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Chapter 38  
LANGUAGE ACCESS PLAN

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Part 5

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5-38.1 INTRODUCTION

- A. Purpose. Consistent with the 2023 U.S. Department of Health and Human Services (HHS) Language Access Plan (LAP), this Chapter establishes policies, procedures, and responsibilities for providing meaningful access to beneficiaries and other eligible individuals with Limited English Proficiency (LEP) when obtaining or accessing Indian Health Service (IHS) information, services, activities, or programs. Limited English Proficiency means an individual whose primary language for communication is not English and who has a limited ability to read, write, speak, or understand English. An individual with LEP may be competent in English for certain types of communication (e.g., speaking or understanding), but still be limited English proficient for other purposes (e.g., reading or writing). This IHS LAP intends only to improve the internal management of the IHS and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers or employees, or any person.
- B. Background. This Chapter is designed to fully incorporate and implement the 2023 HHS LAP at the IHS to ensure meaningful access to beneficiaries and other eligible individuals with LEP to information, services, activities, or programs administered by the IHS or receiving Federal financial assistance from the IHS in accordance with, as applicable, Section 1557 of the Affordable Care Act, Executive Orders (EO) 13166, 13985, 13995, 14031, and 14091, Title VI of the Civil Rights Act of 1964, and the HHS Equity Action Plan issued in April 2022. Collectively, these authorities set overarching goals for IHS to improve access to its information, services, activities, or programs for persons with LEP.

Title VI of the Civil Rights Act of 1964 and Section 1557 of the Affordable Care Act, as applicable, prohibit entities receiving Federal financial assistance from discrimination on the basis of, among other things, race, color, national origin, and disability. Obligations to take steps to provide meaningful access to beneficiaries and other eligible individuals with LEP also apply to sub-recipients of Federal financial assistance who must similarly comply with all applicable civil rights laws.

Consistent with HHS's long-standing efforts, the IHS is establishing this Chapter to strengthen and enhance communication and address barriers and inequality in opportunities that underserved communities may face.

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- C. Scope. This Chapter applies to programs, services, and activities that are directly administered by the IHS for beneficiaries and other eligible individuals with LEP and to entities receiving Federal financial assistance from the IHS.<sup>1</sup>
- D. Policy. The IHS and recipients of IHS-funded Federal financial assistance will provide beneficiaries and other eligible individuals with LEP meaningful access to their respective programs, services, and activities thereby removing barriers to achieving equitable delivery of such programs, services, and activities, which will ultimately contribute to improved health outcomes and reduced health disparities for underserved communities identified in EO 13985.
- E. Authorities.
- (1) Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency;
  - (2) Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government;
  - (3) Executive Order 13995, Ensuring an Equitable Pandemic Response and Recovery;
  - (4) Executive Order 14031, Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders, as amended;
  - (5) Executive Order 14091, Further Advancing Racial Equity and Support for Underserved Communities Through the Federal Government;
  - (6) Department of Health and Human Services Language Access Plan 2023;
  - (7) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794);
  - (8) Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. § 84;

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<sup>1</sup> While this plan does not primarily focus on effective communication with individuals with disability, many aspects of this plan also apply to ensuring that agencies are communicating effectively with persons with disabilities and, therefore, the plan does make reference to some, but certainly not all, effective communication requirements.

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- (9) Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services, 45 C.F.R. § 85;
  - (10) Section 1557 of the Patient Protection and Affordable Care Act, 42 U.S.C. § 18116 and implementing regulations at 45 C.F.R. § 92.1 et seq., as applicable;
  - (11) Title VI of the Civil Rights Act of 1964 and implementing regulations at 45 C.F.R. §80.1 et seq., as applicable; and
  - (12) 45 C.F.R. § 80.3(d).
- F. Definitions. In addition to the definitions listed below, IHS incorporates the definitions listed in The U.S. Department of Health and Human Services, Language Access Plan, 2023 in this Chapter.
- (1) Interpretive Services. Interpretive services include, but are not limited to, face-to-face, virtual (videos/webinars), or telephonic encounters with a qualified interpreter or bilingual/multilingual staff.
  - (2) Language Access. Language access is achieved when beneficiaries and other eligible individuals with LEP can meaningfully and effectively communicate and participate in IHS-conducted or funded services, activities, or programs.
  - (3) Language Assistance. Language assistance is all oral, written, and signed language services needed to assist beneficiaries and other eligible individuals with LEP to communicate effectively with other individuals so as to gain meaningful access and an equal opportunity to participate in services, activities, or programs.
  - (4) Limited English Proficiency. Individual with limited English proficiency means an individual whose primary language for communication is not English and who has a limited ability to read, write, speak, or understand English. An individual with limited English proficiency may be competent in English for certain types of communication (e.g., speaking or understanding), but still be limited English proficient for other purposes (e.g., reading or writing).

