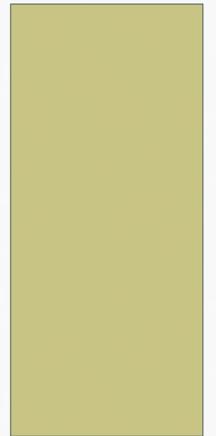


# LIMITED ENGLISH PROFICIENCY TRAINING

NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT



# WHAT IS LIMITED ENGLISH PROFICIENCY ?

- Persons who, as a result of national origin, do not speak English as their primary language and who have a limited ability to speak, read, write, or understand may have Limited English Proficiency.
- For purposes of Title VI and the LEP Guidance, such persons may be entitled to language assistance with respect to a particular service, benefit, or encounter.

# WHAT IS LIMITED ENGLISH PROFICIENCY ?

- The Nebraska Department of Economic Development will take reasonable steps to provide meaningful access to its programs and activities for persons with Limited English Proficiency (LEP).
- NEDED's policy is to ensure that staff will communicate effectively with LEP individuals, and LEP individuals will have access to important programs and information.
- NEDED is committed to complying with federal requirements in providing free meaningful access to its programs and activities for LEP persons.

# DEFINITIONS

**Beneficiary**: The ultimate consumer of HUD programs and receives benefits from a HUD Recipient or Sub-recipient.

**Limited English Proficient Person (LEP)**: Individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English because of national origin.

**Language Assistance Plan (LAP)**: A written implementation plan that addresses identified needs of the LEP persons served.

# DEFINITIONS CONTINUED

- **Recipient**: Any political subdivision of the State of Nebraska, or an eligible nonprofit organization, to whom Federal financial assistance is extended (as well as to any recipients of the Nebraska Affordable Housing Trust Fund) for any program or activity, or who otherwise participates in carrying out such program or activity, including any successor, assign or transferee thereof, but such term does not include any Beneficiary under any such program.

# DEFINITIONS CONTINUED

- **Sub-recipient**: Any public or private agency, institution, organization, or other entity to whom Federal financial assistance is extended, through another Recipient, for any program or activity, or who otherwise participates in carrying out such program or activity but such term does not include any Beneficiary under any such program.
- **Vital Document**: Any document that is critical for ensuring meaningful access to the Recipient's major activities and programs by Beneficiaries generally and LEP persons specifically.

# WHY?

## POLICY-APPLICABLE LAWS

- Section 601 of Title VI of the Civil Rights Act of 1964 states:
  - No person shall be subject to discrimination on the basis of race, color or national origin under any program or activity that receives Federal financial assistance.
- Prohibited Actions per HUD Regs. 24 CFR 1.4:
  - Denials
  - Differences in treatment
  - Limits on services and facilities
  - Subjected to discrimination

# POLICY-APPLICABLE LAWS

## CONTINUED

- Law v. Nichols (1974): The U.S. Supreme Court stated that one type of national origin discrimination is **discrimination based** on a person's **inability** to speak, read, write, or understand English.
- Executive Order 13166 (Issued in the Federal Register 65 FR 50121 on August 16, 2000):
  - Mandated **improved access** to federally assisted programs and activities for individuals who, as a result of national origin, are **limited in their English proficiency**.

# POLICY-APPLICABLE LAWS

## CONTINUED

- U.S. Department of Justice:
  - Supported implementation of Executive Order 13166 and issued guidance regarding “Enforcement of Title VI of the Civil Rights Act of 1964, National Origin Discrimination Against Persons with Limited English Proficiency.” (August 16, 2000).
  - USDOJ adopts final guidance, Federal Register at 65 FR 41455, June 18, 2002.

# RECIPIENTS' RESPONSIBILITY

**Who:** Entities that are recipients of Federal Financial Assistance and any recipients of the Nebraska Affordable Housing Trust Fund



**What:** Must develop a plan for persons of different national origins that cannot speak or read English



**Why:** To ensure that they have meaningful access to all portions of their program or activity, not just those portions that receive the funds.

