

# CITY OF OAKLAND LANGUAGE ACCESS PLAN

## I. Background.

Title VI of the Civil Rights Act of 1964 provides “No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance” and the U.S. Supreme Court has held that Title VI’s prohibition on national origin discrimination includes discrimination based on limited English-speaking proficiency (“LEP” or “LES”) (*Lau v. Nichols*, 414 U.S. 563 (1974)).

Title VI regulations and guidance requires recipients of federal funding to take reasonable steps to ensure meaningful access to benefits, services, information, and other important portions of their programs and activities for individuals who are (LEP), to facilitate engagement by LEP groups in recipients’ public participation efforts, to establish complaint procedures, and to develop Language Assistance Plans.

California Government Code § 11135 prohibits discrimination by agencies that receive state funds and requires them to provide equal access without regard to race, color, national origin or ethnic group and the Bilingual Services Act, Ca. Gov. Code §7290 et seq., requires that every local public agency provide language access services to persons who are LEP.

City of Oakland Ordinance No. 12324 and City of Oakland Municipal Code Chapter 2.30 establish equal access to City services and programs to promote meaningful participation of persons with limited English proficiency.

The City of Oakland (“City”) believes that the public safety, health, convenience, comfort, property, and general welfare will be furthered by the provisions of this Language Access Plan, which establishes standards and procedures with respect to access to City programs and activities by LEP Persons (defined below).

## II. Purpose.

It is of paramount importance that all people accessing or engaging in City programs, including LEP/LES persons, have the opportunity to participate meaningfully in such City programs and activities.

This Language Access Plan establishes standards and procedures for promoting meaningful access to City programs and activities to persons, including LEP Persons. This Language Access Plan supplements, but does not supersede, Ordinance No. 12324, Municipal Code Chapter 2.30, or the requirements of the City’s Settlement Agreement in *Family Bridges et al. v. Lindheim*, Case No. RG 08049445 and *Echo, et al. v. City of Oakland, et al.*, Case No. RG 08409443, which provide additional obligations by the City to employ bilingual individuals in the languages of Threshold Language Groups for certain Public Contact Positions in Tier 1 and Tier 2 Departments and Super PCP Departments, as defined by the Equal Access Office, and which

provide for translation of specified Vital Documents, recorded telephonic messages, and access complaint procedures in Threshold Languages.

This Language Access Plan provides for language access services to be provided as needed for language groups in addition to those determined to be Threshold Language Groups or Substantial Number of Limited-English-Speaking Persons Groups. This Language Access Plan also updates the definition of Vital Document to include a broader range of documents.

### **III. Definitions.**

- (a) “LEP Language Group” means at least 1,000 limited English speaking residents of the City who speak a shared language other than English. The City will base its determination of whether at least 1,000 LEP Persons speak a shared language other than English by referring to the most recent U.S. Census data or other reliable data. The City Administrator will annually issue guidance identifying the LEP Language Groups.
- (b) “Threshold Language Group” (also known as “Substantial Number of Limited-English-Speaking Persons Group”) means a group of at least 10,000 LEP residents of the City who speak a shared language other than English. The City Administrator will annually issue guidance identifying the Threshold LEP Language Groups.
- (c) “Limited English Proficient Person” (“LEP Person”) means an individual who does not speak English as his or her primary language and has a limited ability to read, speak, write, or understand English. It includes people who reported to the U.S. Census that they speak English less than very well, not well, or not at all.
- (d) “Language Access Services” include interpretation of oral communications and translation of written communications by Bilingual Employees (defined in Ordinance 12324), Qualified Interpreters (defined below), and Qualified Translators (defined below); telephone, internet or video interpretation; and translated materials, as appropriate to, and effective for, the information being communicated and the context of the communication. Which type of Language Access Service to offer in a particular situation will depend on:
  - (1) The number and proportion of LEP Persons served or encountered in the service area;
  - (2) The frequency with which LEP Persons come into contact with the City’s programs and activities;
  - (3) The nature and importance of the program or activity provided by the City; and
  - (4) The resources available and costs to the City.