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- (5) Meaningful Access. Language assistance that results in accurate, timely, and effective communication at no cost to the individual with LEP needing assistance. Meaningful access denotes access that is not significantly restricted, delayed, or inferior as compared to programs or activities provided to English-proficient individuals.
- (6) Plain Language. Plain language as defined in the Plain Writing Act of 2010, Public Law 111-274, is writing that is “clear, concise, and well organized.”
- (7) Preferred Language/Primary Language. Preferred language is the language that an LEP individual identifies as the preferred language that the individual uses to communicate effectively.
- (8) Qualified Interpreter. Qualified interpreter for an individual with limited English proficiency means an interpreter who via a remote interpreting service or an on-site appearance: has demonstrated proficiency in speaking and understanding both spoken English and at least one other spoken language (qualified interpreters for relay interpretation must demonstrate proficiency in two non-English spoken languages); is able to interpret effectively, accurately, and impartially to and from such language(s) and English (or between two non-English languages for relay interpretation), using any necessary specialized vocabulary or terms without changes, omissions, or additions and while preserving the tone, sentiment, and emotional level of the original oral statement; and adheres to generally accepted interpreter ethics principles, including client confidentiality. Qualified interpreter for an individual with a disability means an interpreter who, via a video remote interpreting service (VRI) or an on-site appearance: (1) Has demonstrated proficiency in communicating in, and understanding: (i) Both English and a non-English language (including American Sign Language, other sign languages); or (ii) Another communication modality (such as cued-language transliterators or oral transliteration); (2) Is able to interpret effectively, accurately, and impartially, both receptively and expressively, using any necessary specialized vocabulary or terms without changes, omissions, or additions and while preserving the tone, sentiment, and emotional level of the original statement; and (3) Adheres to generally accepted interpreter ethics principles including client confidentiality.

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- (9) Qualified bilingual/multilingual staff. A member of a covered entity's workforce who is designated by the covered entity to provide in-language oral language assistance as part of the person's current, assigned job responsibilities and who has demonstrated to the covered entity that they are: (1) Proficient in speaking and understanding both spoken English and at least one other spoken language, including any necessary specialized vocabulary, terminology and phraseology; and (2) Able to effectively, accurately, and impartially communicate directly with individuals with limited English proficiency in their primary languages.
- (10) Qualified Translator. Qualified translator means a translator who: has demonstrated proficiency in writing and understanding both written English and at least one other written non-English language; is able to translate effectively, accurately, and impartially to and from such language(s) and English, using any necessary specialized vocabulary or terms without changes, omissions, or additions and while preserving the tone, sentiment, and emotional level of the original written statement; and adheres to generally accepted translator ethics principles, including client confidentiality.
- (11) Taglines. Brief message that may be included in or attached to a document. Taglines in languages other than English are used on documents (including websites) written in English that describe how individuals with LEP can obtain a translation of the document or an interpreter to read or explain the document. Section 1557 and Title VI will prescribe the languages that must be included in such tagline notices.
- (12) Translation. The process of converting written text from a source language into an equivalent written text in a target language as fully and accurately as possible while maintaining the style, tone, and intent of the text, while considering differences of culture and dialect.
- (13) Vital Document. Paper or electronic written material that contains information that is critical for accessing a component's programs or activities or is required by law. A vital document includes, but is not limited to: critical records and notices as part of emergency preparedness and risk communications; online and paper applications; consent forms; complaint forms; letters or notices pertaining to eligibility for benefits,

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programs, functions, services, or activities; letters or notices pertaining to the reduction, denial, or termination of services or benefits that require a response from an individual with LEP; written tests that evaluate competency for a particular license, job, or skill for which knowing English is not required; documents that must be provided by law; and notices regarding the availability of language assistance services for individuals with LEP at no cost to them.

### 5-38.2 RESPONSIBILITIES

- A. Director, IHS. The Director, IHS or a designee will:
- (1) Provide administrative oversight and promote implementation of this Chapter;
  - (2) Evaluate and promote consistency and standardization of methodologies and practices developed Agency-wide to ensure timely and quality language assistance services for beneficiaries and other eligible individuals with LEP;
  - (3) Consult with Tribal officials, confer with Urban Indian Organizations (UIOs), and solicit the participation of other stakeholders as needed, to obtain recommendations for improving methods for identifying needs and improving effective communication with beneficiaries and other eligible individuals with LEP;
  - (4) Evaluate language assistance goals and needed resources and include them in annual budget formulations;
  - (5) Provide the Assistant Secretary for Financial Resources or other HHS officials with the appropriate budget allocations and justifications for language assistance information, services, activities, or programs, as appropriate or upon request;
  - (6) Allocate resources for language assistance information, services, activities, or programs to ensure language assistance goals are met (e.g., staffing, training, outreach initiatives, and acquisition of electronic, translation and oral, services, etc.) to promote equal access and services to beneficiaries and other eligible individuals with LEP, consistent with applicable law;



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and

- (7) Establish an IHS Language Access Committee to ensure the Agency complies with the 2023 HHS LAP and this Chapter.

B. Deputy Director for Management Operations (DDMO) and/or Deputy Director(s) of Field Operations (DDFOs). The DDMO and/or DDFOs will:

- (1) Oversee and review annual language assistance goals as described in this Chapter and report them to the Director, IHS;
- (2) Review annual assessments described in Sections of this Chapter and report the outcome of the assessments to the IHS Director and/or other senior staff members; and
- (3) Coordinate implementation of this Chapter with the DMEEEO Director, Office of Quality Director, Headquarters (HQ) Office Directors, and/or Area Directors, as appropriate.

