

# Illinois Environmental Protection Agency Language Access Plan

Illinois is home to a large and diverse population with about one-and-three-quarter million foreign-born residents. Individuals that do not use English as their primary language and have a limited ability to read, write, speak, or understand English are considered limited English proficient (LEP). Almost three million residents speak a language other than English at home and more than a million speak English less than “very well,” classifying them as limited English proficient<sup>1</sup>. This document seeks to provide employees at the Illinois Environmental Protection Agency (Illinois EPA or the Agency) with resources and a protocol for interacting with identified LEP individuals. In addition, this document reflects the Agency’s policy that when individuals need language assistance to meaningfully participate in Illinois EPA’s programs or events, opportunities for such assistance will be identified and pursued when circumstances meet the guidelines of this Plan.

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## Legal Authority

The Agency is a recipient of federal financial assistance. As a contractual recipient of federal funding, Illinois EPA is obliged to comply with applicable provisions of federal civil rights laws and policies prohibiting discrimination, including Title VI of the Civil Rights Act of 1964 (Title VI). 42 U.S.C. § 2000d. Title VI specifically prohibits recipients from discriminating on the basis of race, color, or national origin. The U.S. Supreme Court held in *Lau v. Nichols*, 414 U.S. 563 (1974), that actions by a federally funded program that have a disproportionate negative effect on LEP persons, including denying the LEP individuals a meaningful opportunity to participate in the relevant program, are barred by the Title VI prohibition against national origin discrimination. Thus, recipients of federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to government services.

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<sup>1</sup> US Census Bureau, American Community Survey 2015 - 2019 Five Year Estimate

Additionally, Executive Order 13166 (August 11, 2000), *Improving Access to Services for Persons with Limited English Proficiency*, requires each federal agency that provides financial assistance to recipients to develop guidance regarding their obligations under Title VI to provide meaningful access to LEP persons. The U.S. Department of Justice (DOJ) simultaneously issued general guidance (DOJ Guidance) to federal agencies on implementation of the Executive Order. 65 FR 50123 (August 16, 2000). Subsequently, U.S. EPA issued its own guidance (EPA Guidance) to federal funding recipients on the Title VI prohibition against national origin discrimination affecting LEP persons. (69 FR 35602, June 25, 2004).

Similarly, the Illinois Civil Rights Act of 2003, which is modeled after Title VI, prohibits units of State, county, and local government from utilizing criteria or methods of administration that have a disparate impact on the basis of race or national origin, regardless of intent. See 740 ILCS 23/5.

### Illinois EPA Program Assessment

In developing this LEP Plan, Illinois EPA has generally followed the recommendations provided in the [EPA Guidance](#). The EPA Guidance addresses and incorporates the principal elements in the [DOJ Guidance](#). The Plan focuses on activities that are targeted to the general population or to specific individuals rather than regulatory communications that are focused on industry or municipalities, such as communications with regulated entities. Affected activities include permitting activities, remedial/cleanup activities, educational activities, development of rules, and responding to inquiries from Illinois residents. The EPA Guidance makes clear that recipients like Illinois EPA “have considerable flexibility in determining how to comply with their Title VI legal obligation in the LEP setting.” (69 FR 35613). Agencies are encouraged to determine the extent of their LEP obligations by performing an individualized assessment in accordance with a four-factor analysis described in the EPA Guidance. The ultimate purpose of the assessment is to achieve an appropriate balance of the four factors.

As set forth below, Illinois EPA has performed an assessment of the four factors presented in the EPA Guidance.

#### **Factor 1: The number or proportion of LEP persons eligible to be served or likely to be encountered**

The EPA Guidance indicates that determining reasonable steps for providing meaningful access depends on the number or proportion of people who would be excluded due to language barriers. The greater the number or proportion of LEP persons in an area, the more likely language services are needed. Illinois EPA’s service area extends to the whole of the state of Illinois, where approximately 23 percent of the population speaks a language other than English at home and approximately 8.4 percent of the population are Limited English Proficient (American Community Survey 2020). Illinois EPA can thus anticipate that some portion of the population or households of LEP persons may be encountered by Illinois EPA programs.

