

West Virginia Development Office Community Advancement and Development

Limited English Proficiency Language Access Plan and
Four-Factor Analysis

Community Development Block Grant-Mitigation
(CDBG-MIT)

Updated: August 24, 2020

Introduction

Title VI of the Civil Rights Act of 1964 (Title VI) is the federal law which protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive federal financial assistance. In certain situations, failure to ensure that persons who have limited English proficiency can effectively participate in, or benefit from, federally-assisted programs may violate Title VI's prohibition against national origin discrimination. Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter. In addition to Title VI, *Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* was established on January 22, 2007 as required by Executive Order 13166 (EO 13166). EO 13166 requires for Guidance to be published to clarify recipients' obligations to LEP persons.

On February 9, 2018, Mitigation (CDBG-MIT) funds were appropriated by Congress to grantees recovering from qualifying 2015, 2016, and 2017 disasters. The U.S. Department of Housing and Urban Development's (HUD) release of the CDBG Mitigation Federal Register Notice, on August 30, 2019, identifies mandatory rules for the use of \$6.875 billion in Community Development Block Grant Mitigation (CDBG-MIT) funds for mitigation projects. The CDBG-MIT funding will provide an opportunity to fortify resiliency measures in order to decrease the impact of future flooding events and other natural hazards in the following counties: Clay, Greenbrier, Kanawha, Nicholas, Fayette, Jackson, Lincoln, Monroe, Pocahontas, Roane, Summers, and Webster. The State of West Virginia has been allocated \$106,494,000.00 of CDBG-MIT funding with a requirement of \$53,247,000.00 to benefit the HUD Most Impacted and Distressed counties of Clay, Greenbrier, Kanawha, and Nicholas.

This document serves as an amendment to the WVCAD Limited English Proficiency/Language Access Plan to account for additional funds received from HUD for the Community Development Block Grant – Mitigation (CDBG-MIT) program and describes the language access requirements which WVCAD will meet to ensure appropriate public access is provided.

The following four-factor analysis and Language Access Plan (LAP) shall provide the basis for which any Limited English Proficiency (LEP) individuals will be given equal access to documents and resources related to the CDBG-MIT grant funds in the 12-county service area.

Four-Factor Analysis

CDBG-MIT recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the four factors. Below WVCAD provides an analysis of each factor and subsequent impact on the plan.

Analysis Factor 1

Total number or proportion of LEP persons eligible to be served or expected to be encountered within the Declared Counties (served or encountered includes those persons who would be served by the recipient if the person received education and outreach and the recipient provided sufficient language assistance).

To complete this analysis, WVCAD reviewed the US Census Bureau 2018 American Community Survey (ACS) 5-Year estimates. The ACS contains data estimates for the population five years or older who speak English “less than very well.” According to this review, the total LEP population for any given language group in the 12-county disaster service area does not exceed 1,000 people or 5 percent of the population. Below is an overview of data found.

TABLE 1: 2018 ACS DATA CDBG-MIT WV SERVICE AREA

West Virginia Service Area County	Total Population	Number of LEP Population	Total LEP Percentage	Number of Asian and Pacific Island Speaking	Number of Spanish Speaking
Total for all 12 Counties	418,958	1,271	4.4%	480	791
Clay	41,956	11	.10%	11	0
Fayette	41,596	160	.40%	9	151
Greenbrier	33,517	291	.90%	61	162
Jackson	27,407	66	.20%	25	0
Kanawha	175,620	1,154	.70%	306	351
Lincoln	19,837	49	.20%	44	0
Monroe	12,851	77	.60%	0	74
Nicholas	24,006	159	.70	17	24
Pocahontas	8,128	1	.00%	0	1
Roane	13,492	22	.20%	0	22
Summers	12,525	41	.30%	0	8
Webster	8,023	7	.10%	0	7

Source: 2018 ACS data estimates of the population five years or older who speak English “less than very well.”

Table 1 displays the number and percent of LEP persons by county for the state of West Virginia. For the purpose of the CDBG-MIT grant service area, only the 12 counties eligible for funding were analyzed.