C. Director, Office of Quality (OQ). The OQ Director or a designee will:

- (1) Oversee and manage the quality, improvement, accuracy, and implementation of language assistance services provided to beneficiaries and other eligible individuals with LEP accessing IHS information, services, activities, or programs;
- (2) Report on the Agency's implementation progress, effective practices, and barriers (if any) to the IHS Director, DDMOs, any other OD staff member and HHS official, as appropriate;
- (3) Develop and implement methods for measuring improvements in language access to information, services, activities, or programs and take steps to ensure such information is collected in a manner that increases comparability, accuracy, and consistency Agency-wide;
- (4) Work in collaboration with IHS Offices to ensure the Agency's language assistance services efforts are tailored to meet the needs of the populations that IHS serves. These steps include: collecting and sharing best practices with IHS Offices regarding language access and delivering

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culturally and linguistically appropriate services to beneficiaries and other eligible individuals; researching new procedures and practices to enhance the provision of efficient language assistance services and sharing that information across the IHS; and providing oversight on the implementation and continued improvement through routine assessment of language access policies and practices;

- (5) Evaluate and provide administrative oversight on the assessment and quality of IHS language assistance activities available to beneficiaries and other eligible individuals with LEP to ensure full implementation of this Chapter;
- (6) Regularly monitor, and annually assess relevant Agency practices and procedures, focusing on progress made to improve and ensure the quality and accuracy of language assistance services provided to beneficiaries and other eligible individuals with LEP, while also addressing challenges;
- (7) Develop and implement methods for measuring improvements in language assistance Agency-wide and take steps to ensure that such information is documented in a manner that increases comparability, accuracy, and consistency across information, services, activities, or programs;
- (8) Report the Agency's progress regarding the implementation of this Chapter, effective practices, and barriers for improving the IHS language access program to the IHS Director and the DMEEEO Director, for subsequent submission to the Language Access Committee when requested;
- (9) Collect information and report on financial and staff resources used for language assistance services;
- (10) Establish and/or participate on at least one inter- and/or intra-Agency working group that is focused, at least in part, on identifying and implementing effective practices for improving access for beneficiaries and other eligible individuals with LEP. Coordinate with the HQ and Area staff to develop and propose effective practices to the IHS Director to ensure policies and procedures are effectively administered;

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- (11) Regularly collect and monitor the implementation and efficacy of this Chapter. This may include, but is not limited to: conducting an inventory of languages most frequently encountered; identifying the primary channels of contact with beneficiaries and other eligible individuals with LEP (whether telephonic, in person, correspondence, web-based, etc.); reviewing Agency programs, services, and activities for language accessibility; maintaining an inventory of who attended language access training (including topics discussed); reviewing the annual cost of translation and interpretation services; and gathering information from sources outside the Agency as needed; and
  - (12) Address complaints received regarding language assistance services and products in a timely manner, and retain a record of any resolution of such complaints.
- D. Director, Diversity Management and Equal Opportunity (DMEEEO). The DMEEEO Director or a designee will:
- (1) Coordinate on and manage the Agency language access plan with IHS HQ and Area staff, and the HHS Office of Civil Rights leadership;
  - (2) Act as the Agency's point of contact for the IHS LAP and advise IHS DDMO of implementation progress and compliance, as appropriate;
  - (3) Participate on the HHS Language Access Steering Committee reporting on matters of progress;
  - (4) Coordinate training for IHS staff on how to fully implement this Chapter, ensuring IHS employees and contractors receive information that supports the capacity and capability to provide meaningful communication to individuals with LEP and people with disabilities;
  - (5) Provide administrative oversight of the evaluation and assessments as described in Section 5-38.3(A) of this Chapter and ensure they are completed in March of each year;
  - (6) Ensure policies, procedures, and all language assistance activities are developed and implemented and in alignment with the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care;

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- (7) Share with the Language Access Steering Committee policies and procedures, highlighting those that might be more effective or efficient if adopted on a Department or government-wide basis so the Language Access Steering Committee can include the information in the annual progress report;
  - (8) Participate in at least one listening session that IHS or HHS will host, to learn about challenges and opportunities for improvement in IHS's language access efforts and consult subject matter experts to improve IHS's language access program annually;
  - (9) Regularly participate in at least one inter- and/or intra-Agency language access working group to identify ways to: improve language assistance services; provide direct "in-language" communication; and ensure the availability and effective use of contracted interpretation and translation services; and
  - (10) Coordinate with the Office of Information Technology (OIT) to ensure a dedicated resource webpage is developed on the IHS intranet to serve as a repository of Standard Operating Procedures, guidance documents, materials, training opportunities, etc.
- E. Director, Public Affairs Staff (PAS). The PAS Director and/or a designee will:
- (1) Develop and implement an Agency strategy for notifying beneficiaries and other eligible individuals with LEP who contact the Agency or are being contacted by the Agency, that language assistance is available to them at no cost;
  - (2) Distribute as needed and make available resources, such as the Department's Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (HHS LEP Guidance) and Federal Plain Language Guidelines, directly and over the internet to beneficiaries and other eligible individuals with LEP and recipients of IHS-funded Federal financial assistance;
  - (3) Provide ongoing training and technical assistance necessary to make

