TN Department of Environment & Conservation

POL-TitleVI-P-01-LEPPolicyProcedure-100317

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EFFECTIVE DATE: October 3, 2017

SIGNATURES:

Director

Drafter/Preparer

TDEC Limited English Proficiency (LEP) Policy and Procedures

POLICY

The Tennessee Department of Environment and Conservation (hereinafter "TDEC") will take reasonable steps to ensure that persons with Limited English Proficiency (LEP) have meaningful access and an equal opportunity to participate in TDEC services, programs, and activities. The policy of TDEC is to ensure meaningful communication with LEP persons and their authorized representatives. All interpreters, translators, and other aids needed to comply with this policy shall be supplied at no cost to the person being served.

Language assistance will be provided by TDEC through use of formal arrangements with an organization providing telephonic interpretation and translation services. All staff will be provided notice of this policy and procedure, and staff most likely to have direct contact with LEP individuals will be trained in effective communication techniques, including the effective use of an interpreter.

TDEC will conduct a regular review of the language access needs of our service population, as well as update and monitor the implementation of this policy and these procedures, as necessary.

PROCEDURES

In providing language assistance services to LEP persons, TDEC is guided by a four-factor test: 1. the proportion or number of LEP persons eligible to be served or likely to be encountered; 2. The frequency of LEP contacts with TDEC; 3. The nature/importance of the program, activity, or service provided; and 4. TDEC division resources and costs.[1]

Where an LEP person requires telephonic interpretation, the division should identify the LEP person's language and obtain telephonic interpretation through AVAZA or Linguistica

[1] *See, e.g.*, 69 Fed. Reg. No. 157, 50366-50376 (8/16/2004).

International (the two current translation and interpretation providers on contract with the State of Tennessee).

Where a division requires documents to be translated or an on-site/in-person interpreter, the four factors should be considered.

1. Identify the LEP person and their language

TDEC will promptly identify the language and communication needs of the LEP person.

What is an LEP individual?

A Limited English Proficiency (LEP) individual is someone who does not speak English as his/her primary language and has a limited ability to read, write, speak and/or understand English. LEP individuals may be competent in English for certain types of communication (e.g., speaking or understanding), but still be LEP for other purposes (e.g., reading or writing).[2]

When should I offer LEP services? How can I tell someone is LEP without discriminating?

If you believe that an individual requires LEP services to have meaningful access to aTDEC program or service, you should offer free LEP services.

Some cues that an individual may be LEP and benefit from interpretive assistance: the individual appears confused, does not respond appropriately to questions, relies on body language rather than words to communicate, is speaking in a different language or speaks in a different language at home, has a friend or family member present and interpreting, or there is a significant lag in conversation.

You may not assume that a person is LEP because s/he has an accent or appears "foreign."

How do I figure out what language the LEP person speaks?

In Person Encounters: Staff should refer the LEP person to the language identification sheet or "I speak" card to determine the language for which the LEP person requires an interpreter.

Telephonic Encounters: Staff should use the "I speak" card as a reference and list names of languages or countries of origin to assist the LEP individual in identifying the language in which s/he requires an interpreter.

A conversation may go as follows: TDEC employee: "Spanish, Translator? Portuguese, Translator? Ok. Hold, please."

Staff should also consult the LEP log for their division to see if the LEP person or a family member has previously utilized an interpreter to quickly identify the language spoken.

[2] *See* Executive Order 13166.

2. Obtain a Qualified Interpreter

Once you have determined that you are dealing with an LEP individual, obtain a qualified interpreter. Staff should take reasonable steps to obtain an interpreter in an efficient manner so that the LEP person does not experience an unreasonable delay while attempting to obtain services or information.

IN AN EMERGENCY, USE EFFICIENT, EFFECTIVE TRANSLATION.
This may mean that individuals not otherwise qualified to translate, such as friends or minor children can translate. Once the emergency has passed, please follow the normal procedures to obtain competent LEP services.

Step 1. Check the packet provided by your LEP/Title VI Contact. If a bilingual staff member who is competent to interpret is available, ask them for assistance.

