twelve of the twenty-five largest cities in the United States, foreign-born now make up greater than 20% of total population.[6] In four of these cities—New York, Los Angeles, San Francisco, and San Jose—this number is greater than 30%.[7] Indeed, whether large cities are growing or declining is often correlated with immigrant growth: between 1990 and 2000 immigration growth was greater than total population growth in New York, Chicago, and Los Angeles. Without immigration, these cities would have declined in population.

Several cities have recognized the benefits of attracting immigrants. An influx of foreign-born individuals can stem and turn the tide of population decline seen in many cities over the past half-century. Abandoned or blighted neighborhoods can be remade by new immigrant communities. Some studies suggest that higher levels of immigration in urban areas are connected to lower crime rates.[8] For cities with declining or stagnant population levels and comparatively low immigrant numbers, immigration represents an opportunity for growth and stability. Baltimore, for example, has made a concerted effort in recent years to cultivate a welcoming atmosphere for immigrants.[9]

In light of the rapid growth of foreign-born communities, it is important that municipalities are aware of the legal responsibilities which accompany a growing immigrant population. In particular, municipalities must be aware of their responsibilities to accommodate Limited English Proficiency ("LEP") populations. The vast majority of foreign-born individuals do not speak English as their first language. According to census data, over 60 million Americans speak a language other than English at home.[10] Over 20 percent of these

---

[6] U.S. Census Bureau, Statistical Abstract of the United States: 2012

[7] Id.

[8] Graham C. Ousey and Charis E. Kubrin, Exploring the Connection between Immigration and Violent Crime Rates in U.S. Cities, 1980-2000 University of California Press (2009). Ousey and Kubrin argue that in contrast to the common perception that foreign-born are responsible for higher crime rates, "a rapidly expanding literature reports that immigrants are less criminally involved than their native-born counterparts." Their research found that a one unit increase over time in an index measuring immigration resulted in a decrease in 253 violent crimes per 100,000 persons. See also Immigration Policy Center, From Anecdotes to Evidence: Setting the Record Straight on Immigrants and Crime, available at http://www.immigrationpolicy.org/just-facts/anecdotes-evidence-setting-record-straight-immigrants-and-crime-0.

[9] On March 02, 2012, Baltimore Mayor Stephanie Rawlings Blake issued an executive order to all city agencies "in an effort to protect new Americans from discrimination and increase access to public safety resources and City services for foreign-born city residents." The order, among other things, directed that no city funds or resources be used to investigate, or apprehend an individual solely for a civil violation of federal immigration law, unless required by federal or state law.

[10] American Community Survey Reports, Language Use in the United States: 2011, available at http://www.census.gov/prod/2013pubs/acs-22.pdf.

individuals speak English either "not well" or "not at all."[11] Many of these LEP individuals qualify for federally funded housing, health, or education services (among others) provided by municipalities. Language barriers can make it significantly harder, however, for these individuals to access or make effective use of these services.

Municipalities are required under Federal law to take steps to break down these barriers. The essay will detail municipalities' legal requirements related to LEP populations, and recommend ways in which cities can ensure compliance. In particular, it will look at the interpretation and enforcement of Title VI as it applies to LEP communities.

II. LEP Communities, Federally Funded Programs, And Governing Law

A. Federally Funded Municipal Programs

Municipalities receive funding for a variety of federal services. Most notably, many local governments receive Community Development Block Grants ("CDBG") from HUD, used to provide an array of services related to affordable housing, community development, employment and education. In addition to CDBG funding, municipalities may receive targeted federal funding for services related to public health, education, law enforcement, and criminal justice. In some cases, these services may serve a significant number of LEP individuals.

This aid comes with obligations. A reminder of these obligations is contained in every contract signed with a federal agency. Each contract contains a provision requiring that the recipient to comply with federal anti-discrimination laws. The most significant of these laws for LEP communities is Title VI of the Civil Rights Act of 1964.

B. Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq. (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d(c) (Safe Streets Act), both prohibit national origin discrimination by recipients of federal financial assistance. Section 601 of Title VI states: "No person in the United States Shall, on the ground of race, color, or

[11] Id.

national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance." Section 602 directs federal agencies to implement the statute by issuing anti-discrimination regulations for the programs that they fund. Pursuant to Section 602, federal agencies subsequently issued regulations barring disparate impact discrimination.[12]

In Lau v. Nichols, 414 U.S. 563 (1974), the Supreme Court held that language-based discrimination is encompassed within Title VI's prohibition of "national origin" discrimination.[13] The holding also confirmed that Title VI bars both intentional and disparate impact discrimination.[14] As such, Title VI prohibits recipients of federal financial aid from both intentional and disparate-impact discrimination against LEP individuals.[15]

C. Executive Order 13166 and Related Guidance

On August 11, 2000, President Clinton issued Executive Order 13166, intended to "improve access to federally conducted and federally assisted programs and activities for persons who, as a result of national origin, are limited in their English proficiency (LEP)." Exec. Order No. 13166, 3 C.F.R. 289 (2001). "To this end," the order required that, "[e]ach federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access . . . services." Id.

To assist agencies, the Department of Justice issued a general guidance document setting forth compliance standards to ensure that the programs and activities they normally provide in English are accessible to LEP individuals and

---

[12] 28 C.F.R. §§ 42.104(b)(2), 42.203(e).

[13] This holding has subsequently been reiterated by subsequent lower court decisions, regulations and executive orders. United States v. Maricopa Cnty., Ariz., 915 F. Supp. 2d 1073, 1079 (D. Ariz. 2012)("However, longstanding case law, federal regulations and agency interpretation of those regulations hold language-based discrimination constitutes a form of national origin discrimination under Title VI."); see also Colwell v. Dep't of Health & Human Servs., 558 F.3d 1112, 1116–17 (9th Cir.2009) (noting that Lau concluded "discrimination against LEP individuals was discrimination based on national origin in violation of Title VI").

[14] Lau v. Nichols, 414 U.S. 563 (1974). A later Supreme Court decision, Guardians Ass'n v. Civil Serv. Comm'n of City of New York, narrowed the scope of section 601 of Title VI, holding that it was limited to intentional discrimination. 463 U.S. 582, 103 S. Ct. 3221, 3222, 77 L. Ed. 2d 866 (1983). The Guardians Court further held, however, that Section 602 allowed federal agencies to adopt regulations banning disparate impact discrimination.

[15] The Supreme Court has barred private plaintiffs from bringing disparate impact lawsuits under Title VI. This issue will be discussed further in section III, infra, which deals with enforcement of Title VI.

therefore do not discriminate in violation of Title VI. See Department of Justice, Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons With Limited Language Proficiency; Policy Guidance, 65 Fed. Reg. 159. Following the DOJ guidance, individual departments released guidance specific to their recipients.

The DOJ guidance is an important starting point for any municipality seeking to ensure that it is compliant with Title VI. The guidance, in accordance with Lau, states that the discriminatory effect of a failure to provide language assistance "places the treatment of LEP individuals comfortably within the ambit of Title VI and agencies' implementing regulations." Id. The guidance further notes that agency regulations must target the "unjustified discriminatory effects" of any failure to provide sufficient language assistance. Id. As such, the DOJ directs that all recipients "who fail to provide services to LEP applicants and beneficiaries . . . may be discriminating on the basis of national origin in violation of Title VI and its implementing regulations." Id.

In order to avoid violating Title VI requirements, the DOJ directs recipients to "take **reasonable steps** to provide meaningful access" to LEP individuals. Id. (emphasis added). The guidance lists four factors to be considered when determining what steps are taken.