# RECIPIENTS' RESPONSIBILITY CONTINUED

- Federally Assisted Recipients and recipients of the Nebraska Affordable Housing Trust Fund:
  - Are required to make reasonable efforts to provide language assistance to ensure meaningful access for LEP persons to the recipient's programs and activities.
- Recipients should:
  - Conduct a four-factor analysis;
  - Develop a written Language Assistance Plan (LAP);
  - Provide appropriate language assistance;
  - Keep records of due diligence for monitoring.

# WHAT IS THE FOUR FACTOR ANALYSIS?

1

The number or proportion of LEP individuals served or encountered in the eligible service population.

2

The frequency with which LEP individuals come in contact with your program, activity or service.

3

The nature and importance of the program, activity or service.

4

Available resources and cost.

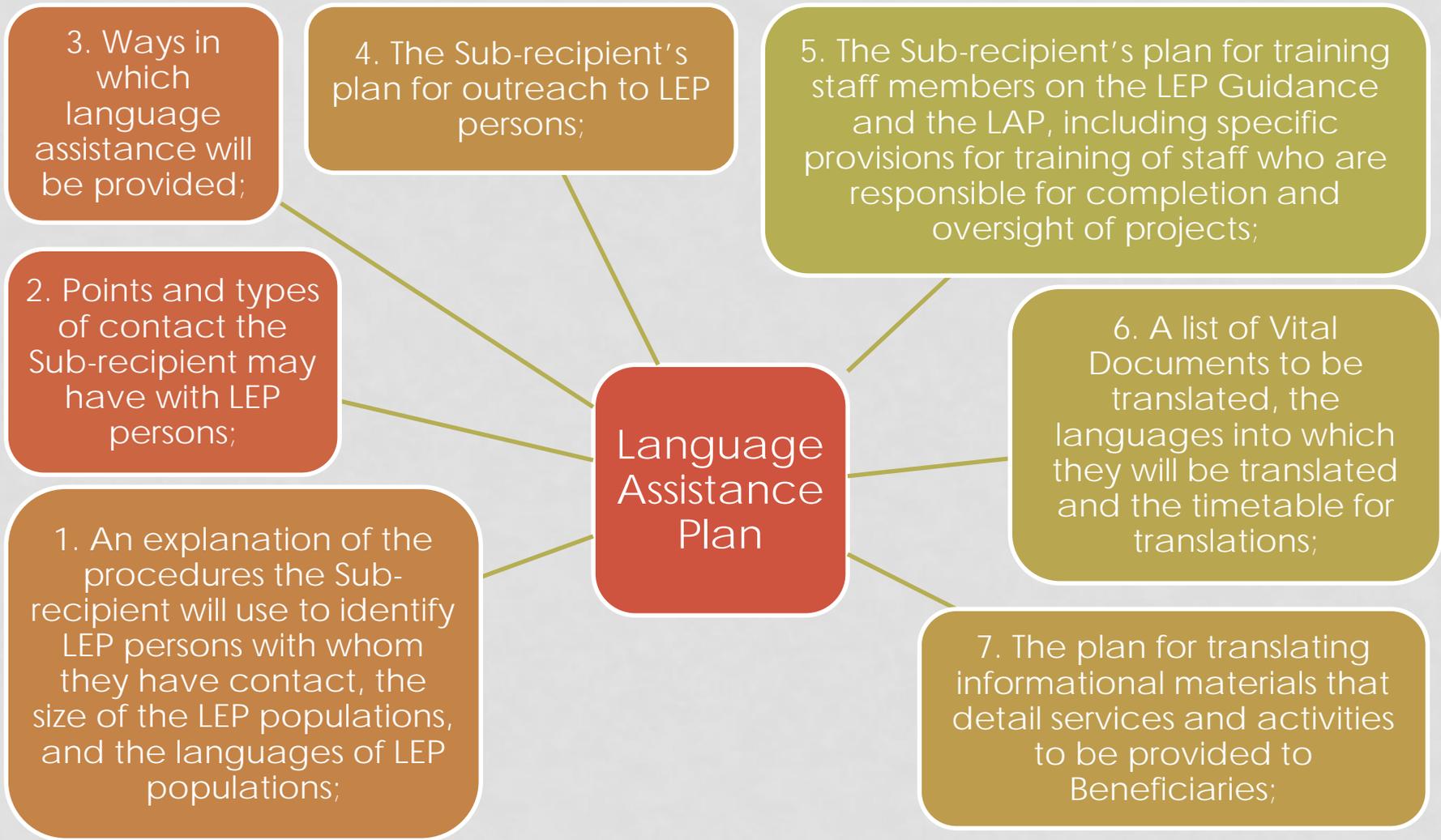
# LANGUAGE ACCESS PLAN (LAP)

