

## **CITY OF OGDEN**

### **Language Assistance Plan (LAP)**

#### **Guidelines and Procedures**

## INTRODUCTION

One in 3 citizens of Ogden City is a Spanish speaking individual. This means that increasingly City employees are providing services to individuals who may be Limited English Proficient (LEP) as a result of national origin. Based on data collected from a variety of sources within the Ogden City Corporation, the City's primary non-English language group is Spanish speakers. The City's Language Assistance Plan (LAP) Plan outlines and describes how the City will improve access to its services, programs and activities for LEP individuals.

The City is committed to making its services, programs, and activities available to everyone, regardless of language barriers. As residents, workers or visitors who contribute to the quality of life in the City, LEP individuals are entitled to meaningful access to City services. As a recipient of federal funds, the City is required by federal law to plan for, and provide LEP individuals with meaningful access to City services, programs, and activities. The City's LAP Plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C 2000d seq., and its implementing regulations, which state that no individual shall be subjected to discrimination on the basis of race, color, or national origin. Executive Order 13166, titled *Improving Access to Services for Individuals with Limited English Proficiency* indicates that differing treatment based upon an individual's inability to speak, read, write or understand English is a type of national origin discrimination. It directs Federal agencies to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This Executive Order applies to all state and local agencies that receive federal funds, including all City departments receiving federal funds.

LEP community members and advocates can refer to the City's LAP Plan to learn about the City's commitment to ensure LEP individuals have meaningful access to City services, programs, and activities. The guidelines and procedures contained in this document apply to all City departments and all City employees who interact directly or indirectly with LEP individuals.

The Ogden City Human Resource Department is responsible for developing and maintaining the City's LAP Plan. For questions about the City's LAP Plan, contact Ogden City HR at 801-629-8730 or send an email to [humanresources@ogdencity.com](mailto:humanresources@ogdencity.com). Individuals may also visit the City's website at [www.ogdencity.com](http://www.ogdencity.com).

## DEFINITIONS

Whenever used in the document and unless a different meaning clearly appears from the context, the terms below are defined as follows:

### **Bona Fide Occupational Qualification (BFOQ)**

In employment law, a bona fide occupational qualification (BFOQ) is a quality or an attribute that employers are allowed to consider when making decisions on the hiring and retention of City employees – qualities that, when considered in other contexts, could be considered discriminatory and thus violate civil rights employment law.

### **Department**

The term department denotes a City department or office unless otherwise specified.

### **Identification**

Identification means collecting relevant information about:

- the number or proportion of LEP individuals eligible for City services, programs and activities;
- the number or proportion of LEP individuals served by the City; or
- the frequency of LEP services or encounters with LEP individuals

### **Interpretation**

Interpretation is the conversion of a spoken message from one language to another, while preserving the intent and meaning of the original message.

### **Job Announcement**

A job announcement is the document “announcing” the need to fill a vacant position. This document includes the general job duties of that classification, job duties that are specific and unique to the position being filled, and position requirements, including desirable qualifications and administrative information.

### **Job Evaluation System**

A job evaluation system is the process applied to determine the appropriate job classification of an individual position or group of positions.

### **Language Assistance**

Language assistance is the City’s good faith effort to provide LEP individuals with meaningful access to its services, programs and activities by providing, upon request, interpretation and translation services, including telephonic interpretation.

## **Limited English Proficient (LEP) Individual**

A limited English proficient individual is a person who does not speak English as their primary language and who has a limited ability to speak, read, write or understand English. The United States Department of Justice (DOJ) states that these individuals may be entitled to language assistance with respect to particular type of service, benefit or encounter.

## **Meaningful Access**

Federal standards require that organizations receiving federal funds provide LEP individuals with meaningful access to their services, programs, and activities. An LEP individual has meaningful access when he or she:

- is given adequate information;
- can understand the services and benefits available;
- can receive the services for which he or she is eligible; and
- can communicate the relevant circumstances of his or her situation to the service provider.

## **Notification**

Notification means proactively informing LEP individuals in the City that they are entitled to City services, programs and activities.

## **Preferred Qualification**

A preferred qualification is a skill or competency that is not required to perform the essential functions of a position, but would complement the qualified candidate's overall abilities and add value to the organization.

