

DET Vital Document Translation Policy

Purpose:

This policy assures the Department of Workforce Development (DWD), Division of Employment and Training, commitment to providing equal access and equal opportunity to all programs, services and activities funded with Federal financial assistance from the Department of Labor (DOL), and through the Workforce Innovation Act (WIOA) of 2014, to persons with Limited English Proficiency (LEP).

Background:

Section 188 of the Workforce Innovation Act of 2014 and its equal opportunity nondiscrimination regulations at 29 CFR part §38, DOL Title VI of the Civil Rights Act of 1964 (Title VI) regulations 29 CFR part § 31, Executive Order 13166 issued in 2000, and DOL LEP Guidance FR Vol. 68, No. 103, pages 32289-32305, stipulate what a recipient of Federal financial assistance is obligated to do to ensure equal access and equal opportunity is provided to LEP persons.

As a recipient of Federal financial assistance, DWD – DET is required to take reasonable steps to ensure meaningful access to programs, services, and activities, administered by DET and through its local funded grant recipients and their sub-recipients, to LEP persons.

DET Policy

All DET created forms and publications will be reviewed to determine if they meet the definition of "vital document". When forms and publications are created at the local or central office level, staff should use the Translation Requirements Checklist [DWSD-1393-E \(N. 06/2004\)](#). If the Checklist determines that the document you are creating needs to be translated, contact the Assigned Forms Coordinator (AFC) within your Bureau and/or the Division's Form Coordinator (DFC), Charles Lawton. The assigned Bureau Forms Coordinator will review the document and make sure it has bureau, division and department approval. After the form is approved the BFC will then forward the English version to the DET translation vendor, Southern Wisconsin Interpreting (SWITS) for translation. The BFC will arrange to have the translated form reviewed once it has been translated for accuracy preferably by someone whose first language is the language in the document as well as sent it to the printers (if required).

All documents identified as vital will be translated at a minimum to Spanish, Hmong, _____. Translation of vital documents to other LEP language groups will be considered after a more careful individualized assessment is conducted following a four-factor analysis that takes into consideration the following:

1. A review of the number or proportion of LEP persons within a specific language group to be served or likely to be encountered by the program or grantee;
2. A review of the frequency to which LEP individuals within a specific language group come in contact with the program or grantee;
3. The nature and importance of the program, activity, or services provided by the program or grantee to the lives of the LEP language group;
4. The resources available to DET, grantee, or agency, and cost. The intent is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on LEP individuals, small business or small nonprofits.

Translation of vital documents will be made available to customers within 30 days of the publication of the document in English.

Definition of Vital Documents:

A document will be considered (include paper or electronic) vital if it contains information that is critical for obtaining the federal services and/or benefits, or is required by law. Vital documents include but not limited to:

- Applications;
- Consent and complaint forms;
- Notices of rights and disciplinary action;
- Notices advising LEP persons of the availability of free language assistance;
- Program and agency policies and procedure; and
- Written tests that do not assess English language competency, but rather competency for a particular license, job, or skill for which English competency is not required; and
- Letters or notices that require a response from the beneficiary or client. For instance, if a complaint form is necessary in order to file a claim with an agency, that complaint form would be vital.

Non-vital information includes documents that are not critical to access such benefits and services. Advertisement of DWD – DET tours and copies of testimony presented to the legislature that are made available for informational purpose would not be considered non-vital information.

Vital documents must be translated when a significant number or percentage of the population eligible to be served, or likely to be directly affected by the program/activity, needs services or information in a language other than English to communicate effectively.

For many larger documents, translation of vital information contained within the document will suffice and the document need not be translated in their entirety.

Sometimes it may be difficult to draw a distinction between vital and non-vital documents, especially when considering outreach or other documents designed to raise awareness of rights or services. Although meaningful access to a program requires an awareness of the program's existence, we recognize that it would be impossible, from a practical and cost-based perspective, to translate every piece of outreach material into every language. Title VI does not require this of recipients of federal financial assistance, and EO 13166 does not require it of federal agencies, State agencies and/or local grant recipients. Nevertheless, because in some circumstances lack of awareness of the existence of a particular program may effectively deny LEP individuals meaningful access, it is important for DET, local grant recipients and their sub-recipients to continually survey/assess the needs of eligible service populations in order to determine whether certain critical outreach materials should be translated into other languages.

Material on the website:

The four-factor analysis apply to each individual "document" on the website therefore the entire website need not be translated as only the vital information within the website might need translation. If, in applying the four-factor analysis, DET or the local funded grant recipient determines that a particular document or piece of information should be translated, that translation should also be posted on the website if the English language version is on the website.

When documents are translated within the DET website, the existence of the translation should be noted in the appropriate language, at an initial entry point to the site (usually the homepage).

Safe Harbor

DOL has not included a similar safe harbor provision for translations in its revised Guidance FR Vol. 63, No. 103. However, the absence of similar safe harbor language is not intended to detract from or otherwise minimize the underlying obligation to ensure that LEP persons can access all vital documents. DWD – DET has opted to use the Model Department of Justice LEP Guidance that includes a section regarding safe harbor for written-translation of vital material which provides DET greater certainty in ensuring it is within safe harbor of the law.

Safe harbor means that if DWD - DET provides written translation of vital documents and vital information under the following circumstances such actions will be considered to be strong evidence of compliance with DET's written-translation obligations:

- a) DET will provide written translation of vital documents for each eligible LEP language group that constitutes 5% or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or
- b) If there are fewer than 50 persons in a language group that reaches the 5% trigger in (a), DET does not translate vital written materials but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials free of cost.