

MIAMI-DADE TRANSPORTATION PLANNING ORGANIZATION LIMITED ENGLISH PROFICIENCY (LEP) PLAN

INTRODUCTION

The Miami-Dade Transportation Planning Organization (TPO) is responsible for an on-going, cooperative, and comprehensive transportation planning process in Miami-Dade County. This planning process guides the use of Federal and State dollars spent on existing and future transportation projects or programs. Limited English Proficiency (LEP) plays an integral role in this process to ensure all citizens are appropriately reached in the community. This document details the Miami-Dade TPO LEP Plan, which has been developed in conjunction with public involvement best practice standards.

BACKGROUND

On August 11, 2000, the President of the United States signed **Executive Order 13166: Improving Access to Service for Persons with Limited English Proficiency**, to clarify Title VI of the Civil Rights Act of 1964. Its purpose was to ensure accessibility to programs and services to eligible persons who are not proficient in the English language.

This Executive Order Stated that individuals who do not speak English well and who have a limited ability to read, write, speak, or understand English are entitled to language assistance under Title VI of the Civil Rights Act of 1964 with respect to a particular type of service, benefit, or encounter. It reads in part,

Each Federal agency shall prepare a plan to improve access to its federally conducted programs and activities by eligible LEP persons. Each plan shall be consistent with the standards set forth in the LEP Guidance, and shall include the steps the agency will take to ensure that eligible LEP persons can meaningfully access the agency's programs and activities.

Not only do all Federal agencies have to develop LEP Plans as a condition of receiving Federal financial assistance, recipients have to comply with Title VI and LEP guidelines of the Federal agency from which funds are provided.

Federal financial assistance includes grants, training, and use of equipment, donations of surplus property, and other assistance. Recipients of federal funds range from State and local agencies, to nonprofits and other organizations. Title VI covers a recipient's entire program or activity. This means all components of a recipient's operations are covered. Simply put, any organization that receives Federal financial assistance is required to follow this Executive Order.

The US Department of Transportation (DOT) published **Policy Guidance Concerning Recipients Responsibilities to Limited English Proficient Person** in the December 14, 2005, Federal Register. The guidance explicitly identifies TPO organizations that must follow this guidance:

The guidance applies to all DOT funding recipients, which include State Departments of Transportation, State Motor Vehicle Administrations, airport operations, Transportation Planning Organizations, and regional, State, and local transit operators, among many others. Coverage extends to a recipient's entire program or activity, i.e., to all parts of a recipients operations. This is true even if only one part of

the recipient receives the Federal assistance. For example, if DOT provides assistance to a State Department of Transportation to rehabilitate a particular highway on the National Highways System, all of the operations of the entire State Department of Transportation—not just the particular highways program or project—are covered by the DOT guidance.

Who is an LEP individual?

An LEP person is any individual who speaks a language at home other than English as their primary language, and who speak or understands English “less than very well”.

The intent of this LEP Plan is to ensure access to the Miami-Dade TPO’s programs and activities where it is determined that a substantial number of residents, within an area of the County, do not speak or read English proficiently (see Table 1 on page 3). The production of multilingual publications and documents and/or interpretation at meetings or events will be provided to the degree that funding permits based on current laws and regulations.

LAWS AND POLICIES GUIDING LIMITED ENGLISH PROFICIENCY PLANS

As part of the Miami-Dade TPO certification by the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), the LEP Plan will be assessed and evaluated. The following matrix illustrates these laws, policies, and considerations:

Title VI of the Civil Rights Act of 1964	Limited English Proficiency Executive Order 13166
Federal Law	Federal Policy
Enacted in 1964	Enacted in August 2000
Considers all persons	Considers eligible population
Contains monitoring and oversight compliance review requirements	Contains monitoring and oversight compliance review requirements
Factor criteria is required, no numerical or percentage thresholds	Factor criteria is required, no numerical or percentage thresholds
Provides protection on the basis of race, color, and national origin	Provides protection on the basis of national origin
Focuses on eliminating discrimination in federally funded programs	Focuses on providing LEP persons with meaningful access to services using four factor criteria
Annual Accomplishment and Upcoming Goals Report to FHWA	Annual Accomplishment and Upcoming Goals Report to FHWA

DETERMINING LEP NEEDS

As a recipient of federal funding, the Miami-Dade TPO has made reasonable steps to ensure meaningful access to the information and services it provides. As noticed in the Federal Register/Volume 70, Number 239/Wednesday, December 14, 2005/Notices, there are four factors to consider in determining “reasonable steps”.