## **Primary Languages**

Federal guidelines identify primary languages as languages that are spoken by at least 1,000 LEP individuals living in Ogden City or 5% of the LEP population, whichever is fewer.

Based on data collected from a variety of sources within Ogden City, the City's primary non English language group is Spanish.

## **Public Meeting**

A public meeting is any meeting for which members of the general public receive notice or invitation to appear for the purpose of presentation, testimony, consultation or otherwise.

## **Resident**

A resident refers to anyone who lives in the City. In this document, the term resident is not related to immigration status.

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**Staffing**

Staffing is the process of filling a vacant position with the most highly qualified candidate.

**Timely**

The term timely means avoiding the effective denial or delay of important benefits or services.

**Training**

Training refers to ensuring that City employees are familiar with LEP mandates. Each City department with the assistance of Human Resources shall arrange for LEP training for their respective employees.

**Translation**

Translation is the conversion of a written message from one language to another, while preserving the intent and meaning of the original message.

**Vital Documents**

Vital documents refer to information or documents that are critical for accessing federally funded services or benefits, or are documents that are required by law. Documents that require a signature are considered vital.<sup>4</sup>

The City's LAP governs City and City employee functions and actions, along with sub-recipients of federal funds through the City. This plan does not govern organizations that make use of City space for non-City events.

The City's LAP addresses how services will be provided through general guidelines and specific procedures.

- **Notification:** Providing notice to LEP individuals about their right to service.
- **Identification:** Identifying LEP populations and LEP services in City departments.
- **Interpretation:** Offering free and timely interpretation to LEP individuals upon request.
- **Translation:** Providing free and timely translation of vital City documents upon request.
- **Staffing:** Identifying City employees to meet LEP customer service needs.
- **Training:** Delivering training on LEP service mandates to all City employees.

### General Guidelines and Procedures for LEP Services

#### **Calculating primary language group**

Ogden City's primary non- English language group, Spanish, was identified using data from a variety of sources. Primary non-English language groups may change, as new data is collected. <sup>5</sup>

#### **Updating and Monitoring the City's LEP plan**

The City's LAP will be updated as necessary by the Human Resources Department. For additional details on updating and monitoring the City's LEP Plan, refer to the section **Implementing, Monitoring, and Updating the Plan.**

#### **Evaluating the City's LAP**

The Human Resources Department will evaluate the City's LAP on a regular basis to determine its effectiveness. The evaluation will include:

- Identification of the LEP population in Ogden City and recalculation of the City's primary language groups
- Assessment of the current level of services delivered to LEP individuals by each City department
- Reporting on the LEP training received by City employees
- Reporting of activities by each City department
- Feedback and comments from LEP communities, including organizations and advocacy groups serving LEP individuals, on the effectiveness of the City's LEP services
- Evaluation of complaints (at both the department and City levels)

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<sup>5</sup>. Based on review of various language data, Spanish was consistently the highest group found for Ogden City data. Depending on the source and the year in which the data was collected Spanish was the city's highest ranking non- English language.

## NOTIFICATION

### Guidelines

#### **The City must proactively notify LEP individuals of their right to services, programs and activities**

City departments and their employees must ensure that LEP individuals know they have the right to free and timely language services as it relates to the City's services, programs and activities.

#### **Notification should be provided in a variety of ways, including, but not limited to:**

- Posting signs in appropriate areas, such as waiting rooms, reception areas and other points of entry
- Standard translated content in outreach documents, such as posters or brochures, stating that services are available.
- Working with LEP organizations and other stakeholders to inform Ogden City residents of their right to LEP services
- Notices in local newspapers in languages other than English

#### **Notification includes (at minimum):**

- information about available LEP services;
- instructions on accessing services, programs and activities, including directions to City offices; and
- assurance of free timely service

#### **Notification should be provided in the primary languages**

At minimum, notification should be provided in English and Spanish.

#### **Notification should be provided based on a calculation of relative importance of the information or City services, programs and activities as it relates to the LEP individual.**

Decisions on which signs, documents or other means of providing notice should be based on criteria such as:

- Importance or urgency of service
- Volume of Contact

### Procedures

#### **Making a standard sign to notify individuals of their right to service**

Standard signs can be downloaded from the LAP link on the City's intranet website. City departments should post the standard signs informing LEP individuals of their right to free and timely interpretation and translation services.