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- programs receiving IHS-funded Federal financial assistance aware that language assistance services provided in order to comply with Title VI and Section 1557, as applicable, must be provided at no cost to eligible individuals in need of language assistance services;
- (4) Submit a budget justification for message development and dissemination to raise awareness of available language assistance services each year;
  - (5) Utilize various methods and networks to ensure that LEP communities served by the Agency are aware that language assistance services are provided at no cost to them. In addition, find opportunities to inform beneficiaries and other eligible individuals with LEP that the IHS LEP Guidance is also available in languages other than English;
  - (6) Coordinate with OIT to develop and prominently display appropriate language taglines on vital documents, web pages currently available in English only, or only available in a limited number of non-English languages, technical assistance, and outreach materials, as well as other documents notifying intended audiences that language assistance is available at no cost and how it can be obtained;
  - (7) Highlight the availability of consumer-oriented materials in plain language and languages other than English on the Agency website and ensure such materials inform beneficiaries and other eligible individuals with LEP about available language assistance services; and
  - (8) Coordinate with OIT to ensure consumer-oriented materials are in plain language and languages other than English on the IHS website and ensure public IHS materials inform beneficiaries and other eligible individuals with LEP about available language assistance services.
- F. Director, Office Management Services (OMS). The OMS Director or a designee, will provide advice and updates to the OQ Director, DDMO, or other OD staff on the annual cost of any language access-related services (e.g., translation and/or interpretation services, or any acquired service) as appropriate.
- G. Director, Division of Regulatory and Policy Coordination (DRPC). The DRPC Director or a designee will coordinate with DMEEO every two years to review and update, the Agency's national written policies and procedures related to

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language assistance services, as necessary.

- H. Director, Division of Acquisitions Policy (DAP). The Director of DAP or a designee will oversee the acquisition of contracts secured to provide Agency-wide language access services to ensure the IHS has meaningful access for beneficiaries and other eligible individuals with LEP.
- I. Director, Division of Grants Management (DGM). The Director of DGM or a designee will:
- (1) Develop awardee-oriented materials explaining awardee responsibilities for language access compliance with Federal civil rights statutes and regulations, as applicable, with links to relevant guidance and civil rights complaint forms in multiple languages;
  - (2) Provide and promote links to resources and documents on the Division of Grants Management Agency website;
  - (3) Distribute as needed and make available resources, such as the Department's Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (HHS LEP Guidance), directly and over the Internet to all current awardees. In addition provide technical assistance necessary to make recipients aware that language assistance services that are provided in order to comply with Title VI of the Civil Rights Act of 1964 (Title VI), as applicable, must be provided at no cost to those in need of language assistance services;
  - (4) Coordinate with OMS and DRPC to develop and implement policies and procedures that ensure civil rights information is included in Notice of Funding Opportunity announcements, etc., especially obligations under Title VI, as applicable;
  - (5) Ensure that IHS awardees are aware of any language access obligations under Federal civil rights statutes and regulations, especially obligations under Title VI, as applicable, with respect to LEP accessibility, including ensuring beneficiaries and other eligible individuals with LEP can utilize language access services;

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- (6) Add civil rights compliance language and guidance to each grant-making Agency's program outreach materials to the extent necessary and feasible, including recommending that recipients implement language access plans to ensure compliance by program staff, sub-recipients, and contractors; and
  - (7) Report as needed, to the OD senior leadership and/or HHS officials;
- J. Director, Office of Finance (OFA). The Director of OFA or a designee will:
- Review and coordinate budget formulation activities related to language assistance services annually with HQ and Area Directors, OD staff, and as appropriate, with TO/UIO. The Director and/or a designee will:
- (1) Develop and prepare the IHS budget submission for providing language assistance services, as appropriate;
  - (2) Participate in budget briefings with HHS officials and/or provide advice to the IHS Director on Agency budgetary matters related to language assistance services (e.g. annual cost), as appropriate;
  - (3) Distribute, coordinate, and monitor resource allocations for language assistance services;
  - (4) Develop and implement budget, fiscal, and accounting procedures and conduct reviews and analyses to ensure compliance in budget activities in collaboration with Headquarters officials; and
  - (5) Report annually to the IHS Director the amount the IHS expended on language assistance services.
- K. Director, Office of Information Technology (OIT). The OIT Director or a designee, will:
- (1) Ensure all IHS public-facing digital information complies with Section 508 of the Rehabilitation Act of 1973;
  - (2) Regularly monitor the efficacy, quality, readability, and accessibility of translated materials provided on IHS websites to promote ease of use and

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access for beneficiaries and other eligible individuals with LEP when accessing IHS information, services, activities, or programs;

- (3) Serve on at least one inter- and/or intra-Agency working group that focuses in part on making government websites more accessible to persons with LEP in multiple languages and people with disabilities through various multimedia formats;
- (4) Prominently display links and/or symbols at the top-right corner of the Agency's English website, to pages and documents that are also available for viewing or downloading in languages other than English, including sign language;
- (5) Prominently displays links on the Agency's English language homepage that effectively steer visitors to telephonic interpreter services in the visitor's language, when available;
- (6) Ensure the IHS HQ and Area websites advise beneficiaries and other eligible individuals with LEP that language assistance services are available at no cost in alignment with 5-38.3 (Element 5) of this Chapter;
- (7) Ensure all public documents are accessible for beneficiaries and other eligible individuals LEP;
- (8) Distribute in-language information online in a manner that promotes meaningful access for beneficiaries and other eligible individuals with LEP, and regularly monitor efficacy, quality, readability, and accessibility of translated materials;
- (9) Ensure IHS websites have proper taglines;
- (10) Periodically assess and monitor translated digital content to improve meaningful access for beneficiaries and other eligible individuals with LEP;
- (11) Coordinate with DMEEEO to develop a dedicated resource webpage on the IHS intranet that will serve as a repository of Standard Operating Procedures, guidance documents, materials, training opportunities, etc.;