The first factor, and arguably the most important, is number or proportion of LEP individuals served. While programs that serve very few individuals are still subject to Title VI obligations, a key factor in determining reasonableness "is the number or proportion of people who will be excluded from the benefits or services absent efforts to remove language barriers." Id. Programs that have very few LEP individuals in their service area need not develop a comprehensive LEP plan. The DOJ guidance recommends that "being prepared to use one of the commercially available language lines to obtain immediate interpreter services" would be sufficient in this scenario. Id.

The service area in this context includes persons who are in the geographic area that has been approved by a federal grant agency as the recipient's service area. For example, in a multifamily housing program, it would be the market area approved by HUD for the Affirmative Fair Housing Marketing Plan; for a Public Housing Agency (PHA), it would be the geographic area approved by HUD as the recipients' jurisdiction; for a Community Development Block Grant Program (CDBG), it would be the Entitlement Jurisdiction (EJ). For sub-recipients in these

programs, it would depend on their contract with the recipient organization.

The second factor is frequency of contact with the program. The DOJ guidelines make clear that 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 infrequent." Id. Recipients are instructed to "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." Id.

Third is the nature and importance of the program. A greater effort is required "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." Schools and hospitals therefore have comparatively stringent Title VI obligations. Courts and PHAs also face a relatively high burden under Title VI. DOJ guidance also notes that a decision "to make an activity compulsory . . . serves as strong evidence of the program's importance." Id.

The final factor is the resources available to a recipient. This factor is particularly relevant where there are few LEP individuals in a service area, where contact is infrequent, or where the services provided are not vital. In these situations a recipient with limited resource is not expected to take the same steps as a larger, better-funded recipient. DOJ guidance makes clear, however, that "claims of limited resources from large entities will need to be well-substantiated." Id.

When balancing the above four factors, the DOJ guidance directs that "agencies should particularly address the appropriate mix of written and oral language assistance." Id. The above factors should inform a recipient's decision as to which documents must be translated, when oral translations is necessary, and whether such services must be immediately available. The guidance highlights the importance of oral communication between recipients and beneficiaries and warns that "a recipient that limits its language assistance to the provision of written materials may not be allowing LEP persons 'effectively to be informed of or participate in the program' in the same manner as persons who speak English." Id.

Municipalities should have a working familiarity with these factors. While the guidance released by each agency provides more detailed information for recipients, the general DOJ guidance provides the foundation on which these

individual releases are based. If a municipality makes a good-faith effort to use these factors to inform decisions regarding services for their LEP population, they will have taken a significant step towards ensuring Title VI compliance.

III. Title VI Language Access Enforcement

A. Private Actions

As detailed supra, Title VI and its implementing regulations bar both intentional discrimination, through Section 601, and disparate impact discrimination, through Section 602 and its implementing regulations. The Supreme Court held in 1979 that Congress intended to create a private right of action to enforce Section 601. Cannon v. Univ. of Chicago, 441 U.S. 677, 716, 99 S. Ct. 1946, 1968, 60 L. Ed. 2d 560 (1979). Until Alexander v. Sandoval, however, it was unclear whether Title VI also created a private right of action to enforce the regulations barring disparate impact discrimination under Section 602.

In Sandoval, The Supreme Court found that it did not. The Court held that the "authorizing portion of § 602 reveals no congressional intent to create a private right of action." Alexander v. Sandoval, 532 U.S. 275, 289, 121 S. Ct. 1511, 1521, 149 L. Ed. 2d 517 (2001). While the regulations associated with Section 602 created a disparate impact right of action, the Court held that regulations "may not create a [private] right that Congress has not." Id. As such, while agencies could continue to issue regulations barring disparate impact discrimination, these could only be enforced by the agencies, rather than the public. Because Title VI claims regarding language access are nearly always based on a disparate impact theory, the decision effectively cut off the vast majority of private enforcement of Title VI.