1. The number and proportion of LEP person in the eligible service area
2. The frequency with which LEP persons encounter TPO programs
3. The importance of the service provided by TPO programs
4. The resources available and overall cost to the TPO

The DOT Policy Guidance provides recipients of Federal funds substantial flexibility in determining what language assistance is appropriate based on a local assessment of the four factors listed above. The following is an assessment of need in Miami-Dade County in relation to the four factors and the transportation planning process.

LEP Assessment for Miami-Dade TPO

Factor 1: The number and proportion of LEP persons in the eligible service area.

The Miami-Dade TPO analyzed the U.S. Census Bureau’s 2012 American Community Survey 1-year estimates to identify Miami-Dade County’s LEP population, which includes persons 5 years and over that speak English “less than very well.” Further, only the top four language groups were examined. The ACS is a continuous nationwide survey of addresses conducted monthly by the U.S. Census Bureau. It is intended to measure changing socioeconomic characteristics and conditions of the population on a recurring basis.

Table 1: The Top Four Languages Spoken at Home in Miami-Dade County by LEP Persons (US Census Bureau’s 2012 American Community Survey)										
Population 5 years and older	Number of LEP Persons	Percentage of LEP Persons	LEP Persons who speak “Spanish”		LEP Persons who speak “Indo-European” languages		LEP Persons who speak “Asian and Pacific Islander” languages		LEP Persons who speak “Other” languages	
Total	Total	Percent	Total	Percent	Total	Percent	Total	Percent	Total	Percent
2,438,164	821,661	33.7%	742,995	90.4%	67,581	8.2%	8,813	1.0%	3,480	0.4%

Analysis findings indicate that 33.7 percent of the Miami-Dade County population speaks English “less than very well.” Of the LEP persons within the Miami-Dade TPO area, just over ninety (90) percent speak Spanish at home, making this the most significant percentage of the area’s population. About eight (8) percent speak an Indo-European language, such as French, Creole, Portuguese, Russian, or German. One (1) percent speak Asian and Pacific Islander languages, such as Chinese, Korean and Japanese. Finally, less than one (>1) percent speak “other” languages at home.

Factor 2: The frequency in which LEP Persons encounter TPO programs and activities

There are many LEP persons encountering Miami-Dade TPO programs and activities. As such, collateral materials are currently being translated to Spanish and Creole to assist LEP individuals. When available, information is posted on the TPO website both in Spanish and Creole.

Factor 3: The importance of the service provided by the TPO program

TPO programs use federal funds to plan for future transportation projects, and therefore, do not include any direct service or program that requires vital, immediate or emergency assistance, such as medical treatment or services for basic needs (like for shelter). Further, involvement by any citizen with the TPO or its committees is voluntary. However, the Miami-Dade TPO must ensure that all segments of the population, including LEP persons, are involved to have had the opportunity to be consistent with the goal of the Federal Environmental Justice program and policies.

The impact of proposed transportation investments on underserved and under-represented population groups is part of the evaluation process in use of Federal funds in three major areas for the TPO:

1. Unified Planning Work Program (UPWP),
2. Transportation Improvement Program (TIP),
3. Long Range Transportation Plan (LRTP), covering 20+ years.

Inclusive public participation is a priority consideration in other Miami-Dade TPO plans, studies, and programs as well. The impacts of transportation improvements resulting from these planning activities have an impact on

all residents. Understanding and continued involvement are encouraged throughout the process. The Miami-Dade TPO is concerned with input from all stakeholders, and every effort is taken to make the planning process as inclusive as possible.

As a result of the LRTP process, selected projects receive approval for federal funding and progress towards project planning and construction under the responsibility of local jurisdictions or state transportation agencies. These state and local organizations have their own policies to ensure LEP individuals can participate in the process that shapes where, how and when a specific transportation project is implemented.

Factor 4. The resources available and overall TPO cost

To serve both the Hispanic and Haitian LEP populations, the Miami-Dade TPO intends to make Executive Summaries for the UPWP, TIP, LRTP, and collateral materials available in Spanish and Creole. To accommodate the cost, these summaries may be presented in alternative formats, such as brochures or newsletters, which are designed to capture all of the significant points of the full document. The TPO will continue efforts to collaborate with state and local agencies to provide language transportation and interpretation services when practical and in consideration of the funding available. The translation of these documents will begin after the final English version has been completed. Spanish and Creole language outreach materials from organizations such as federal, state, and local transportation agencies will be used when possible.