#### **How a City employee may request a sign for City offices and buildings**

Standard signs can be downloaded from the LAP link on the City intranet website. Questions about other signs should be referred to the Human Resource Manager.

#### **Including a statement in non-English languages about LEP services in print, audio or video materials**

Vital documents used for City services, programs and activities should include a version of the following message, translated into the City's primary languages: "Attention. If you want help translating this information, call 801-629-8731." For a set of translations of this statement to insert in or with City department forms and documents, City employees should visit the LAP link on the City's intranet website.

### Guidelines

The City will collect sufficient data about LEP individuals to provide legally mandated LEP services. At a minimum, the City should identify the number or percentage of Ogden residents who primarily speak a language other than English, and which languages they speak. The primary languages should be reviewed at least once a year and revised as necessary.

### **Information collected about LEP individuals must never be used to discriminate against groups or individuals**

Immigration status is not relevant in determining whether an individual is eligible for the LEP services outlined in the City's LAP. Except under special circumstances, City employees are not permitted to ask an LEP individual about their immigration status, even in casual conversation. All LEP individuals are eligible for City services, programs and activities.

### **The City must track services provided to LEP individuals**

City departments will be responsible to keep records of the LEP services they provide. Guidance on keeping records and the ensuing reporting will be provided by the HR Office. These records will be requested on a predetermined schedule. Records may also be requested on a need-to-know basis. The records may be used to determine the level of LEP services, evaluate changes and make appropriate LEP budget decisions.

### Procedures

#### **Identifying LEP individuals**

LEP individuals can be identified in a variety of ways, including:

- analyzing existing data sets, such as United States Census data or information from public agencies; or
- asking LEP individuals to indicate their preferred language using "I Speak" cards or other mechanisms.

## **Estimating LEP population sizes**

General population statistics are accessible on the United States Census Bureau website at [www.census.gov](http://www.census.gov).

## **Measuring usage of LEP services**

Ways to collect information about LEP individuals served may include:

- Adapting databases used by the City to track languages spoken by clients
- Incorporating 'language spoken' fields in client intake forms and tracking responses
- Tracking telephone interpreting service usage
- Counting website 'hits' directed to translated content
- Conducting resident or customer satisfaction surveys
- Tallying the number of translated materials requested or distributed

## **INTERPRETATION**

### Guidelines

#### **Interpreters must be offered for free, if needed**

The City must provide an interpreter, free of charge, to LEP individuals if needed to receive meaningful access to City services, programs and activities.

#### **Public meetings will have interpreters available, if requested and needed**

Public meeting notices should include notification language that states interpreters will be provided upon request, if requested at least 5 business days prior to the meeting.

#### **The City will use competent and culturally sensitive interpreters, appropriate to the level of interpretation required by law**

Interpretation is more than the ability to speak two or more languages. Interpretation is the conversion of a spoken message from one language to another, while preserving the intent and meaning of the original message. Interpreters must be skilled and competent.

Competent interpreters should be able to demonstrate at least one of the following:

- evidence of training that includes skills and ethics of interpreting;
- ability to convey information in both languages, accurately and completely, as demonstrated by a simulated interpreting encounter; or
- fundamental knowledge in both languages of any specialized terms or concepts related to a City department's service, program or activity.

**Competency standards apply to all interpreters used to deliver City services** Interpretation services for the City will be carried out by competent interpreters, whether they are City employees, contractors or telephone interpreters. City employees who work as interpreters must demonstrate competence as defined above. With contract interpreters and telephone interpreters, contracting agencies must demonstrate how competency is assessed.

**Volunteers should not interpret unless shown to be competent, according to City standards**

Volunteers, friends or family members whose competence has not been assessed should not be relied upon to interpret. The use of untrained volunteers exposes the City to liability related to its legal obligation to provide competent interpreter services.

**Children should not interpret**

For reasons of accuracy, confidentiality and family dynamics, minor children (under 18) should not interpret for family members or other LEP individuals. This guideline does not apply in serious emergency cases when a minor child is the only available potential interpreter.

