



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

**DEPARTMENT OF LABOR AND INDUSTRIAL  
RELATIONS' LIMITED ENGLISH PROFICIENCY PLAN**

**INTRODUCTION**

Presidential Executive Order 13166, "Improving Access to Services for Persons with Limited English proficiency" was created to "... improve access to ... federally assisted programs and activities for persons, who as a result of national origin, are limited in their English proficiency ... ." Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d ("Title VI") serves as the basis for Executive Order 13166. Title VI provides that no person 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." Certain divisions of the State of Hawai'i Department of Labor and Industrial Relations ("DLIR") receive Federal funding from the U.S. Department of Labor and, by virtue of that funding, Title VI applies to all DLIR's operations. *See* 29 CFR parts 31.1; 31.2(g); and 31.3. Accordingly, DLIR seeks to implement the initiatives set forth in this Limited English Proficiency ("LEP") Plan to meet its obligations under Title VI. The purpose of this LEP Plan is to take reasonable steps to ensure persons with limited English proficiency gain meaningful access to DLIR services and programs.

Hawai'i's population reflects a rich blend of peoples and cultures. According to the 2000 census, almost 290,000 of Hawai'i's 1.2 million people speak a language other than English at home, including over 250,000 persons that speak an Asian or Pacific Island language. For many, English is not their primary language. Many have only a limited ability to read, write, speak or understand English. Language barriers often prohibit many residents from fully participating in our community and undermine efforts to become self-sufficient and productive. This LEP Plan speaks to DLIR's commitment to provide essential and meaningful access to LEP customers.

**DEFINITION OF LIMITED ENGLISH PROFICIENT PERSONS/CUSTOMERS**

For purposes of this LEP Plan, LEP persons or LEP customers mean individuals who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. Such persons may be eligible to receive language assistance with respect to a particular service, benefit, or encounter.

**RELEVANT FACTORS**

In determining how to provide effective and meaningful access to LEP customers, the U.S. Department of Labor has established the following four guidelines (68 FR 32290, 32294 (May 29, 2003)):

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program;
2. The frequency with which LEP persons come into contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to LEP persons; and
4. The resources available to the program and the costs of providing interpretation/translation services.

The touchstone of this four-factor analysis is reasonableness--reasonableness as measured by balancing (1) the size, needs, and the nature of assistance to the LEP population served and (2) DLIR's capacity and available resources.

Based on the aforementioned factors, DLIR seeks to implement the following LEP Plan as a pilot program, subject to review and revision by no later than December 31, 2006. Decisions regarding oral interpretation and written translation services under the following LEP Plan shall be guided by the four-factor analysis cited above.

#### **SUMMARY**

This DLIR LEP Plan is comprised of seven (7) components:

- (1) Development of a reporting system designed to obtain key information about the LEP population who use DLIR services;
- (2) Compilation of comprehensive multi-lingual listing of DLIR employees;
- (3) Notice of interpretation/translation services to qualified LEP customers;
- (4) Providing interpretation/translation services for qualified LEP customers;
- (5) Designation of a LEP Plan Coordinator;
- (6) Training DLIR staff on the implementation of this plan; and
- (7) Seeking stakeholders' input; review and revision of the LEP Plan.

Each component will be explained below.

## **LEP PLAN**

### **I. DEVELOPMENT OF A REPORTING SYSTEM TO OBTAIN KEY INFORMATION ABOUT THE LEP CUSTOMERS WHO USE DLIR SERVICES**

In order to provide meaningful access to LEP customers, DLIR will first seek to gather information about what languages they speak, what DLIR services they use, and the frequency in which they use these services.

Since 1994, DLIR has been providing telephone interpretation services to LEP customers, free of charge. Based on this long-standing practice, DLIR has retained informal statistics on the number of persons who have requested help with language interpretation. These statistics, however, are limited to the kinds of languages requested and the collective amount of minutes used in providing interpretation services for a particular language. This data does not reflect the kinds of DLIR services provided or how frequently such services were used by LEP customers.

While certain DLIR divisions have already begun gathering more detailed information about the LEP customers they serve,<sup>1</sup> DLIR will take this opportunity to articulate a more comprehensive approach.

DLIR's Research and Statistics Division ("R&S") has developed the attached form designed to collect the information necessary to enable us to render meaningful access to LEP customers who use our services. *See* Appendix "A." This form seeks to collect, among other things, the following information: (1) the kinds of languages that LEP customers need translated; (2) the kinds of DLIR services are used by LEP customers; and (3) the frequency in which LEP customers use certain DLIR services.