Municipalities should be aware, however, that private actions regarding language access are not entirely extinct. For example, local anti-discrimination laws may be used in place of Title VI. California's Title VI equivalent allows individuals to bring state-court disparate impact claims relating to language access.[16]

[16] Cal. Gov. Code § 11135 (West 2012) (prohibiting national origin discrimination by "any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state"); Cal. Gov. Code § 11139 (West 2002) ("This article and regulations adopted pursuant to this article may be enforced by a civil action for equitable relief, which shall be independent of any other rights and remedies."); see also Jessica Rubin-Wills, Language Access Advocacy After Sandoval: A Case Study of Administrative Enforcement Outside the Shadow of Judicial Review, 36 N.Y.U. Rev. L. & Soc. Change 465, 483 (2012).

Individual cities also have LEP specific laws and policies. New York City passed a local law in 2003 requiring city agencies to provide translation assistance for LEP individuals seeking food stamps, medical benefits, and other social services.[17] Mayor Bloomberg signed an executive order in in 2008 requiring city agencies providing public services to enact language access policies. Philadelphia has issued a similar order. Mayor Rawlings-Blake in Baltimore signed an executive order in 2012, barring all city agencies from discriminating based on immigration status and/or inability to speak English.

Finally, Sandoval left untouched private actions under Section 601 alleging intentional discrimination. While these actions are rare and face a lower chance of success than a disparate impact claims, they are still occasionally filed.

In 2012, for example, the Department of Justice ("DOJ") filed a claim in the District of Arizona against Maricopa County, Arizona, alleging, among other things, intentional discrimination of Latino prisoners in violation of Title VI. United States v. Maricopa Cnty., Ariz., 915 F. Supp. 2d 1073, 1076 (D. Ariz. 2012). The DOJ's complaint alleged that the County conducted their jail operations in English and provided inadequate language assistance to their large Latino LEP populations. Id. As a result, the DOJ argued, LEP inmates were denied access to jail programs such as sanitary needs, food, clothing, legal information and religious services. Id. The Court found that these allegations were sufficient to state a claim for discrimination under Title VI. The case is currently in discovery.

More recently, a non-profit group recently sued the Hawaii Department of Transportation ("DOT"), alleging intentional discrimination due to the DOT's failure to provide a driver's license exam in English. Faith Action for Community Equity, et. al v. Hawaii Department of Transportation, D. Haw. No. 13-cv-00450-SOM-RLP. The United States filed a Statement of Interest in the case, arguing on behalf of the plaintiffs. The U.S. argued for a broad definition of intentional, noting that "even when a policy or practice is facially neutral, that policy or practice can be motivated by intentional national origin discrimination when established through evidence of 'disparate impact, history of the state action, and foreseeability and knowledge of the discriminatory onus placed upon the complainants." A decision is currently pending on the State's Motion to Dismiss.

[17] Rubin-Wills, supra at 483.

Maricopa County demonstrates that these cases can survive a motion to dismiss, leading potentially to costly, extensive discovery and ultimately the threat of a plaintiff's verdict. It also shows that the DOJ will put its weight behind private actions alleging intentional discrimination. Municipalities would do well to be proactive and ensure that their services are available to LEP communities in order to avoid such a result.

B. Administrative Actions

While some Title VI LEP cases are brought in the federal courts, the result of Sandoval is that Title VI is primarily enforced through an administrative process. The majority of federal agencies have offices which deal with administrative complaints under Title VI. For example, The Office for Civil Rights (OCR) enforces Title VI for the DOJ. HUD's Office of Fair Housing and Equal Opportunity services the same purpose. These offices are required to investigate all complaints that are received.[18]

If a recipient is not in compliance with language access requirements, the agency will inform the recipient in writing of the actions that must be taken. The government is required to first seek voluntary compliance and monitor the recipient's development of a compliant language access policy. Generally, complaints are resolved through this collaboration. If the voluntary compliance process does not succeed, however, the agency can terminate federal funding.