The City Administrator or her designee will make the final decision as to what type of Language Access Service is required.

- (e) “City Department” means a department or agency of the City of Oakland.

- (f) “Qualified Interpreter” or “Qualified Translator” is a person employed or hired by the City (whether paid or unpaid) to provide interpretation or translation of communication to and from English and another language in a manner that preserves the intent and meaning of the original message, and who meets the qualifications for proficiency and competency established by the City. Qualified Interpreters and Qualified Translators must be impartial and able to communicate using any necessary specialized vocabulary. A Qualified Interpreter or Qualified Translator may be a qualified bilingual employee pursuant to Municipal Code Chapter 2.30. Translators of Vital Documents into Threshold Languages must be certified.
- (g) “Bilingual” or “Multilingual” employees are City employees who are proficient in the English language and a language other than English that is spoken by not less than 10,000 Limited English Speaking persons who are Oakland residents, as specified in Ordinance 12324.
- (h) “Vital Document” means written information, regardless of format (e.g., print, electronic, and audio recording) that contains information that is critical for obtaining City services and/or benefits, or is required by law. A document is a Vital Document if it affects access to, retention in, or termination or exclusion from a City Department’s programs or activities. Vital Documents include: (1) applications, consent forms, intake forms or other forms to participate in a City program or activity; (2) written letters or notices pertaining to rights and the reduction, denial or termination of services or benefits or that require a response, including information about the right to appeal any City Department’s decision; (3) written tests that do not assess English language competency, but test competency for a particular license or skill for which knowledge of written English is not required; (4) notices advising LEP Persons of free language assistance; (5) materials explaining the City’s programs or activities; (6) complaint forms; and (7) any other written documents that have the potential for determining eligibility for, or access to, services from, or participating in, a program or activity of the City Department.

#### **IV. Meaningful Participation in City Programs, Activities, and Planning Processes.**

- (a) Using Qualified Bilingual Employees, Qualified Interpreters, Qualified Translators; telephone, internet or video interpretation; and translated materials, the City shall provide meaningful access to information and services related to City programs and activities to members of the public who are LEP Persons. Language Access Services shall be offered timely and at no cost to LEP Persons.
- (b) The City will not rely on family members or companions of LEP Persons to provide Language Access Services unless the LEP Person so desires, after being informed of the availability of free Language Access Services, or in exigent circumstances that are not foreseeable and in which qualified Language Access Services cannot be timely arranged. The City will not rely on family members or companions of LEP Persons to provide Language Access Services if use of such individuals is inappropriate under the circumstances, including where issues of confidentiality, objectivity, privacy, or conflict of interest may arise.

- (c) This Language Access Plan shall be interpreted and applied so as to be consistent with Title VI of the Civil Rights Act of 1964, California Government Code § 11135, the Bilingual Services Act, the United States Environmental Protection Agency's LEP Guidance found at 69 FR 35602 (June 25, 2004), the United States Department of Transportation LEP Guidance found at 70 FR 239 (December 14, 2005), the Department of Justice's guidance documents, and any article of the Charter of the City of Oakland, and so as not to impede or impair the City's obligations to comply with any court order, consent decree, or agreement with a federal agency having jurisdiction over these matters.

**V. Interpretation of Oral Communications.**

- (a) Pursuant to Ordinance 12324 and Municipal Code Chapter 2.30, the City shall hire a sufficient number of Bilingual Employees in Public Contact Positions and/or contract with qualified vendors to timely and adequately serve members of the Threshold LEP Language Groups interacting with the City.
- (b) The City shall establish contracts with Qualified Interpreters and telephone, internet or video interpretation services sufficient to ensure:
  - (1) all oral communications are available timely on request for members of Threshold LEP Language Groups, through Bilingual Employees and/or Qualified Interpreters;
  - (2) interpretation of oral communications in languages spoken by members of LEP Language Groups is provided as timely as reasonably possible; and
  - (3) for (A) languages not included within an LEP Language Group or Threshold LEP Language Group, (B) oral communications with members of LEP Language Groups or Threshold LEP Language Groups where sufficient notice is not provided, (C) telephone communications, or (D) in exigent circumstances, meaningful access to an identified LEP Person in his or her preferred language is provided in as timely and appropriate a manner as reasonably possible through Qualified Bilingual Employees, Qualified Interpreters, or telephone, internet or video interpretation.
- (c) Oral interpretation of any public meeting or hearing held by a City Commission or Department shall be provided for Threshold LEP Language Groups if requested at least 48 hours in advance of the meeting or hearing in question.
- (d) City Departments shall maintain telephonic messages in each Threshold LEP language. The message shall contain basic information about the Department's operation including, at a minimum, business hours, location(s), services offered and the means of accessing such services, and the availability of language assistance.