The R&S shall be responsible for establishing a procedure for each DLIR division to complete the form attached as Appendix "A." R&S will compile the data on a yearly basis and provide a report to the designated LEP Plan Coordinator by no later than December 1, 2006. The responsibilities of the LEP Plan Coordinator are explained in Section V below.

### **II. COMPILATION OF COMPREHENSIVE MULTI-LINGUAL LISTING OF DLIR EMPLOYEES**

To effectively service LEP customers, we must ascertain what language skills and resources DLIR may already have available through its employees. Certain divisions, including the Unemployment Insurance Division, have already begun that process by maintaining a log of all of its employees and the languages that he or she can read and/or speak.

We have now expanded the listing to include the entire Department. Attached as Appendix "B" is a listing of all DLIR employees as of April 24, 2006, who have multi-lingual abilities. This list includes information volunteered by DLIR personnel including, among other things, the language or

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<sup>1</sup> For example, questionnaires were distributed to twenty-two (22) Wage Standards Division ("WSD") employees requesting responses concerning their experiences with LEP customers. The majority of employees that responded indicated that they have indeed encountered LEP customers while performing their duties (i.e., fourteen (14) of nineteen (19)). The most common languages encountered were Mandarin, Cantonese, Ilocano, and Tagalog. The two most requested services by LEP customers were services regarding the filing and investigation of complaints (i.e., six (6) and nine (9) respectively). As for frequency of transactions with LEP customers, responses spanned the spectrum of three (3) LEP customers in twenty (20) years to one (1) LEP customer per month.

languages that the DLIR employee can speak and/or read, the degree of fluency in those identified languages, and the contact information for that DLIR employee. An employee on this list may be contacted when a LEP customer of DLIR services needs language assistance. The procedure to be followed when a DLIR employee is contacted to provide language assistance is contained in Section IV.A. below.

Although a DLIR employee may not be fluent in a particular language, depending on the circumstances, that employee's language skills may facilitate a certain comfort level that may contribute significantly to meeting a LEP customer's needs.

### **III. NOTIFICATION OF INTERPRETATION/TRANSLATION SERVICES TO LEP CUSTOMERS**

#### **A. OFFICE NOTICE**

To provide notice to LEP population who may access DLIR services, we have taken the following steps. Based on (1) the existing data compiled by DLIR in providing telephone interpretation services to LEP customers since 1994; (2) data from the State of Hawai'i Data Book 2004; (3) survey responses of WSD employees about their experience in dealing with LEP customers and (4) discussions with Federal Immigration Court administrators in Honolulu and advocates of the interests of LEP persons statewide, we have compiled a list of twenty-one (21) languages that are likely to be the primary languages of LEP persons in Hawai'i who need access to DLIR services. These languages include: Burmese, Cambodian, Cantonese, Chamorro, Chuukese, Ilocano, Japanese, Korean, Kosraean, Lao, Mandarin, Marshallese, Pohnpeian, Samoan, Spanish, Tagalog, Thai, Tongan, Vietnamese, Visayan, and Yapese.

At least one 11" x 17" poster informing LEP customers that DLIR provides free interpretation services shall be placed in a prominent place in all DLIR offices having contact with the public. An 8 ½" x 11" copy of this poster developed by the Office of Community Services is attached as Appendix "C."

#### **B. NOTICE FOR REQUESTING WRITTEN TRANSLATION**

Additionally, DLIR has developed a written notice that will be attached to documents that each respective division administrator believes is important and/or believes, through the experiences of his or her division, needs to be translated. The notice, which is translated into the twenty-one (21) languages identified above, invites a person who needs translation of a DLIR document to contact the LEP Plan Coordinator at 586-8865. *See* Appendix "D."

### **IV. PROVIDING INTERPRETATION/TRANSLATION SERVICES FOR LEP CUSTOMERS**

#### **A. ORAL INTERPRETATION**

In the course of serving our clients, situations may arise where LEP customers are unable to negotiate through DLIR programs without the assistance of interpreters in their preferred language. To ensure that the inability to communicate in English does not deprive the public of rights and privileges, DLIR will continue to provide an interpreter, at no cost to the client, for LEP customers pursuant to the following procedures.

A customer approaches a DLIR employee and appears to be asking for help, but has difficulty communicating what he or she needs.

What does a DLIR employee do?