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- (12) Develop procedures for creating, posting, and updating multilingual web content, digital materials, and social media posts that are accessible to all audiences;
  - (13) For virtual meetings, ensure that the platform being used provides for closed captioning and that the captioning function is enabled by the host; and
  - (14) Use real-time translation services such as Communication Access Realtime Translation (CART) to ensure better accuracy of captions, when feasible and/or available.
- L. Director, Office of Public Health Support (OPHS). The Director of OPHS or a designee will:
- (1) Coordinate with IHS HQ and Area offices and Service Units to obtain statistical data needed for the needs and capacity assessments and any other reporting;
  - (2) Provide appropriate statistical data to the IHS and HHS officials as appropriate;
  - (3) Develop and implement methodologies and processes to capture statistical data needed to implement the needs and capacity assessments described in 5-38.3(Element 1) of this Chapter;
  - (4) Provide IHS-wide leadership guidance and support for public health services, activities, or programs including strategic planning, evaluation, Government Performance and Results Act (GPRA), research, statistics, and health profession.
- M. Principal Statistician, OPHS. The Principal Statistician will coordinate with HQ Offices, Area Offices, and Service Units to review statistical information obtained during the needs and capacity assessments to ensure accuracy, as appropriate.
- N. Headquarters Office Directors. Each Headquarters (HQ) Office Director or a designee will:
- (1) Provide administrative oversight and take reasonable steps to ensure

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relevant staff within their respective offices are compliant, properly trained, and are familiar with the Agency's language access policies and procedures as well as the Agency's obligations to provide language assistance services to beneficiaries and other eligible individuals with LEP;

- (2) Appoint or designate a staff member to act as the language access coordinator/contact person to coordinate and oversee language-related information, services, activities, or programs occurring within their respective offices;
- (3) Take reasonable steps to ensure beneficiaries and other eligible individuals with LEP, who are in direct contact with HQ staff have access to language access services at no cost to them;
- (4) Regularly assess their office programs, functions, and services and identify language access needs and capacities for beneficiaries and other eligible individuals with LEP who will access their offices programs and services. Assessments should also include available budgetary resources;
- (5) Take reasonable steps to ensure vital documents that are managed and under their legal and physical care and control are made available to beneficiaries and other eligible individuals with LEP; and
- (6) Regularly participate in at least one inter- and/or intra-Agency language access working group, either led by the Agency or Department, to identify ways to: improve language assistance services; provide direct "in-language" communication; and ensure the availability and effective use of contracted interpretation and translation services.

O. Area Directors. Each Area Director or a designee will

- (1) Provide administrative oversight and take reasonable steps to ensure Area staff within their respective offices are compliant, properly trained, and are familiar with the Agency's language access policies and procedures as well as the Agency's obligations to provide language assistance services to beneficiaries and other eligible individuals with LEP;
- (2) Assess programs, functions, services, and activities regularly, and identify

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language access needs and capacities within their respective Area. Assessments should also include available budgetary resources. The Principal Statistician, OPHS should also be consulted, as appropriate;

- (3) Take proactive measures to ensure that beneficiaries and other eligible individuals with LEP have access to timely, quality language assistance services consistent with needs and capacity assessment findings at no cost to them. Steps should include identifying and securing available resources (e.g., budgetary and contractual outside sources (Inter-Agency Agreement (IAA), Memorandum of Agreement (MOA), Memorandum of Understanding (MOU), etc.) The Office of General Counsel must be consulted before entering into any agreement;
- (4) Establish policies and practices consistent with this Chapter for providing language access services within their respective Areas;
- (5) Take reasonable steps to secure qualified interpreters. Efforts should be made to coordinate with DAP, as appropriate;
- (6) Appoint or designate a language access coordinator and/or point of contact to coordinate for their respective area and oversee language-related services and activities occurring within their respective areas;
- (7) Coordinate with the Principal Statistician, OPHS, to ensure the accuracy of the statistical information obtained during the needs and capacity assessments, as appropriate; and
- (8) Regularly participate in at least one inter- and/or intra-Agency language access working group, either led by the Agency or Department, to identify ways to: improve language assistance services; provide direct “in-language” communication; and ensure the availability and effective use of contracted interpretation and translation services.