Federal safe harbor rules suggest written translation of vital documents where the size of a language group is 1,000 or more in number or more than 5 percent of the eligible population, whichever is less. As shown in Table 1, the most spoken languages other than English in West Virginia are Asian and Pacific Island and Spanish. The Spanish language is the most frequent in the combined service area for the CDBG-MIT grant with 791 people. The second most frequent group is the Asian and Pacific Island language speaking persons with 480. However, due to the limited size

of each language group being less than 1000 people and both languages being less than 5 percent of the county's total population, West Virginia falls under federal safe harbor and does not meet the requirements for translation of vital documents.

Analysis Factor 2

The frequency with which the LEP persons come into contact with the program.

The frequency with which the LEP persons come into contact with a federal grant program must be considered when providing eligible activities to a defined service area. The CDBG-MIT projects and programs, generally speaking, will be administered by local governments. Contact with persons or households who require assistance in another language is expected to be minimal by the State of West Virginia. However, a requirement of making the LEP/LAP plan available for review will be expected of the local units of government in their grant agreements. The provision of language assistance upon request will also be required by the local units of government and the State.

WVCAD would like to note that translation services were not requested by the public for its CDBG-DR allocation. WVCAD will continue to offer translation services at the request of LEP persons for the CDBG-MIT program.

Analysis Factor 3

The nature and importance of the program, activity, or service provided by the program to people's lives.


The State does not intend to offer any direct services to individuals with its CDBG-MIT program. The grant allocation will focus on HUD-eligible infrastructure (including general infrastructure and public facilities hardening activities) and planning activities, which do not provide direct benefits to individuals. Should a subrecipient put forth a program via grant application which may provide direct services or benefits, WVCAD shall request the applicant provide an analysis of potential LEP impact and, if significant results are found, a subsequent plan for performing appropriate translation services and access to key documents.

Analysis Factor 4

The resources available and costs to the recipient.

WVCAD has limited administrative budget to carry out its CDBG-MIT program. Translation services are not readily available to WVCAD, and therefore, a third-party would need to be utilized. Due to the high cost of translation and very small percentage of LEP populations, WVCAD will make available translated vital documents upon request. WVCAD is committed to spending grant funds in a cost reasonable manner.

Certification: Based on the above Four-Factor Analysis, the State of West Virginia is not required to translate vital documents. However, the State of West Virginia will make all reasonable attempts to accommodate language access needs for residents requesting written and/or oral translations during the implementation of the CDBG-MIT grant.



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Date

Language Access Plan

The State of West Virginia puts forth the following Language Access Plan which describes the activities it will undertake to provide language access to limited English proficiency individuals in accordance with the four-factor analysis provided above.

- All citizens participation documents, action plans, and amendments related to the CDBG-MIT grant will be announced via public notice published in newspapers of general circulation and will be posted on the State's CDBG-MIT website at www.wvfloodrecovery.com/mitigation.
- Translation services will be provided during public meetings upon prior request where feasible. WVCAD requires all requests for language accommodation are received at least five business days prior to submission. Language cards and/or "I Speak" posters will be available at public hearings for LEP persons. For virtual hearings, upon request, LEP persons may be provided with a separate conference line which will provide translation of the meeting in real time.
- WVCAD will maintain a list of staff members proficient in languages other than English that are willing to provide interpretative services.
- WVCAD staff and subrecipients may provide a commercially available telephonic voice interpretation service, such as Language Line, or contact a staff member proficient in the needed language to provide interpretation to LEP persons as needed.
- As a result of the preceding Four-Factor Analysis, the State of West Virginia is not required to translate vital documents. Oral translation will be made available upon request to WVCAD.
- WVCAD will conduct periodic assessments of the LAP to ensure that population changes have not occurred supplying the need for adjustments to language assistance. The Limited English Proficiency, Language Access Plan, and Four-Factor Analysis will be published and made available for citizens to view on the WVFloodRecovery.com and WVCAD.org websites.