### 1. In-Person Interpreter

The DLIR employee helping that customer should attempt to determine what language that person speaks. If that language cannot be readily determined, the DLIR employee will use the poster attached as Appendix “C” to help find out what language the customer speaks. The DLIR employee will allow the client to review the poster and encourage the person to point to the language in which he or she needs an interpreter.

As a general rule, a competent,<sup>2</sup> in-person interpreter is preferred over a telephone interpreter. Accordingly, if the client points to a language on the poster, then the DLIR employee will refer to the multi-lingual listing of all DLIR employees attached as Appendix “B” and first contact an available interpreter within the DLIR employee’s office. If no one is available to interpret within that office, then the DLIR employee will attempt to contact an interpreter in the proximity of his or her own office (i.e., on the same floor). If no one in the proximity of the office is available, then the DLIR employee will contact an interpreter within DLIR.

If no one is available within DLIR, then the DLIR employee assisting the customer will call Language Line.

### 2. Language Line Telephone Interpreters

If an in-person interpreter within DLIR cannot be located, then the DLIR employee helping the customer will call Language Line by dialing 1-800-874-9426. The DLIR employee will then be prompted to enter DLIR’s 6-digit Client ID: 550012. If the customer indicates he or she speaks Spanish, the DLIR employee will press 1. Otherwise, the DLIR employee will press 2 and speak the name of the language when prompted.

The DLIR employee may then either press 0 or stay on the line for assistance.

The DLIR employee will then communicate the following information to the Language Line representative:

- 6-digit Client ID: 550012
- Organization Name: Hawai`i Department of Labor and Industrial Relations
- Personal Code: Phone extension **and** the DLIR 2 to 5 letter abbreviation of the particular division/office within DLIR (e.g., Workforce Development Division = WDD; Disability Compensation Division = DCD; Wage Standards Division = WSD; etc.).

An interpreter will then be connected to the call.

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<sup>2</sup> While it may be customary for LEP customers to bring their relatives or friends as interpreters, it is not appropriate to have minors serve as interpreters. Minors are often not formally trained in providing interpretation services and their experience as an interpreter tends to be limited.

Then, the DLIR employee will (1) brief the interpreter about the situation by summarizing what the employee wishes to accomplish, and (2) convey any special instructions to the interpreter.<sup>3</sup>

The DLIR employee will then allow the client to speak to the interpreter.

When the discussion between the client and the interpreter is finished, or when the DLIR employee is prompted, the DLIR employee will then speak to the interpreter to find out what the client needs.

The cost for oral interpretation services shall be borne by the division.

At the end of the transaction, the DLIR employee shall complete a Service Log entry, detailing the date of the call, the start and end times, the originating phone number and the language involved. A sample page of the Service Log is attached as Appendix "E." All DLIR offices/divisions shall compile the information from the daily Services Logs and submit a monthly Service Log for the office/division to the LEP Plan Coordinator within fifteen (15) days after the end of each month.

### 3. No Language Line Interpreter Available or Language Not Listed on Poster

If the Language Line representative indicates that Language Line does not have an available interpreter **and** the language is listed on the LEP Plan poster (Appendix "C"),<sup>4</sup> the DLIR employee can contact the interpreter services listed on Appendix "F" for assistance. Appendix "F" is a list of interpreter/translation services compiled by the LEP Plan Coordinator.

As in the case of Language Line, at the end of the transaction, the DLIR employee shall complete a Service Log entry (Appendix "E"). All DLIR offices/divisions shall complete the Services Log and submit the Service Log to the LEP Plan Coordinator within fifteen (15) days after the end of each month.

Also, if the language that the client speaks is not listed on the LEP Plan poster (Appendix "C"), the DLIR employee servicing the LEP customer shall contact the LEP Plan Coordinator and proceed as instructed. The LEP Plan Coordinator shall contact the administrator of the division servicing the LEP customer, and the LEP Plan Coordinator and the administrator of the division shall decide whether to grant the request, in whole or in part, by using the four-factor analysis discussed in the "RELEVANT FACTORS" section above.

### 4. Telephone Calls

Should a DLIR employee receive a telephone call from a LEP customer or a representative of a LEP customer needing oral translation, the DLIR employee should encourage that LEP customer to come into the DLIR employee's office, so that oral interpretation services may be arranged as set forth above.

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<sup>3</sup> If the speaker phone feature is available on the DLIR employee's phone, then the speaker phone feature should be used to allow both the LEP customer and the DLIR client to be on the line at the same time.

<sup>4</sup> Should a LEP customer require sign language services, the DLIR employee may go directly to Appendix "F" and make the necessary arrangements for sign language interpreter services.

