



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

**Special Attention of:**

Public Housing Agencies administering the Housing Choice Voucher and/or Public Housing Programs, PIH grantees

**NOTICE PIH 2024-04**

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Cross References: N/A

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**SUBJECT: GUIDANCE ON ELIGIBLE USES FOR PIH PROGRAM FUNDS RELATED TO PERSONS WITH LIMITED ENGLISH PROFICIENCY**

**1. Applicability:**

This Notice provides guidance for public housing agencies (PHAs) administering the Public Housing (PH) and/or Housing Choice Voucher (HCV) programs, along with other PIH grantees (for example, recipients of federal funding through PIH's NOFO process), on compliance with federal requirements for providing meaningful access to persons with limited English proficiency (LEP).

**2. Purpose:**

The Fiscal Year 2022 Joint Explanatory Statement (JES) for Division L - Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2022 directed the Office of Public and Indian Housing (PIH) and Office of Fair Housing and Equal Opportunity (FHEO) to develop guidance for utilizing PIH program funds for LEP related activities. The JES also directed HUD to identify best practices for language access plans and cost-effective strategies for accessing robust language assistance.

The guidance consolidates and clarifies information on the existing eligible use of funds within PIH program funds for LEP-related activities.

**3. Background:**

Individuals who do not speak English as their primary language and have limited ability to read, write, speak, or understand English may be a person with LEP. These individuals may be entitled to language assistance for a particular service, benefit, or encounter. Federal laws applicable to language access include Title VI of the Civil Rights Act of 1964, the Title VI regulations, and [Executive Order 13166](#). Many federal programs, states, and localities also have provisions requiring language services for LEP individuals.

Title VI requires that all recipients of federal financial assistance, including subrecipients, take reasonable steps to ensure that persons with LEP have meaningful access to the recipient's programs or activities including by ensuring meaningful access to benefits, services, information, and other vital aspects of the recipient's programs or activities.<sup>1</sup> Failure to ensure that persons with LEP have the opportunity to effectively participate in programs or receive their benefits may violate Title VI's prohibition against national origin discrimination.

In addition, [Executive Order 13166](#), "Improving Access to Services for Persons with Limited English Proficiency,"<sup>2</sup> requires Federal agencies and recipients of federal financial assistance to provide meaningful access to all programs and services. Language for persons with LEP can be a barrier to accessing important benefits or services; understanding; and exercising necessary rights; complying with applicable responsibilities; or understanding other information provided by recipients who administer federally funded programs and activities.

The Department released guidance for HUD-funded recipients on LEP compliance requirements, titled "[Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons](#)."<sup>3</sup> This LEP guidance describes compliance standards that recipients of HUD funding should follow to ensure that their programs and activities are accessible to persons with LEP and do not discriminate based on national origin..."

#### **4. LEP Compliance Requirements:**

Language access policies, plans, and procedures will differ depending on a variety of factors, including the recipient's nature or method of operation and its points of contact with the public. To meet their obligation to provide meaningful access to their programs, HUD recommends that federally assisted recipients, including PHAs and PIH grantees:

- (1) conduct a four-factor analysis;
- (2) develop a Language Access Plan; and
- (3) provide appropriate language assistance.

##### **a. Four-factor Analysis**

Grantees should apply a 'four-factor analysis', which provides a framework for reviewing the totality of the circumstances and balances the need to ensure meaningful access without imposing undue burdens on recipients. The analysis involves:

- (1) Reviewing the number or proportion of persons with LEP served or in the eligible service population;
- (2) The frequency in which persons with LEP interact with the program;
- (3) The nature and importance of the program, activity, or service; and

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<sup>1</sup> More information on Title VI can be found at [42 U.S.C. § 2000d](#); HUD's implementing regulations are at [24 C.F.R. Part 1](#)

<sup>2</sup> [65 FR 50121](#)

<sup>3</sup> [FR-4878-N-02](#)

- (4) The resource and costs to the recipient Demonstration by a recipient that a certain service option would present a material burden can then be considered during the four-factor analysis.

**b. Language Access Plan**

After conducting the four-factor analysis, the recipient should develop a Language Access Plan for how to meet the needs of the LEP populations the recipient serves.

Some helpful elements in designing this plan include:

- identifying persons with LEP who need language assistance;
- identifying the staff who may have contact with persons with LEP;
- the language assistance provided;
- conducting effective outreach to the LEP community;
- training staff;
- determining which documents are vital;
- translating information materials;
- providing interpreters for meetings;
- connecting with and developing community resources to help with language services; and
- a timeframe for updating the Language Access Plan (LAP), including seeking input from the community.

Additionally, PHAs and PIH grantees should ensure that the Language Access Plan:

- Identifies informational materials that must be translated (e.g., leases, marketing materials, tenants' rights, and responsibilities brochures);
- Contains procedures for providing appropriately translated notices to persons with LEP (e.g., eviction notices, security information, emergency plans) and providing interpreters for large, medium, small, and one-on-one meetings;
- Contains procedures for frontline staff to identify when a person has language access needs and how to assist them;
- Develops community resources, partnerships, and other relationships to help with the provision of language services; and
- Makes provisions for monitoring and updating the LAP, including seeking input from beneficiaries and the community on how it works and what other actions should be taken.

HUD has a [Language Access Plan](#) that can be used by PHAs and PIH grantees in analyzing their needs.