- After completing the four-factor analysis and deciding what language assistance services are appropriate, recipients will develop an implementation plan to address the identified needs of the LEP populations they serve.
- This plan is referred to as a Language Access Plan ("LAP"), and is a plan and a policy combined into one. It represents that a Sub-recipient has a policy of providing LEP persons meaningful access to programs and activities, and also lays out the plan for providing such access.

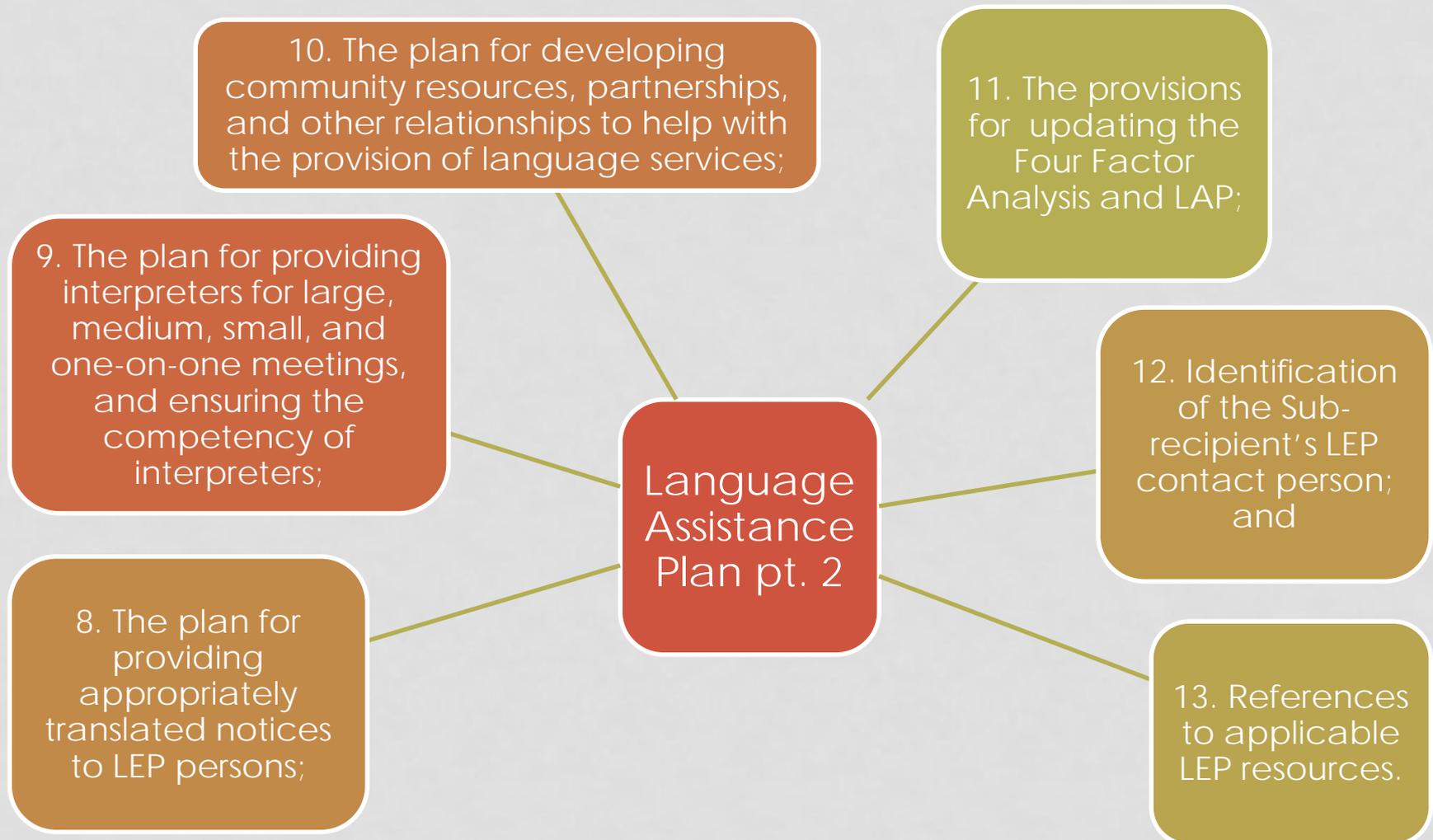
# LAP CONTINUED

- An LAP will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance.
- NOTE: **Sub-recipients are strongly encouraged to develop an LAP.** However, some Sub-recipients, such as those serving **very** few LEP persons and those with **very** limited resources, may choose not to develop a written LAP.
- A Sub-recipient that **does NOT develop an LAP** must be able to provide information to the Department that demonstrates sufficient reasoning for not doing so, and must document alternative ways to articulate, in some other reasonable manner, a plan for providing LEP persons meaningful access to programs and activities.

# WHAT SHOULD AN LAP INCLUDE?



# WHAT SHOULD AN LAP INCLUDE CONTINUED



# WHAT SHOULD AN LAP INCLUDE... NEDED TEMPLATE

**FOUR FACTOR ANALYSIS  
ASSESSING  
LIMITED ENGLISH PROFICIENCY  
AND  
LANGUAGE ASSISTANCE PLAN**

**PREPARED BY**

**[LOCAL GOVERNMENT]**

**FOR**

**THE [FUNDING] PROGRAM**

<http://www.neded.org/community/grants/applications/cdbg-forms?highlight=WyJ0ZW1wbGF0ZSJd>