Significant reform has been achieved through this administrative process since Sandoval. Indeed, this route has some advantages for LEP advocates over private litigation. The loss of federal funding is a strong incentive to cooperate, and municipalities may be more receptive to community demands without the threat of a lawsuit hanging over their heads.[19] As a result of the administrative process, several local governments have reached comprehensive plans that increase access for large numbers of LEP individuals.

The agreement reached between the U.S. Department of Health and Human Services Office for Civil Rights and the Montgomery County, New York,

[18] 28 C.F.R. § 42.107(c)(2011)("The responsible Department official . . . will make prompt investigation whenever a compliance review, report, complaint, or any other information indicates a possible failure to comply.").

[19] Rubin-Wills, supra at 489 ("Agencies may be more receptive to advocates' demands when they are not facing the threat of a lawsuit, allowing the advocates to serve in the role of consultant and demonstrate how improving language access can make the agency's operations run more effectively.").

Department of Social Services is representative.[20] The agreement was reached as the result of a complaint alleging that MCDSS did not provide the complainant with a Spanish interpreter during a home visit.

Montgomery County agreed to conduct, within 90 days of the effective date of the agreement, an assessment for determining the linguistic needs of LEP individuals that are eligible for services. This information would be used to translate, within a year of the agreements, all vital documents into any language spoken by five percent of the total population eligible to be served or 1,000 persons in that population, whichever is less. The County also agreed to take immediate steps to notify LEP individuals of the availability of free language assistance, and to ensure that interpreters were available for all MCDSS programs and services. The agreement specified that MCDSS must appoint a "language access coordinator," tasked with "overall responsibility for coordinating MCDSS' comprehensive language assistance services." Finally, MCDSS agreed to provide a variety of language access resources through bilingual staff, interpreters, or telephone services.

The Montgomery County Agreement is one of several agreements reached between agencies and local recipients. These agreements are useful resources for municipalities interested in taking proactive steps to ensure compliance. Some agencies make these agreements accessible online. HHS, for example, makes several agreements available here: http://www.hhs.gov/ocr/civilrights/activities/examples/LEP/.

IV. Ensuring Title VI Compliance

Compliance begins with the four factors listed by the DOJ in their LEP guidance. For some municipalities that receive limited federal funding or who have a very small (less than 50) LEP population, reference to the more general DOJ guidance may be sufficient to ensure Title VI compliance. For larger municipalities with greater resources and more significant LEP populations, the more specific agency guidelines should be used to supplement the general guidance.

The starting point for all municipalities, however, is an investigation into the number of LEP individuals served through programs that receive federal aid.

[20] U.S. Department of Health and Human Services, Montgomery County Department of Social Services Agreement, available at, http://www.hhs.gov/ocr/civilrights/activities/examples/LEP/mcdssra.html.

There are several ways of determining the number and proportion of LEP individuals served. U.S. Census data provides statistics regarding English proficiency by municipality. For example, according to 2012 data from the American Community Survey, Baltimore City has a population 5 years and older of 579,121. Within this total, 10,775, or just fewer than 2%, speak English either "not well" or "not at all."[21] It is important, however, for individual recipients, such as PHAs, Courts, or Police Departments, to conduct studies of the community they serve. While some cities, like Baltimore, may have relatively low proportion of LEP individuals, specific programs may serve a higher percentage.

The information gleaned from this investigation determines the appropriate subsequent steps a recipient must take. Most important, a recipient must determine what languages are spoken in their service area, and the number and proportion of people that speak that language. In, Baltimore, for example, the majority of individuals who speak English less than "very well" are Spanish-speakers—10,571 altogether.[22] There are also, however, smaller but significant groups of French (1,162) and Chinese (1,087) who also speak English less than "very well." This type of data is particularly important because it can be used to guide a recipient into a "safe harbor" for Title VI Compliance.