**c. Language Assistance Services**

After developing the Language Access Plan, recipients should implement the plan by providing appropriate language assistance services to the LEP population the recipient serves. Some language assistance services recipients can provide include oral interpretation, bilingual staff, telephone service line interpretation, written translation services, notices of availability of LEP

services, or referrals to community liaisons proficient in the language. The recipient may have another organization supply interpretation services as needed, use a telephone service line interpreter, or contract another agency in the same community with bilingual staff to provide interpretation services.<sup>4</sup>

## **5. PIH Program Funds Use:**

[HUD's LEP guidance](#) explains the obligation of federal financial assistance recipients to take reasonable steps to meet their regulatory and statutory obligations in ensuring that persons with LEP have meaningful access within HUD's programs and activities, including for PH and HCV programs. While this guidance does not cover line-item expenses that can be covered by program funds, PHAs and PIH grantees must take reasonable steps to ensure meaningful access to programs and activities for persons with LEP.

### **a. Operating Fund**

Pursuant to [Section 9\(g\) of the Housing Act of 1937](#)<sup>5</sup>, PHAs may use their Operating Fund program subsidy (Op Funds) to ensure meaningful access for persons with LEP related to the PHA's operations. Op Fund can be used to ensure access for persons with LEP only within the Public Housing program.

**Example:** During public housing eviction proceedings, a standard PHA action, Op Funds can be used to ensure the public housing resident with LEP has meaningful access to all relevant information related to the proceeding in their native language.

In this situation, activities related to services may include providing appropriately translated notices, including notices of eviction and notices advising persons with LEP of free language assistance. In-person interpretation assistance is necessary for termination and eviction hearings due to the significance of these interactions, and the PHA should provide qualified and trained interpretation services. Similarly, a PIH grantee could use Op Funds to create a greeting message for telephone numbers with options in multiple languages.

### **b. Capital Fund**

PHAs can use their Capital Fund program grant (Cap Fund) to address LEP requirements. Pursuant to Section 9(g) of the Housing Act of 1937 and the regulations found at [24 CFR Part 905.314\(l\)](#), PHAs can use a portion (up to 100% for small, non-troubled PHAs, and 20% for all other PHAs) of a Cap Fund Grant for any eligible cost under the Operating Fund Program, including the Op Fund Activities listed in the Op Fund section within this notice.

PHAs can also use up to 10% of a Cap Fund grant for Management Improvement activities as indicated in [24 CFR Part 905.314\(i\)](#). Management Improvements are noncapital activities that are project-specific or PHA-wide improvements needed to upgrade or improve the operation or

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<sup>4</sup> HUD's website provides additional [frequently asked questions related to LEP compliance](#). Frequently asked questions related to LEP compliance may be found

<sup>5</sup> 42 U.S.C. § 1437g

maintenance of the PHA's projects, to promote energy conservation, to sustain physical improvements at those projects, or correct management deficiencies. PHAs must be able to demonstrate the linkage between the management improvement and the correction of an identified management deficiency. The PHA must identify LEP requirements as a management deficiency and include the LEP work items in the Capital Fund 5-Year Action Plan in order to use Capital Funds for management improvement activities that facilitate access for persons with LEP in Public Housing.

**Example:** Eligible activities under Management Improvements BLI 1408 include, but are not limited to, the following:

- PHAs can use up to 10% of an annual Cap Fund grant for Management Improvements (BLI 1408) to upgrade their online systems for program participant applications to allow future residents to apply in languages other than English.
- PHAs can use BLI 1408 to train PHA staff to better serve with LEP.
- Capital Funds can be used for facilitating communication during resident consultation for the development, financing, and/or modernization of public housing developments, such as hiring or contracting a qualified interpreter or translator equipped to communicate in different languages so that persons with LEP who are in Public Housing are properly informed during relocation counseling.

**c. HCV Administrative Fees**

PHAs and PIH grantees may use HCV Administrative Fees or unrestricted net position (UNP) to address LEP requirements for HCV and project-based voucher (PBV) program activities and materials.

**Example:** Eligible activities include, but are not limited to, the following:

- Facilitating communication, through on-site or remote translation during the oral briefing required at 24 CFR 982.301 and the informal review and informal hearing at 24 CFR 982.554 and 982.555.
- Software upgrades to allow families to use on-line application or recertification systems in languages other than English.
- Translating program resources such as the written materials in the family information packet and other key program forms, notices, and policies in accordance with the Language Access Plan.

**d. Mainstream Voucher and Emergency Housing Voucher Administrative and Service Fees**

Mainstream (MS) Voucher's administrative fees (and UNP) and Emergency Housing Voucher's (EHV) administrative fees and service fees can also be used for eligible activities for addressing LEP requirements for those respective programs.

PIH grantees should consult the competitive grant Notice of Funding Opportunity and/or Grant Agreement to determine the eligible use of funds for meeting LEP requirements.

**6. LEP Compliance Monitoring Reviews:**

FHEO monitors for program compliance and can issue findings related to programmatic violations to PHAs and PIH grantees that are not in compliance with programmatic requirements. PHAs and PIH grantees should include their LEP policies and procedures in their materials that are readily available for public review, such as on their website and primary office. This information must also be provided to all contracts and subcontracts for compliance, including those contracts and subcontracts under Section 3.

7. **Additional LEP Information:** For additional LEP information, please consult [HUD's webpage on FHEO Limited English Proficiency](#).



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