## **VI. Translation of Materials.**

- (a) The City shall arrange for translation of written materials, regardless of format (e.g., print, electronic mail, online), by Qualified Translators sufficient to ensure timely translation of materials into languages spoken by Threshold LEP Language Groups and into LEP Language Groups upon request.
- (b) The City shall establish a system to:
  - (1) Identify existing Vital Documents published by the City;
  - (2) Determine whether each new document planned to be published by the City is a Vital Document;
  - (3) Translate Vital Documents into the languages of Threshold LEP Language Groups so that they are available timely upon publication of the documents in English, except that public meeting notices, agendas, or minutes will be translated upon advance request;
  - (4) Translate Vital Documents into the languages of LEP Language Groups upon request; and
  - (5) For languages not included within a Threshold LEP Language Group or LEP Language Group, for Vital Documents to be provided to members of LEP Language Groups where sufficient advance notice is not provided, or in exigent circumstances, translate Vital Documents in as timely and appropriate a manner as possible through translation and/or sight translation.
- (c) The City Title VI Compliance Coordinator and Equal Access Office shall develop systems, contracts, and standards for providing Language Access Services to ensure meaningful access for Threshold LEP Language Groups, LEP Language Groups, and other LEP individuals.

The City shall ensure that translations are made by Qualified Translators and that translated materials are accurate and appropriate for the target audience. The City will solicit feedback on the accuracy and appropriateness of translations from bilingual staff and community groups who engage in City programs or activities.

## **VII. City Department and Staff Responsibilities**

- (a) City Departments shall inform LEP customers of the availability of language access services, free of charge, by providing written notice in the languages of the Threshold LEP Language Groups and LEP Language Groups conspicuously in areas of their facilities and on their websites. The notices shall be posted prominently and shall be readily visible to the public.
- (b) Departments shall have “I Speak” cards in at least the languages of all LEP Language Groups available to assist LEP individuals in identifying their language access needs at all locations where City residents are expected to interact with the Department on a regular basis. Departments shall also have pre-printed statements in all LEP Language Group languages to inform LEP customers that the staff member is arranging language access services.

- (c) Department staff must identify LEP customers, identify the preferred language of LEP customers, inform LEP customers of their right to free language access services, contact the Equal Access Office, and arrange and provide effective language access services to all LEP customers, as early as possible during initial contact.
- (d) Departments must periodically arrange training of all staff on Title VI of the Civil Rights Act, the City Language Access Plan, and Department and Staff responsibilities for identifying, documenting, and implementing language access services.
- (e) Departments must provide all staff annually updated lists and contact information for available language access resources, and provide any additional training or resources necessary for staff to perform their language access-related duties.
- (f) City Departments shall collect, review, and share data with the City Equal Access Office annually to determine the appropriate mix of Language Access Services to provide LEP Persons meaningful access to the City's programs and activities.
- (g) LEP Language Groups shall be included in Departments' overall public engagement strategies, including by (1) scheduling meetings at times and locations that are convenient and accessible for LEP communities; (2) using different meeting sizes and formats; (3) coordinating with community and faith-based organizations, educational institutions, and other organizations to implement public engagement strategies that reach LEP communities; and (4) using advertisements placed through radio, television, newspaper, online, and other forums that serve or reach LEP populations.

### **VIII. Complaint Procedures.**

Complaints alleging violations of this Language Access Plan shall be handled as provided in the City's Discrimination Complaint and Compliance Review/Grievance Procedure.