Information related to site-specific LEP needs may be available from the following sources: Illinois EPA employees with experience in the community, local government, school, religious and community organizations, legal aid entities, census data, USEPA and Illinois EPA GIS tools. These sources may assist in identifying populations for whom additional language services are needed and for which populations translation services would be most beneficial.

In Illinois, the largest LEP population is Spanish speaking, making up approximately 5% of the state population and approximately 60% of the entire LEP population. The next largest language groups speak Polish (approximately 7.4% of the LEP population), Chinese (including Mandarin and Cantonese) (approximately 5% of the LEP population), Arabic (approximately 2.3% of the LEP population), Tagalog (approximately 2.2% of the LEP population), Korean (approximately 2.1% of the LEP population), Russian (approximately 1.9% of the LEP population), and Gujarati (approximately 1.8% of the LEP population). These figures were calculated by using [American Community Survey's \(ACS\) data table titled Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over \(Illinois, year 2020\)](#). The percentage total LEP population of Illinois was calculated from the sum of ACS's estimates for number of people in each language group that speaks English less than "very well". The percentages thereafter were calculated using this LEP population total and each estimate from the mentioned language's population that speaks English less than "very well".

It should be noted that, while in most cases with smaller LEP populations, there is a higher portion of their total population that speak English less than "very well". These populations include Korean, Khmer, Vietnamese, Thai, Lao, other Tai-Kadai languages, and other languages of Asia. Each of these population are 50% or more LEP, thereby increasing the chance that few members or possibly no one in a household will be English proficient.

## **Factor 2: The frequency of contact with LEP individuals**

According to the EPA Guidance, the LEP obligations of a recipient such as Illinois EPA are greater if there is more frequent contact with LEP individuals when compared to unpredictable or infrequent contact. The EPA Guidance further indicates that the frequency of LEP contact and the resulting need for agency assistance can be assessed on a language-specific basis. In other words, the more frequent contact that a federal funding recipient has with a particular language group, the more likely that enhanced language services in that language are needed.

The frequency of contact with LEP individuals likely vary significantly across Illinois EPA programs and the specific locations where they conduct activities. Due to the nature of most of the Agency's programs and regulatory requirements, contact with any particular LEP community is infrequent and unpredictable. The main exception to this is with the Vehicle Inspection and Maintenance program, which for those residents living in areas of the state in which the program is in effect will tend to involve more direct involvement with the public.

### **Factor 3: The nature and importance of the program**

The EPA Guidance indicates that the need for language services is related to the importance of the action by a recipient. For example, EPA states that the obligation to communicate information to a person who may be adversely impacted by an immediate water source contamination or to a sudden release of airborne toxic chemicals differs from those related to providing information on efforts to increase recycling. With this guidance in mind, the need for LEP services could vary significantly, as actions by Illinois EPA programs cover a broad spectrum in terms of urgency and potential consequences. The Agency will prioritize its LEP assistance for 1) those critical and health protective services, e.g. assuring that boil orders are issued in appropriate language(s) or in situations where there is the imminent threat of contaminant exposure above a regulatory level, and 2) information produced from and targeted to the general population, such as certain factsheets and brochures providing information to the general public, and 3) those programs that are of a licensing nature for the general public or are required for the public to obtain licensing, such as the Vehicle Inspection and Maintenance program.

### **Factor 4: The resources available**

The EPA Guidance discusses the potential impact of available agency resources in determining what would constitute reasonable steps to address LEP concerns. In summary, the guidance states that agencies with larger budgets would be expected to provide more language services than those with smaller budgets. In addition, the EPA Guidance states that “reasonable steps” may cease to be reasonable where the costs substantially exceed the benefits. Illinois EPA will establish a two-step process providing 1) translation of appropriate documents and as needed 2) interpretation in appropriate settings. Illinois EPA will use a mix of techniques, including in-house staff, technology-based (e.g., translation software), and outside contractors to efficiently provide LEP services consistent with the guidelines of this plan.

## **LEP Plan and Implementation**

Based on the four-factor assessment above, Illinois EPA has developed a plan for implementation to achieve its LEP goals. Illinois EPA acknowledges the benefit of having a Plan to provide meaningful access to LEP individuals, as it will dovetail with the interests advanced by the Illinois EPA’s Environmental Justice (EJ) Policy to assure that agency decision-making takes into consideration environmental equity in the administration of its programs. Such planning and implementation should also assure that federal funding currently provided by U.S. EPA will not be potentially compromised by failing to consider the consequences of LEP individuals affected by administration of agency programs.