The individual guidance issued by Federal Agencies include these "safe harbors" in order to guide recipients towards compliance. HUD, for example, provides the following table to aid recipients in determining appropriate language services based on the number and proportion of LEP beneficiaries.[23]

[21] U.S. Census Bureau, 2012 American Community Survey, Nativity by Language Spoken at Home by Ability to Speak English at Home for the Population 5 Years and Older.
[22] U.S Census Bureau, 2010-2012 Community Survey, Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over.
[23] U.S. Department of Housing and Urban Development, Limited English Proficiency (LEP) Frequently Asked Questions, available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q21

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[24] 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.

HHS provides similar guidance, although does not specify that no written translation is required when 5% or less of the eligible population or beneficiaries and less than 1,000 in number.[25] Both documents make clear, however, that these safe harbors apply only to written documents and provide only a "starting point" for recipients to consider.

Beyond these safe harbors, there are few bright-line rules regarding Title VI compliance. Agencies suggest, but do not require, that beneficiaries with significant LEP populations develop an implementation plan to address the identified needs of the LEP populations they serve. This plan should discuss ways in which the LEP population will be identified; language assistance measures to be taken; training methods to ensure staff can provide effect services; and a plan to effectively notify LEP individuals of the services available.

Some municipalities would be well served by an office specifically tasked to oversee immigrant affairs. Particularly in large cities that receive substantial federal funding from various sources, central oversight over Title VI compliance is vital. These offices can not only oversee language access, but also maintain connections with LEP communities to ensure that a municipality is aware of their

[24] Examples of vital documents include Consent and complaint forms and intake forms with the potential for important consequences. Non-vital documents include Third party documents, forms, or pamphlets distributed by a recipient as a public service, or general information about the service. U.S. Department of Health and Human Services, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, available at http://www.hhs.gov/ocr/civilrights/resources/laws/revisedlep.html

[25] Id.

needs. Indeed, such a role could make language access efforts more targeted and therefore cost-efficient.

Baltimore's Office for Immigrant Affairs, for example, is tasked with establishing working relationships with immigrant communities. The Office also seeks to educate foreign-language speakers of the services available to them. Several other large cities, notably New York, Boston, and Houston, have similar offices.

While smaller municipalities may not need to devote this level of resources to foreign-born and LEP individuals, it would likely still be beneficial to designate an individual to oversee compliance. As noted above, many compliance agreements mandate that a "language access coordinator" is appointed. Such a coordinator would manage tasks such as identifying vital documents, training personal, and would oversee the implementation of language access programs.

As a result of Executive Order 13166, municipalities have access to a wealth of information to guide their Title VI compliance efforts. While there are few bright-line rules, a close reading the DOJ guidelines, in addition to agency-specific guidelines and compliance agreements, should provide sufficient information to implement a comprehensive compliance plan.

V. Conclusion

Title VI language access obligations are constantly changing. Municipalities with few obligations 10-15 years ago may now need to take significant steps to ensure their new LEP communities have access to federal services. Municipalities that have put in place assistance for Spanish-speakers may now need to shift to accommodate Mandarin, Vietnamese, or Tagalog speakers, or vice versa.

Perhaps the most significant challenge for municipalities is keeping ahead of the curve. It is not sufficient to simply put in place a language access plan. The plan must be updated frequently, to accommodate both changing demographics within a municipality and the changing needs of the LEP community.

While compliance requires some effort and expense, it is not without rewards. Municipalities will ensure that they are not at risk for lawsuits based on intentional discrimination, or individual complaints leading to an agency investigation. Proactively ensuring compliance is preferable to coerced change as the result of a lawsuit.

The benefits of compliance are not limited to avoiding sanction, however. By breaking down barriers to federally funded services, municipalities will ensure that their foreign-born communities are well served and in a position to succeed. This, in turn, will lead to healthier neighborhoods. It will lead to population growth as the municipality attracts more foreign-born. Ultimately, it will help contribute to a growing, thriving city.