# ORAL LANGUAGE REQUIREMENTS

- All Sub-recipients **MUST** use the four-factor analysis to determine whether they should provide reasonable, timely, **oral language** assistance free of charge to any beneficiary that is LEP (depending on the circumstances, reasonable oral language assistance might be an in-person interpreter or telephone interpreter line).
- There is **NO safe harbor** for **oral interpretation**. Reasonable availability is expected based on the four factor analysis.

# WRITTEN MATERIAL SAFE HARBOR

- HUD has adopted a “safe harbor” for the translation of written materials.
- A safe harbor means that if a recipient provides written translations under these circumstances, such action will be considered strong evidence of compliance.

# SAFE HARBOR CONTINUED

The table below sets forth safe harbors for written translations:

Size of Language Group	Recommended Provision of <u>Written Language Assistance</u>
1,000 or more in the eligible population in the service area or among current Beneficiaries	<b>Translated Vital Documents</b>
More than 5% of the eligible population or Beneficiaries and more than 50 in number	<b>Translated Vital Documents</b>
More than 5% of the eligible population or Beneficiaries and 50 or less in number	<b>Translated written notice of right to receive free oral interpretation of documents.</b>
5% or less of the eligible population or Beneficiaries and less than 1,000 in number	<b>No written translation is required.</b>

# EXPECTATIONS FOR COMPLIANCE

- Grantees should have a process for:
  - Determining whether new documents, changes in programs, services and activities need to be made accessible to LEP persons;
  - Determining whether changes in demographics, services or needs require reevaluation of LAP; and
  - Seeking feedback from the community the plan serves.