The nature of the Plan will be implemented on a case-by-case basis but will be aided by select criteria that are meant to provide a more objective-based approach, mirroring related developments by other States. The Illinois EPA’s LEP Plan will continue to develop, as

appropriate, through the normal course of the Illinois EPA's regulatory and programmatic duties. This approach is consistent with the requirements of Title VI. The EPA Guidance states: "While all recipients should work toward building systems that will ensure access for LEP individuals, EPA acknowledges that the implementation of a comprehensive system to serve LEP individuals is a process and that a system will evolve over time as it is implemented and periodically reevaluated." 69 FR 35612.

### **Identifying LEP Individuals Who Need Language Assistance**

The analysis under the first and second factors above provides a starting point for determining those LEP individuals who may be eligible for language assistance with respect to agency programs. Because Illinois EPA's actions and public outreach are often community-based, the identification of LEP individuals will depend upon the population in the specific community. Building on its experience with numerous communities across the state, Illinois EPA will continue collaborating with community leaders and members to enhance its awareness of the LEP individuals within the potentially impacted communities. Achieving this often involves coordination between Illinois EPA program staff, the Illinois EPA Office of Community Relations (OCR), and the Illinois EPA Environmental Justice Program. Additional resources utilized by Illinois EPA staff to identify if a community has potential LEP populations or individuals who need language assistance include Illinois EPA's EJ Start mapping tool, Census and American Community Survey data, USEPA's EJ Screen tool, and historic and current interactions with community members and community organizations.

## **Vital Documents**

### **Definition of Vital Documents**

The Department of Justice guidance indicates that a document is "vital" if it "contains information that is critical for obtaining [federal] services and/or benefits or is required by law... 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."

The Illinois EPA will continue to review, identify, and translate vital documents in accordance with the LEP plan to ensure it is taking reasonable steps to provide meaningful access to its programs and activities. Documents identified below may be published on the Illinois EPA's webpage or, in the case public notices, also distributed in accordance with applicable laws and regulations. Documents which currently have been identified for translation include:

- Public Notices (for sources located in communities meeting the LEP plan criteria for translation)
- Pollution Complaint Form
- Language Access complaint form
- Environmental Justice Policy
- Environmental Justice Public Participation Policy
- FOIA Request Web Form

- Fugitive Dust Complaint Log
- Odor Log Sheets
- Right-to-Know notices (for sources located in communities meeting the LEP plan criteria for translation)
- Environmental Justice Grievance Procedure
- Vehicle Emissions Testing Program
- IEPA Open Burning Permits Fact Sheet
- Drinking Water Watch
- Drinking Water Information
- Lead Informational Notice
- Emergency Release Notification Fact Sheet
- Clean Energy Job Act Rebate Information
- Low Income Residential Energy Efficiency Program

### *LEP Assessment*

Specifically, for site specific actions such as public notices and other notifications related to permitting and clean-up programs, the Illinois EPA will:

1. Use the above screening tools to assess the LEP population within a 1-mile radius of the site in question; unless the Agency has reason to believe based on quantifiable evidence that the assessed area should be larger or smaller.
2. The Illinois EPA will assess language assistance requests and use previous interactions in the community for the site or other nearby sites.
3. After screening and assessment of previous requests and use, if the total LEP population is significant (defined here as equal or greater than 20%), the Illinois EPA will use Census American Community Survey data to determine the probable language(s) spoken by the community in the area of assessment.

### **Language Assistance Measures**

The EPA Guidance states that the two principal methods of serving LEP individuals are providing oral and written language services. Oral language services consist of interpretation by listening to something in one language and orally translating it into another language. This may include providing on-site interpreters when a high volume of LEP individuals will attend a significant public event. Written language services consist of language translation by replacing written text from one language into equivalent written text in another language. It may range from translation of an entire document to translation of a short or descriptive summary of the document.

It should be noted that, for both oral & written, but particularly for written translations, not all idiom, metaphorical or other linguistic devices inherent in a language may be directly translatable and thus a translation will never be a perfect or direct representation and that

nance must be used to interpret the ideas that are being communicated. This is a consideration in the decision not to translate legally enforceable documents.