P. Service Unit Chief Executive Officers (CEO). The Service Unit CEO or a designee will:

- (1) Provide administrative oversight and take reasonable steps to ensure compliance and implementation of this Chapter; within their respective Service Units or health facilities;

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- (2) Take reasonable steps to secure qualified interpreters, when needed;
  - (3) Take reasonable steps to ensure beneficiaries and other eligible individuals with LEP have access to timely, quality language assistance services at no cost to them when requested. Steps should include identifying and securing available resources;
  - (4) Appoint or designate a language access coordinator and/or point of contact to coordinate language-related services and activities occurring within their respective offices and/or health care facilities;
  - (5) Coordinate with the Area language access coordinator and identify the language access needs and capacities within their respective facilities. Assessments should also include available budgetary resources;
  - (6) Take reasonable steps to ensure lists of qualified interpreters and contact personnel are established, regularly updated, and available upon request. Efforts should be made to coordinate with DAP, as appropriate; and
  - (7) Regularly participate in at least one inter- and/or intra-Agency language access working group, either led by the Agency or Department, to identify ways to: improve language assistance services; provide direct “in-language” communication; and ensure the availability and effective use of contracted interpretation and translation services.
- Q. Area/Regional Contracting Officers. The Area/Regional Contracting Officer or a designee will:
- (1) Assist HQ and Area program offices in securing contracts for language access services (e.g., face to face, virtually (videos/webinars), help lines, telephonic interpreter, translation services, etc.). The contracts must provide services to beneficiaries and other eligible individuals with LEP free of charge;
  - (2) Ensure that all contracted interpreters meet the definition of “qualified interpreter” as set forth in Section 5-38.1(F)(8) above;
  - (3) Coordinate procurement efforts with the HQ Office of Finance, as

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appropriate;

- (4) Develop and maintain centralized list of available language assistance services contracted IHS-wide in support of directly provided programs, services, and activities, (e.g., telephonic, in person, web-based, correspondence audio/video, sign language (if available and feasible, etc.), including those most frequently used and the annual costs associated with the services. If known, the list may include services available within the community or with other state and local health organizations or facilities;
- (5) Report the annual costs of language-assisted services Area/Regional-wide (e.g., telephonic, in person, web-based, correspondence audio/video, sign language) to the OMS Director, through DAP, as appropriate.

R. Language Access Coordinator/Contact Person. The Language Access Coordinator/Contact Person, in HQ and the Area/Regional Offices will:

- (1) Take reasonable steps to ensure that beneficiaries and other eligible individuals with LEP are aware that they may request language assistance services at no cost to them;
- (2) Coordinate with HQ and Area office staff and oversee language access-related activities, including training and annual assessments within their respective offices, Service Units, hospitals/clinics, or facilities;
- (3) Maintain an updated list of bilingual/multilingual staff, contact personnel, and/or qualified interpreters and make the list available upon request;
- (4) Coordinate with DAP to update and maintain a list of available language assistance services (e.g., telephonic, electronic, audio/video, sign language (if available and feasible, etc.) consistent with annual assessments. If known, the list may include services available within the community or with other state and local health organizations or facilities;
- (5) Assist beneficiaries and other eligible individuals with LEP with obtaining language assistance services, when requested;
- (6) Coordinate with OIT staff to ensure Section 5-38.3 (Element 9) is implemented and in compliance; and

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- (7) Regularly participate in at least one inter- and/or intra-Agency language access working group, either led by the Agency or Department, to identify ways to: improve language assistance services; provide direct “in-language” communication; and ensure the availability and effective use of contracted interpretation and translation services.
- S. All IHS Employees and Contractors. Must be familiar with the Agency’s policy and procedures related to language assistance services and participate in training as appropriate.

### 5-38.3. PROCEDURES

#### **ELEMENTS**

This Chapter represents the IHS’s language access policy and strategy for improving access for beneficiaries and other eligible individuals with LEP to IHS information, services, activities, or programs. This Chapter identifies specific steps to which the Agency must adhere to ensure full implementation of the 2023 HHS LAP.

ELEMENT 1: Assessment: Needs and Capacity

ELEMENT 2: Interpretation Language Assistance Services

ELEMENT 3: Written Translations

ELEMENT 4: Policies Procedures, and Practices

ELEMENT 5: Notification of the Availability of Language Assistance at No Cost

ELEMENT 6: Staff Training

ELEMENT 7: Assessment & Accountability: Access, Quality, Resources, Reporting

ELEMENT 8: Consultation with Health Care and Human Services Partners

ELEMENT 9: Digital Information

ELEMENT 10: Grant Assurance and Compliance by Recipients of HHS Funding

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A. Element 1: Assessment: Needs and Capacity.

- (1) Assessments. In March of each year, HQ Offices, Area offices, Service Units/ health facilities must conduct a comprehensive review of its services, activities, or programs, to assess the need and capacity of language assistance services requested by beneficiaries and other eligible individuals with LEP. Assessments will be conducted based on the material requested and/or otherwise needed by beneficiaries and other eligible individuals with LEP. Annual assessment findings must be documented and made available upon request, as provided by law. General assessment guidance can be found at: [Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs \(lep.gov\)](#). Assessment methods and findings may vary, but must occur on a regular basis and at a minimum must identify:
- a. When language assistance services are requested and/or accessed by beneficiaries and other eligible individuals with LEP;
  - b. Non-English languages, including native languages and sign languages, used by the population that is assessed or otherwise in need of and eligible for the Agency's services;
  - c. Barriers that might hinder effective interpretation and written communication with beneficiaries and other eligible individuals with LEP;
  - d. Language frequency and language accessibility;
  - e. Available sources (e.g., technology, staff, etc.); and
  - f. The cost of language assistance services and administrative costs (e.g., translation, staff, and interpretive services).
- (2) The Agency's Capacity. Upon completion of the language assistance need assessments, an annual evaluation of the HQ and Area Offices as well as the Service Units must be completed to determine whether they have the capacity to fulfill the identified language access needs of beneficiaries and other eligible individuals with LEP and develop infrastructures to meet those needs.