**Individuals may use their own adult volunteer interpreters under some limited circumstances**

City employees should not urge or require those who speak little or no English to provide their own interpreter. LEP individuals, however, may use their own interpreter if they waive their right to an interpreter provided by the City. If the effectiveness of service may be compromised or the LEP individual's privacy may be violated, a competent interpreter should be used.

**Interpretation must be timely**

Access to interpretation services in all City departments must be timely. No one may be denied access to services based on the lack of interpreter availability.

**Procedures**

**Providing interpretation**

Interpretation can be provided in a variety of ways:

- Bilingual City employee formally trained in interpreting
- Approved City contract vendor providing interpretation services
- Bilingual City department employee

**Accessing an interpreter through a contracted vendor**

The City may maintain contracts with several vendors to provide interpretation services. City departments that use these services will be charged for them. To access an interpreter, City employees must refer to the interpreter vendor list as identified in the City's contracts with approved vendors for interpretation services. City employees should visit the LAP link on the City's intranet website for more information on how to access an interpreter through a contracted vendor.

**Accessing a telephone interpreter through a contracted vendor**

The City may maintain contracts with several vendors to provide telephonic interpretation services. City departments that use these services will be charged for using them. To access a telephone interpreter, City employees must refer to the telephone interpreter vendor list as identified in the City's contracts with approved vendors for interpretation services. City employees should visit the LAP link on the City's intranet website for more information on how to access a telephone interpreter through a contracted vendor.

## TRANSLATION

### Guidelines

#### **Translation of vital documents must be offered for free, if needed**

The City must provide a translation of vital documents, free of charge, to LEP individuals if needed to receive meaningful access to City services, programs and activities.

#### **Vital documents must be in primary languages**

Vital documents must be available in the City's primary languages or readily translated by an interpreter, upon request. Not all documents can be translated and available in every language. City departments must have the capacity to translate documents upon request and in a timely fashion.

#### **The City will use competent and culturally sensitive translators, appropriate to the level of interpretation required by law**

Translation is more than the ability to read and write in two or more languages. Translation is the conversion of a written message from one language to another, while preserving the intent and meaning of the original message. Translators must be skilled and competent.

#### **Vital documents should be translated by competent City employees or contract translators**

Materials translated must be evaluated for accuracy of translation.

#### **City translators should demonstrate competence**

The skill of translating is very different from the skill of interpreting. An individual who is a competent interpreter may or may not be competent to translate. A translator should understand the expected reading level of the audience and where appropriate, have fundamental knowledge about the target group's vocabulary and phraseology.

A competent translator should demonstrate one or more of the following:

- Evidence of training that includes skills and ethics of translation
- Proficiency in English and the other language, as documented in an objective language proficiency test
- Ability to convey information in both languages, accurately and completely, as demonstrated by a simulated translation request
- Fundamental knowledge in both languages of any specialized terms or concepts

With approved contract translators, contracting agencies should demonstrate how competency is assessed.

#### **Volunteers, friends or family members should not translate materials unless deemed appropriate for the situation**

Volunteers, friends or family members whose competence has not been assessed should not be relied upon. The use of untrained volunteers exposes the City to liability related to its legal obligation to provide competent translation services.

#### **Children should not provide translations**

For reasons of accuracy, confidentiality and family dynamics, minor children (under

18) should not translate vital documents for family members or other LEP individuals. This guideline does not apply in emergency cases, when a minor child is the only available potential translator.

### **Individuals may use their own adult volunteer translators under some limited circumstances**

City employees should not urge or require LEP individuals to provide their own translator. Individuals, however, may use their own translator if they waive their right to a translator provided by the City. If the effectiveness of a City service, program or activity may be compromised or the LEP individual's privacy may be violated, a City translator should be used.

### **Translation must be timely**

Access to translated materials in all City departments must be timely. No one may be denied access to services, programs and activities based on the lack of translated materials or documents.