> **Before using bilingual staff,** make sure s/he is competent and comfortable with translating. Ask the staff member if s/he is a certified interpreter or competent to interpret in the subject area. If at any time in the LEP encounter the staff member is uncomfortable with the role of interpreter/translator, use an alternative service to communicate with the LEP person.

If bilingual staff are used to interpret between English speakers and LEP persons, or to orally interpret written documents, they should be competent in the skill of interpreting. Being bilingual is not the same as having the ability to interpret, particularly when dealing with a highly technical issue. There may be times when the role of the bilingual employee conflicts with the role of an interpreter. Effective management strategies, including appropriate adjustments in assignments and protocols for using bilingual staff, will help to ensure that bilingual staff are fully and appropriately utilized. When bilingual staff cannot meet all of the language service obligations of the recipient, use a different option.

Step 2. If a staff member is not available or qualified to interpret, then use **AVAZA Language Services Corp (AVAZA) or Linguistica International (Linguistica).**

AVAZA and Linguistica have agreed to provide qualified interpreter services through telephonic interpreters and document translation services. These language providers have agreed to the same contract pricing terms and both should be able to obtain an interpreter for any language requested at any time.

Your department should initiate an account with one or both of these providers if it has not already. There is no charge to open an account; there is no maintenance fee for maintaining an account. Your department will receive a bill after services are rendered for the services provided.

To obtain telephonic interpretation services, have your ACCOUNT NUMBER and CLIENT ID available and call:

AVAZA Language Services Corp.: 615-534-3400 and **1-800-482-8292** (toll free)

Website: http://avaza.co/pages/
Email: info@avaza.co

Linguistica International: (866) 908-5744 (toll free)
Website: https://www.linguisticainternational.com/translations/
Email: contact@www.linguisticainternational.com
LiveChat: https://www.linguisticainternational.com/translations/

Special Note: Use of Family/Friends to interpret is strongly discouraged.
Some LEP persons may prefer or request to use a family member or friend to interpret.

TDEC's goal is to provide competent interpretation services to LEP persons. Using a friend or family member as an interpreter presents special challenges: s/he may not be qualified because s/he does not understand the subject matter, may not provide a full and accurate interpretation, or may color interpretation with her/his own observations. Using a friend or family member to interpret is particularly problematic where confidential issues are involved or where the friend or family member may have a conflict of interest.

TDEC does ***not*** use friends or family members to interpret ***unless all of the following criteria are met:***

1. TDEC staff offer a free, qualified interpreter to the LEP person,
2. The LEP person knowingly, freely, and voluntarily rejects that offer, requesting that a friend or family member interpret instead,
3. The friend or family member is over the age of 18,
4. The friend or family member is capable of providing competent interpretation,
5. There are no issues of confidentiality, privacy, or conflicts of interest between the interpreter and the LEP person,
6. All of the above information is documented in the LEP log.

If you have reservations about any of these criteria, then obtain alternate services for the LEP person through AVAZA, Linguistica, or a bilingual staff member.

Step 3. If the LEP encounter takes place in the field or a location without cell service, use the Google Translate app (or substantially similar language translation application) to get *customer contact information and set up an appointment for later engagement using language assistance services.*

Google Translate is a free app that can be downloaded on your TDEC-issued cellphone. It provides written translation (103 languages), picture to text translation (37), and two-way instant interpretation (32). It also provides text and translate in 59 languages *without internet access* and provides an option to set up a phrasebook of translations for future use.

Google Translate should NOT be used as a primary form of interpretation, except in emergency situations. It is not reliable for complicated conversations, technical documents, like permit applications, or explanation of processes.

3. Document the LEP Encounter

Each encounter with an LEP individual requiring interpretive services must be documented in an LEP log. Please organize the LEP log by fiscal year (e.g. July 1, 2017-June 30, 2018).

The LEP log should contain the following information:

1. Date of encounter;
2. Language of encounter;
3. Type of encounter (e.g. telephonic or in-person);
4. The type of language assistance provided (e.g. oral or written) ;
5. Service provider utilized (e.g. staff member, AVAZA, Linguistica, or combination);
6. Topic of encounter (e.g. assist in permitting process).