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- (3) Assessment Methods: Language assistance needs and capacity assessments may be determined by (this list is not meant to be inclusive):
- a. Voluntary self-identification by the individual with LEP or their companion;
  - b. Affirmative inquiry regarding the primary language of the individual if they have self-identified as needing language assistance services;
  - c. Engagement by a qualified multilingual staff or qualified interpreter to verify an individual’s primary language;
  - d. Use of an “I Speak” language identification card or poster;
  - e. Identification of language preference when conducting population health surveillance assessments; and
  - f. Use of state demographic mapping tools that include language preference and disability for population prioritization.

IHS staff must not make assumptions about an individual’s primary language based on race, color, national origin, or disability status.

B. Element 2: Interpretation Language Assistance Services.

- (1) Language Assistance Services. Upon request, HQ, Area Offices, and IHS Service Units and/or health facilities must provide language assistance services to beneficiaries and other eligible individuals with LEP seeking access to IHS programs, functions, services, and activities consistent with the assessment findings described in Section 5-38.3 (Element 1) of this Chapter. All reasonable steps will be taken to provide meaningful access to each individual with limited English proficiency however services requested in non-English languages are subject to those services being available to the Agency.



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- (2) Interpretive (Oral) Language Assistance Services. When requested, the Interpretive (oral) language services must be provided free of charge to beneficiaries and other eligible individuals with LEP. The availability and the manner in which Interpretive services are provided may vary.

The Agency and recipients of IHS-funded Federal financial assistance shall not require a beneficiary or other eligible individual with LEP:

- a. To bring another individual to interpret for them or to pay the cost of their own interpreter;
- b. Rely on an adult, not qualified as an interpreter, to interpret or facilitate communication, except:
  - i. As a temporary measure, while finding a qualified interpreter in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available and the qualified interpreter that arrives confirms or supplements the initial communications with an initial adult interpreter; or
  - ii. Where the individual with limited English proficiency specifically requests, in private with a qualified interpreter present and without an accompanying adult present, that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, the request and agreement by the accompanying adult is documented, and reliance on that adult for such assistance is appropriate under the circumstances;
- c. Rely on a minor child to interpret or facilitate communication, except as a temporary measure while finding a qualified interpreter in an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no qualified interpreter for the individual with limited English proficiency immediately available and the qualified interpreter that arrives

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confirms or supplements the initial communications with the minor child; or

- d. Rely on staff other than qualified interpreters, qualified translators, or qualified bilingual/multilingual staff to communicate with individuals with limited English proficiency.

The Agency and recipients of IHS-funded Federal financial assistance shall not require a beneficiary or other eligible individual with a disability:

- i. To bring another individual to interpret for him or her;
  - ii. Rely on an adult accompanying an individual with a disability to interpret or facilitate communication except—
    - (a) In an emergency involving an imminent threat to the safety or welfare of an individual or the public where there is no interpreter available; or
    - (b) When the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.
  - iii. Shall not rely on a minor child to interpret or facilitate communication, except in an emergency involving an imminent threat to the safety or welfare of an individual or the public when there is no interpreter available.
- (3) Translator. Only “qualified translators” as defined in this Chapter will be utilized to provide language assistance services to beneficiaries and other eligible individuals with LEP to ensure meaningful access and an equal opportunity for those who wish to obtain IHS information, services, activities, or programs unless an emergency circumstance occurs. The following factors must be considered when employing bilingual employees and developing training.

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- (4) Bilingual Employment Criterion. When deemed appropriate, positions must be identified and include a bilingual skill selection criterion for employment. The selection criterion must include appropriate training and assessment requirements and must be listed in the position description and job announcement.
- (5) Training and Skill Assessments. Due to the unique nature of Native American language and differences in dialect, official certifications or accreditation may be unavailable. In addition, training and skill assessments may vary based on geographical location and need. All interpreters must undergo the appropriate training and/or skill assessment before acting as an interpreter. All geographical regions must establish qualifying standards for assessing interpreters. While training may vary, it must minimally include:
- a. Clearly outlined roles and responsibilities specifying when it is appropriate for interpreters to serve as cultural advisors or patient advocates;
  - b. Strategies to indicate a switching of roles (e.g., both hands up means interpreter moving from interpreter role to advocate role);
  - c. Empowerment for interpreters to view themselves as critical members of the care team;
  - d. Behavioral skills and communication tools to correct for errors related to clinician's level of fluency; and
  - e. Guidance on how to report and document errors related to cultural factors (if reporting systems will be incorporating fields for the role of cultural factors in patient safety situations.)
- (6) Documentation. All training and assessments must be documented and maintained according to records management policies.
- (7) Non-Qualified Interpreter. A staff member who only has a rudimentary familiarity with a language other than English must not be considered or used as an interpreter, unless emergency situations as described in

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5-38.3(B)(2) of this Chapter exist. If it is determined that a non-qualified interpreter must be used, the instance must be documented in writing and include a description of the emergency circumstances that warranted the usage of a family member or other non-qualified interpreter, a supervisor's signature, and date. This information should be kept and maintained consistent with Records Management Program, Indian Health Manual, Part 5, Chapter 15 and as otherwise provided by law.