## **Procedures**

### **Providing translations**

Translation can be provided in a variety of ways:

- Bilingual City employee trained in translation
- Other City employee translators
- Contract or freelance professional translators or contract interpreters providing oral, on-site translation
- Competent volunteer translators

### **Accessing translation services through a contracted vendor**

The City may maintain contracts with several vendors to provide written translation of documents. City departments that use these services will be charged for them. To access a translator, City employees must refer to the translator vendor list as identified in the City's contracts with approved vendors for translator services. City employees should visit the LEP Resource Gateway on the City's intranet website for a list of approved translator vendors.

## **STAFFING**

### **Guidelines**

Staffing decisions should be based on the City's customer service needs, including LEP service needs. When individuals are hired for positions in which they interact with LEP individuals, language skills may be a relevant job qualification. Any position that requires bilingual or multilingual skills must be a bona fide occupational qualification (BFOQ) as determined by the Division of Human Resources (HR).

### **Staffing to meet LEP needs**

Staffing to meet LEP needs can be done in a variety of ways:

1. Use a temporary agency or an independent contractor for the service needed.
2. Create a new classification. If the need for interpretation and translation services is high and is expected to be long-term, City departments may request that the Department of Human Resources study a position to determine if second language skills are a BFOQ.

3. If interpretation and translation skills are desirable qualifications, but not a BFOQ of the job, department management may, in many circumstances, add it as a “preference” in the qualifications.
4. Require a qualified and willing City employee to perform this function within the category of “other duties as assigned.”

## **Compensation**

Compensation for a City employee who provides interpretation and translation services will be determined by the City policy.

## **Procedures**

### **Amending a job specification to include bilingual skills**

When bilingual skills are required for a position or when it is determined that these skills are highly desirable for a position, department directors should work with the Division of Human Resources to request a job study of the position.

### **Announcing a job opening with a language preference**

If language preference is highly desirable and reasonable but not a BFOQ, the specific preference should be state on the job announcement posting.

### **Announcing a job opening with a language requirement**

If language preference is highly desirable and reasonable but not a BFOQ, the specific preference should be state on the job announcement posting.

### **Informally testing for language proficiency (permissible when language skill is a highly desirable qualification or requirement of the job)**

Include a fluent speaker of the desired language in the interview process, as one of the interviewers.

Conduct part of the department and/or HR selection process interview in the desired language. If the job includes significant writing duties, ask for a writing sample in both languages.

**Note:** There are important distinctions in the syntax and vocabulary of any language, depending on where speakers are from, their education level and their socioeconomic background. Choose the fluent speakers/interviewers with this in mind.

### **Formally assessing language proficiency (recommended if interpreting and translation skills are bona fide occupational qualifications)**

All individuals hired to perform interpretation and translation services should, at a minimum, be able to demonstrate oral and written proficiency in each language (English and other language) through a test, such as the one developed by the American Council of Teachers of Foreign Languages (ACTFL). For more information on the ACTFL test, visit the Council’s website, [www.actfl.org](http://www.actfl.org). **Note:** Currently, there is no ACTFL proficiency test for the Somali language.

It is important to also assess a candidate’s English proficiency, as well. Currently, English proficiency can be demonstrated through the written exam (always in English and at a level similar to what would be used on the job); the oral exam process (communication skills typically measured); and the department interview process.

### **Hiring or contracting out for interpreting or translating services**

If the City hires or contracts with an interpreter or translator, the temporary agency or the City department has the responsibility to ensure that all individuals should, at a minimum, demonstrate oral and written

proficiency in each language (as noted above) and demonstrate familiarity with and comprehension of ethical standards for interpreters and translators.

### **Existing City classifications for bilingual or multilingual skills**

Sample classifications that either require or note a possible preference for bilingual or multilingual skills include:

#### **TRAINING**

It is important to ensure that all City employees are given proper LEP training. City employees should know their obligations to provide LEP individuals with meaningful access to City services, programs and activities. The more frequent the contact with LEP individuals, the greater the need for in-depth training. City employees with little or no contact with LEP individuals must be aware of the City's LAP. City employees in management positions, even if they do not interact regularly with LEP individuals, must be fully aware of and understand the City's LAP so they can reinforce the importance and ensure the implementation of the City's LAP.

LEP training on a city-wide level will be planned and carried out by the Division of Human Resources (HR).