If an LEP individual requests that a friend or family member interpret, the following additional information must be *documented in the LEP log:*

a. The LEP individual was offered language assistance free of charge;
b. The LEP individual waived the offer of free professional interpretation services, requesting a friend or family member interpret instead;
c. The interpreting friend or family member is above the age of 18 and capable of providing competent interpretation; and
d. The subject of the conversation is not sensitive, confidential, or highly technical.

The LEP log will be submitted to the TDEC Title VI Coordinator on an annual basis so that the data may be reported to the Tennessee Human Rights Commission.

4. Designating an LEP/Title VI division contact.

Each Division of TDEC must designate an LEP/Title VI Contact to assist LEP individuals in achieving meaningful access to TDEC services, programs, and activities.

The Division LEP/Title VI Contacts are responsible for:

A. Training division staff to utilize language service providers and identifying bilingual staff;

B. Developing and disseminating a packet to all division staff members comprised of: a list, with contact information, of all bilingual/multilingual division staff, the division LEP log, and inventory of LEP division documents;

C. Setting up language accounts with AVAZA or Linguistica, or both, to be prepared to address LEP needs of customers;

D. Assisting division staff in utilizing LEP services when such assistance is needed;

E. Managing the maintenance of the written LEP log, which should be updated by the staff involved in the LEP encounter, to include a record of each LEP encounter of the division, which will be submitted annually to the TDEC Title VI Coordinator; and

F. Managing an inventory of division documents which are available in a language other than English.

5. Obtaining written translations

When translation of documents is required to provide an LEP person meaningful access and an equal opportunity to participate in TDEC services, programs, and activities, the division will submit the documents to the appropriate TDEC division head and LEP contact, who will review the request considering the four-factor test. If the request is approved, the vital documents must be in a final approved form. Then, the documents should be submitted to an approved translation provider: AVAZA or Linguistica.

Divisions may submit the document by email, with a request for a quote or estimate. Generally, AVAZA or Linguistica can provide the estimate within twenty-four (24) hours.

If you have a question as to whether translation of documents is required or appropriate, feel free to contact the Title VI Coordinator: Christina Ashie Guidry, (615) 253-8337 or TDEC.TitleVI@tn.gov.

The LEP contact for each division will maintain an inventory of translated documents for future program use and submit relevant documents for translation into additional languages as the need arises.

6. Obtaining In-Person interpretation services

Where possible, TDEC endeavors to hire bilingual staff to assist in interfacing with LEP persons. Consult the packet from your department's LEP/Title VI contact to determine which staff members are bilingual or are certified interpreters. It may be appropriate to use their assistance to provide on-site or in-person interpretation services.

Where on-site or in-person interpretation services may be useful or necessary, AVAZA and Linguistica can provide such services. However, those services *are **not** subject to the state contract, which provides reduced rate services for telephonic interpretation and document translation only.* In-person interpretation should be coordinated in advance and a quote obtained. Please copy Tina Pennington in Procurement and Yasanta Wells at Knowledge Services on such requests.

If the cost of the on-site/in-person interpretative services exceeds $10,000.00, your division will need to consult with Tina Pennington in Procurement and request bids for the services.

Upon receipt of the quote for services, the Division should be guided by the four-factor test provided herein as to whether in-person/on-site interpretation is necessary or an alternative interpretative service is appropriate. If you have a question as to whether on-site/in-person interpretation is necessary or appropriate, feel free to contact the Title VI Coordinator: Christina Ashie Guidry, (615) 253-8337 or TDEC.TitleVI@tn.gov.

7. Monitoring Language Needs and Implementation

On an ongoing basis, TDEC will assess changes in demographics, types of services or other needs that may require reevaluation of this policy and its procedures. In addition, TDEC will regularly assess the efficacy of these procedures, including but not limited to mechanisms for securing interpreter services.

Revision Number	Date	Brief Summary of Change
0	08-07-2017	Initial Issuance
1	10-02-2017	Add provision to No. 2, Step 3 for use of language translation applications for LEP field encounters.