## **B. WRITTEN TRANSLATION**

As discussed in Section III.B above, a notice regarding a request for written translation shall be attached to important documents in order to provide meaningful access to LEP customers and/or sent with documents that division personnel have sufficient reason to believe are addressed to a LEP customer.

For example, in a manner concerning unemployment insurance, an unemployment insurance claim form is the kind of important document necessary for meaningful access to DLIR services.

As another example, during a WSD investigation, it becomes evident that the person who filed a complaint for not being paid for the hours he worked has great difficulty understanding and speaking English. The notice regarding translation should accompany any decision concerning the investigation.

When a request for a written translation is received by the LEP Plan Coordinator, the Coordinator has twenty-four (24) hours to notify the division who sent the document that such a request was made.

The LEP Plan Coordinator and the administrator of that particular division shall decide whether or not the request should be granted using the four-factor analysis discussed in the “RELEVANT FACTORS” section above. It is within the sound discretion of the LEP Plan Coordinator and the administrator to select a qualified translator.

## **V. DESIGNATION OF LEP PLAN COORDINATOR**

Mr. Gary Noda, DLIR’s Equal Employment Opportunity Officer, shall serve as the LEP Plan Coordinator. The LEP Coordinator will be primarily responsible for, among other things: (1) the overall implementation of the LEP Plan; (2) responding to any inquires or comments/complaints regarding the LEP Plan and its implementation; (3) making any revisions and modifications to the LEP Plan, as necessary; (4) training DLIR employees by providing the proper background necessary to implement the objectives of the LEP Plan; (5) serving as the primary contact for LEP customers who need a written translation of important DLIR documents; and (6) coordinating efforts to implement the LEP Plan, monitor the LEP Plan, evaluate the LEP plan, and invite stakeholders’ input aimed at improving the current LEP Plan.

## **VI. TRAINING DLIR STAFF**

The LEP Plan Coordinator will be responsible for developing and implementing training for DLIR staff. The primary purpose of the training is to impart the necessary background and understanding to implement the objectives of the LEP Plan. The training shall address the application of the policies and procedures in the LEP Plan to various “real-world” situations that they will likely encounter. The LEP Plan Coordinator shall, as a part of the training, develop reference sheets encapsulating the essential principles and procedures of the LEP Plan and disseminate these reference sheets to the entire Department. The training shall also address what kind of documents should be generally translated. Additionally, the training shall address competency, confidentiality, and impartiality issues regarding in-person interpreters within DLIR.

DLIR administrators, managers, and all employees dealing with customers on a daily basis

shall complete their training by no later than July 31, 2006.

All other DLIR staff who administrators and/or managers believe should receive LEP Plan training shall complete their training by no later than September 30, 2006.

## **VII. SEEKING STAKEHOLDERS' INPUT; REVIEW AND REVISION OF THE LEP PLAN**

DLIR, through the LEP Plan Coordinator and the Office of Community Services, will actively seek input from groups that provide assistance to LEP customers, including those who advocate for the interests of immigrants, refugees and others who may be LEP consumers of DLIR services. All interested stakeholders are encouraged to contact the LEP Plan Coordinator directly. The LEP Plan Coordinator shall have at least one (1) public meeting with LEP persons, other interested stakeholders, and all DLIR administrators on or about October 10, 2006. The objectives for seeking such input are (1) to provide feedback and information that will result in refining this LEP Plan, and (2) to enable DLIR to meet its goal of taking significant and reasonable strides toward ensuring meaningful access to LEP customers. The LEP Plan coordinator shall then submit a comprehensive report on the meeting, including the recommendations and comments on the LEP Plan, and submit the report to the Director no later than December 31, 2006.

This report shall include a list of the most requested languages in which assistance is needed and a list of the most requested documents to be translated. The report shall also include a synthesis of the data contained in the report submitted by R&S. *See* Section I above.

This LEP Plan is a pilot program that shall be reviewed and revised in light of comments from LEP customers, their representatives, interested stakeholders, and DLIR staff. Such review and revision shall take place no later than January 31, 2006. The provisions of this LEP Plan shall remain in place until a revised LEP Plan is adopted.

## **CONCLUSION**

Through the enactment of this LEP Plan, DLIR, in compliance with the mandate of Title VI, has memorialized the initial steps in providing reasonable and meaningful access to LEP customers that seek DLIR services.

All DLIR divisions and administratively attached agencies shall immediately comply with this LEP plan.

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Nelson B. Befitel, Director  
Department of Labor & Industrial Relations

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Date