### *Program Assessment*

#### Programs under Factors 2 and 3: A large number of individuals effected and the nature of the program

1. Vehicle Inspection and Maintenance (VIM): Motorists with specified vehicles in the Chicago and Metropolitan St. Louis non-attainment areas are required to bring their vehicles into a vehicle emissions testing station for an emissions test every two years. These vehicles must pass an emissions test in order for the motorist to renew the vehicle registration or license plate sticker. These motorists have contact with the Illinois EPA's contractor that operates the vehicle emissions testing stations.

Consequently, this VIM program meets both the criteria of frequency of contact and importance of the program. In consideration of the resources available and the significant percentage (<50% of LEP Speakers in the State) of Spanish-language individuals in the state, the VIM program includes a Spanish-language hotline and Spanish speaking representatives to respond to motorist inquiries.

2. The EPA guidance also describes a flexible translation standard and acknowledges that distinctions can and should be made between frequently encountered and less commonly encountered languages when identifying languages for translation. To this end, the Spanish-language community is by far the largest LEP community in Illinois. For general inquires and issues that are not facility or site specific, the Agency will establish a contact point for Spanish-speaking LEP individuals.
3. For future documents of a general nature and directed to a statewide audience, e.g. statewide factsheets with environmental information such as "open burning" factsheets, the Agency will provide Spanish translations of the documents. The Illinois EPA will work to translate existing documents of this sort over time into Spanish translations. For other languages, the Illinois EPA will consider requests for translations of the documents on a case-by-case basis.

#### Programs under Factors 2 and 3 with infrequent contact

1. Other programmatic areas of the Agency have unpredictable or infrequent contact with any particular community, neighborhood or municipality. If when working in a community, the assessment of LEP individuals described above identifies a significant percentage (20%) of LEP individuals in the assessed area, the Illinois EPA will provide translation assistance for non-legal documents targeted to the public, e.g. public notices, factsheets, and interpretation assistance as needed.

Legally binding documents, e.g. permits, court orders, rules, and regulations will not be translated as this could create confusion concerning legal requirements.

## **Training of Illinois EPA Staff**

Training will be provided to Illinois EPA staff, with particular focus on employees who are likely to encounter LEP individuals. The training will include information about the LEP Plan and the related resources, policies, and procedures. Staff who routinely encounter LEP persons will be offered refresher training and the opportunity to provide feedback on the Agency's LEP Plan.

**Managers:** All managers and senior level personnel at the Agency shall be trained so that they understand the content of the LEP plan and the decision-making process for interacting with LEP individuals.

**Community Relations and Environmental Justice:** The responsibility to implement the LEP plan resides with OCR and EJ staff working with Bureau management. OCR and EJ staff will be trained on how to effectuate the procedures to identify potential LEP populations, obtain and implement LEP services.

**Staff:** Are to know that the Agency has an LEP plan and to assist in LEP efforts as directed by their management.

## **Providing Notice to LEP Persons**

Illinois EPA seeks to be proactive and inform LEP individuals that language services are available. Illinois EPA will utilize the following methods as appropriate in each situation.

- Signs
- Documents
- Working with community-based organizations and other stakeholders to inform LEP individuals of services that may be offered by Illinois EPA, including the availability of language assistance services.
- Using a telephone voice mail menu. The menu could be in the most common languages encountered. It should provide information about available language assistance services and how to get them.
- Notices

## **Monitoring and Updating the LEP Plan**

Illinois EPA intends to periodically review this LEP Plan to determine if language assistance measures and staff training are effective. In evaluating the effectiveness of the Plan and the need for additional measures, Illinois EPA will assess the feedback from agency staff and the public, including LEP individuals.



## Federal LEP Guidance Documents

### **Title VI Guidance for Recipients**

<https://www.lep.gov/>

### **Environmental Protection Agency (EPA):**

<https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>

### **Department of Justice (DOJ):**

<https://www.federalregister.gov/documents/2002/06/18/02-15207/guidance-to-federal-financial-assistance-recipients-regarding-title-vi-prohibition-against-national>

### **Department of Energy (DOE):**

<https://www.federalregister.gov/documents/2004/08/16/04-18636/nondiscrimination-in-federally-assisted-programs-enforcement-of-title-vi-of-the-civil-rights-act-of>