At a minimum, the City will ensure:

- all City employees know about the City's LAP;
- all City employees who are in public contact positions will be trained to work effectively with in-person and telephone interpreters and translators; and
- the City will provide training, including a copy of the City's LAP, as part of the City's orientation for new City employees.

#### **IMPLEMENTING, MONITORING, AND UPDATING THE PLAN**

The City's LAP will be updated as necessary. Updating and maintaining the City's LAP is the responsibility of the Division of Human Resources.

To ensure continuous improvement in providing LEP individuals with meaningful access to City services, programs and activities, the City will seek input from non-English or LEP communities, as well as community-based and advocacy organizations that work and interact with LEP populations.

Human Resources Manager will maintain and update the City's LAP information page on the City's website at [www.ogdencity.com](http://www.ogdencity.com).

The Human Resource Division will evaluate the City's LAP on a regular basis to determine its effectiveness. The evaluation will include:

- Identification of the LEP population in Ogden City and recalculation of the City's primary language groups
- Assessment of the current level of services delivered to LEP individuals by each City department

- Reporting on the LEP training received by City employees
- Reporting of activities by each City department
- Feedback and comments from LEP communities, including organizations and advocacy groups serving LEP individuals, on the effectiveness of the City's LEP services
- Evaluation of complaints (both at the City departmental level and the City level)

## **Contractor Responsibilities**

City contracted vendors and sub-recipients of federal funds through the City will be directed to read and follow the City's LAP. Language to ensure compliance with language access and the City's LAP should appear in City contracts. Contractors and vendors will be responsible for notifying and training their employees about LEP mandates. The Legal department will be responsible for providing City departments with the necessary LEP language requirements to include in all City contracts.

## **COMPLAINT PROCESS**

Complaints regarding LEP services (e.g. poor customer service, timeliness or quality of interpreter services) may be made in a number of ways:

- Face-to-face (Complainant will be asked to fill out a complaint form)
- Telephone (City employees will be asked to fill out a complaint form on behalf of the complainant)
- In writing via the U.S. mail
- In writing via electronic mail
- In writing via fax

## **Department Responsibilities**

City departments are required to allow procedures for LEP individuals to submit complaints about services received. City departments will document actions taken to resolve each complaint in a timely manner. City departments shall grant complainants at least 180 days (six months) from the alleged date of occurrence to file a complaint with their department.

## **ADA/EEO Coordinator Responsibilities**

In the event that a complaint cannot be resolved at the department-level, the complaint may be referred to ADA/EEO Coordinator for investigation.

If a complainant chooses to escalate his or her complaint due to dissatisfaction with the way it was handled by a City department or because of dissatisfaction with the resolution, the complainant may file a signed, written complaint with City Recorders office. Such written complaint should include the following information:

- Name, mailing address, and contact information (i.e. telephone number, email address, etc.)
- How, when, where, and why complainant believes he or she received unsatisfactory service. Include the location, names, and contact information of any witnesses.
- Other information that complainant deems significant

The complaint must be sent to the City Recorders office at 2549 Washington Blvd. Suite 210, Ogden, UT 84401.

The City encourages all complainants to certify all mail that is sent through the U.S. Postal Service and ensure that all written correspondence can be tracked easily. For complaints originally submitted over the telephone, by fax or electronically via email, an original, signed copy of the complaint must be mailed to the City Recorders Office as soon as possible.

**What happens to the complaint once it is submitted to EEO Coordinator?**

All complaints regarding LEP services must first be addressed by the respective City department involved. The City will make every effort to address the complaint in an expeditious and thorough manner.

A letter acknowledging receipt of the complaint will be mailed. Please note that a complainant's failure to provide subsequent requested information may result in the administrative closure of the complaint.

**How will the complainant be notified of the outcome of the complaint?**

The EEO Coordinator or Human Resource Manager will send a final written response letter to the complainant. If the letter notifies the complainant that the complaint was not substantiated, the complainant will also be advised of his or her right to 1) appeal within seven calendar days of receipt of the final written decision, and/or 2) file a complaint externally with the Utah Labor Commission. Every effort will be made to respond to LEP complaints within 60 working days of receipt of such complaints, if not sooner. If response cannot be made within 60 working days, complainant will be informed of the expected response date.