# EXPECTATIONS FOR COMPLIANCE CONTINUED

- LEP Phrase for Public Notices, Include both phrases at the end:
- *“This information is available in Spanish or any other language upon request. Please contact (Insert Name) at (Insert Phone Number) or at (Insert physical location) for accommodations for this request.”*
- *“Esta información está disponible en español o en cualquier otro idioma bajo petición. Por favor, póngase en contacto con (Insert Name) al (Insert Phone Number) o en (Insert physical location) de alojamiento para esta solicitud.”*
  - **\*\*Please note the address and name itself should not be translated.**
  - **This is the requirement for anything that requires for you to publish.**

# EXPECTATIONS FOR COMPLIANCE CONTINUED

- The Department will include as part of **regular project monitoring**, an evaluation of compliance with LEP requirements, including:



Has the Sub-recipient identified an LEP contact person?



Has the Sub-recipient completed a Four Factor Analysis?



Does the Sub-recipient have an LAP?



Are LEP persons being provided meaningful access to programs and activities?



Is the Sub-recipient maintaining records regarding their efforts to comply with Title VI LEP obligations?

# PENALTIES FOR NONCOMPLIANCE

Repayment of federal funding received

Loss of federal funds

Loss of future federal and state funding

HUD EEO Investigations

Subject to legal actions from legal services organizations and private individuals

The US Dept. of Justice or the Office for Civil Rights still have the authority to investigate claims of discrimination.

# BEST PRACTICES

Grantees submit Language Access Plan using the recommended template from the Department;

Plan addresses LAP policy, translation of vital documents, and requirements for citizen participation;

Reach out to the community: communicate that those types of services are being offered by the Local Government;

Hang up LAP signs and be prepared to provide assistance to persons with Limited English Proficiency;

Document and keep records for monitoring/ reporting. Be prepared to report annually;

# BEST PRACTICES CONTINUED

Ensuring competence of interpreter or translation services (certifications, age, relation to LEP person, conflicts);

Training of staff/Bilingual staff;

Posting signs in common areas;

Advertising language services in outreach documents;

Partnering with LEP grassroots, faith based organizations, and schools;

Using telephone voicemail menu;

Providing notice on Non-English radio and TV stations.

# RESOURCES

Additional information may also be obtained through the federal-wide [LEP website](#) and [HUD's LEP website](#).



This page provides documents created by HUD program offices printed in English and other languages.

# RESOURCES CONTINUED

## LEP and Title VI Videos

- The videos listed below explain the Title VI obligations of recipients of federal financial assistance and federal agencies pursuant to Executive Order 13166.

[United States Department of Justice Language Access Planning and Technical Assistance Tool for Courts Public Event on February 28, 2014](#), Online Video (captions)

[Understanding and Abiding by Title VI of the Civil Rights Act of 1964](#), Department of Justice, Online Video

# RESOURCES CONTINUED

## Language Access

These videos explain the rights of limited English proficient (LEP) individuals under Title VI of the Civil Right Act of 1964 and its implementing regulations; and the requirements of federal agencies under Executive Order 13166 to provide language access to their programs and activities.

### Breaking Down the Language Barrier - English



[Breaking Down the Barriers: Translating Limited English Proficiency Policy into Practice](#), Department of Justice, Online Video, (English, Spanish, Chinese, Vietnamese, and Korean)  
U.S. Department of Health and Human Services, Office of Civil Rights, You Tube Video

# QUESTIONS??

Please Contact:

Abigail Anderson

Community Development Coordinator

Nebraska Department of Economic Development

Phone: 402-471-3775

Email: [abigail.anderson@nebraska.gov](mailto:abigail.anderson@nebraska.gov)