MEETING THE REQUIREMENTS

Engaging the diverse population within the Miami-Dade TPO area is important. The TPO is committed to providing quality services to all citizens, including those with limited English proficiency. Spanish and Creole are the most dominant languages spoken by LEP individuals in Miami-Dade TPO’s service area. All language access activities detailed below will be coordinated in collaboration with the TPO Governing Board and staff.

Safe Harbor Stipulation

Federal law provides a “safe harbor” stipulation so recipients of federal funding can ensure compliance with their obligation to provide written translations in languages other than English with greater certainty. A “safe harbor” means that as long as a recipient (the TPO) has created a plan for the provision of written translations under a specific set of circumstances, such action will be considered strong evidence of compliance with written translation obligations under Title VI.

However, failure to provide written translations under the circumstances does not mean there is noncompliance, but rather provides for recipients a guide for greater certainty of compliance in accordance with the four factor analysis (Page 2-4).

Evidence of compliance with the recipient’s written translation obligations under “safe harbor” includes providing written translations of vital documents for each eligible LEP language group that constitutes 5% or 1,000 persons, whichever is less, of eligible persons served or likely to be affected. Translation can also be provided orally.

The “safe harbor” provision applies to the translation of written documents only. It does not affect the requirement to provide meaningful access to LEP individuals through competent oral interpreters where oral language services are needed and reasonable to provide.

Providing Notice to LEP Persons

USDOT guidance indicates that once an agency has decided, based on the four factors, to provide language services, it is important that the recipient notify LEP persons of services available free of charge in a language the LEP persons would understand. Example methods for notification include:

1. Signage that indicates when free language assistance is available with advance notice;
2. Stating in outreach documents that language services are available;
3. Working with community-based organizations and other stakeholders to inform LEP individuals of TPO services and the availability of language assistance;
4. Using automated telephone voice mail or menu to provide information about available language assistance services;
5. Including notices in local newspapers in languages other than English;
6. Providing notices on non-English-language radio and television about TPO services and the availability of language assistance; and
7. Providing presentations and/or notices at schools and community based organizations (CBO).

The TPO will publicize the availability of Spanish and Creole interpreter services, free of charge, at least seven (7) days prior to TPO Governing Board and committee meetings, workshops, forums, or events, which will be noticed on the TPO website, in meeting notices (packets), and using the following additional tools as appropriate: public outreach materials, community-based organizations, local newspapers, and Miami-Dade County school and library systems.

Currently, the Miami-Dade TPO places meeting notices in the “El Nuevo Herald” newspapers that serve the Hispanic community, and in “Haiti en Marche” that serves the Haitian community. As covered under Title VI requirements for nondiscrimination, at each meeting, the Miami-Dade TPO will provide Title VI material and include this material in an alternative language, when applicable.

Language Assistance

A goal of the Miami-Dade TPO Public Participation Plan is to provide user-friendly materials that will be appealing and easy to understand. The Miami-Dade TPO may provide Executive Summaries in alternative format, such as brochures or newsletters, depending on the work product. The Miami-Dade TPO intends to translate the Executive Summaries for the TIP and LRTP in Spanish and Creole.

The Miami-Dade TPO defines an interpreter as a person who translates spoken language orally, as opposed to a translator, who translates written language and transfers the meaning of written text from one language into another. The Miami-Dade TPO will request interpreter services from the Miami-Dade County ADA Office, Internal Services Department, and translation services from the Miami-Dade County Communications Department, as needed.

Miami-Dade TPO Staff Training

In order to establish meaningful access to information and services for LEP individuals, the TPO will properly train its employees to assist in person, and/or by telephone. LEP individuals who request assistance Miami-Dade TPO Governing Board members will receive a copy of this LEP Plan, and have access to training, assuring that they are fully aware of and understand the plan and its implementation.

REFERENCES

- Federal Transit Administration. Circular 4702.1B: *Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients* (October 2012).
- Federal Transit Administration, Office of Civil Rights. *Implementing the Department of Transportation's Policy Guidance Concerning Recipients Responsibilities to Limited English Proficient (LEP) Persons: A Handbook for Public Transportation Providers* (April 2007).
- Metropolitan Transportation Commission. *Four-Factor Analysis: Limited English Proficient Needs Assessment* (March 2013).
- The White House, Office of the Press Secretary. Executive Order 13166: *Improving Access to Services for Persons with Limited English Proficiency* (August 2000).
- U.S. Census Bureau, American Community Survey (2015).
- U.S. Department of Transportation. *Policy Guidance Concerning Recipients Responsibilities to Limited English Proficient Persons*. (December 2005).