- (8) Bilingual or Multilingual Staff. An IHS employee or contractor may be used to communicate with beneficiaries and other eligible individuals with LEP if the person is designated to provide in-language oral language assistance as part of the person's current assigned job responsibilities and who has demonstrated that they are: (1) Proficient in speaking and understanding both spoken English and at least one other spoken language, including any necessary specialized vocabulary, terminology and phraseology; and (2) Able to effectively, accurately, and impartially communicate directly with individuals with limited English proficiency in their primary languages. The person should be assessed for professional skills by appropriate senior leadership, should attest in writing to their ability to provide oral language assistance services, and should be familiar with any specialized terminology that may be used to communicate with beneficiaries and other eligible individuals with LEP. Bilingual or Multilingual staff must undergo an assessment and meet all of the elements described in this subparagraph before communicating with beneficiaries and other eligible individuals with LEP. All IHS offices providing interpretive services must develop and document any criteria, practices, or procedures used to assess staff. Procedures must be kept and maintained in consistent to Records Management Program, Indian Health Manual, Part 5, Chapter 15 and as otherwise provided by law.

C. Element 3: Written Translations.

The HQ and Area Offices, as well as IHS health facilities, must take reasonable steps to provide accurate written translations to ensure meaningful access to and an equal opportunity to receive timely public health and social services information and participate fully in the services, activities, programs, or other benefits administered by the Agency as described in Section 5-38.3 (Element 1).

- (1) Translations. Upon request, translate, and make accessible to

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beneficiaries and other eligible individuals in various formats, including print and electronic media, vital documents, in other non-English languages. The availability of written material in native languages may vary due to the unique nature of translating native languages. Machine translation or other artificial intelligence applications, or software designed to convert written text from one language to another, should not be utilized without the involvement of a qualified human translator before the text reaches the intended audience.

- (2) Contacts. Establish and regularly update a list of language access contacts for language assistance services and make the list available upon request.
- (3) Vital Documents. When available, vital documents must be identified, translated, and made accessible in various formats, including print and electronic media, in non-English languages by the IHS office that has the legal and/or physical care and control of the documents, upon request. A document is considered vital if it contains information that is critical for acquiring IHS services, activities, or programs. If vital documents are not accessible, the requester must be notified in writing.

D. Element 4: Policies Procedures, and Practices.

Language Access policies and procedures will be reviewed biannually and, as necessary, updated, and implemented consistent with IHM 1-1, Indian Health Manual System to ensure reasonable steps are taken to provide beneficiaries and other eligible individuals with LEP meaningful access to the IHS information, services, activities, or programs. HQ and Area Offices, as well as IHS health facilities must:

- (1) Develop and maintain policies, procedures, and practices for their respective areas consistent with this Chapter for accessibility for beneficiaries and other eligible individuals with LEP.
- (2) Will ensure policies, procedures, and all language assistance activities are developed and implemented in alignment with the National Standards for Culturally and Linguistically Appropriate Services (CLAS) in Health and Health Care.

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- (3) Will share with the IHS staff, as needed, policies and procedures, highlighting those that might be more effective or efficient.
- (4) Will continually collect and share metrics to monitor the implementation and efficacy of the plan. This may include: tracking and recording the number of LEP individuals who participate or engage with IHS's programs and activities; conducting an inventory of languages most frequently encountered; identifying the primary channels of contact with LEP community members (whether telephonic, in-person, correspondence, web-based, etc.); reviewing component programs and activities for language accessibility; maintaining an inventory of who attended language access training (including topics discussed); reviewing the annual cost of translation and interpretation services; and consulting with community partners.

E. Element 5: Notification of the Availability of Language Assistance at No Cost.

The HQ and Area Offices, as well as IHS facilities, must take proactive steps to ensure that beneficiaries and other eligible individuals with LEP are aware that language assistance services are available at no cost to them.

Notification methods may include Dear Tribal Leader and UIO Leader letters, community outreach, education activities, public affairs or hospital announcements, signage, or advertisements through electronic means (e.g. Agency website).

F. Element 6: Staff Training.

The IHS employees located in HQ and Area Offices, as well as IHS facilities, must undergo regular language access-related training to ensure management and staff understand and can implement language-related policies and procedures within their offices or facilities. Any training should be coordinated and/or facilitated by OMS. At a minimum, all training must be conducted as follows:

- (1) All IHS Employees. All IHS employees (including senior management, physicians, hospital and administrative staff,) must be trained in the Agency's policies and procedures related to language access and the obligation to provide language access services to beneficiaries and other eligible individuals with LEP on an annual basis.

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- (2) Physicians, Health Professionals, and Hospital/Clinical Staff. Staff with regular direct contact with beneficiaries and other eligible individuals with LEP will receive in-depth training that will include, at minimum:
- a. A basic overview of IHS policies and procedures related to language access and services available in their respective offices;
  - b. Regional or Area specific language access needs;
  - c. Staff roles and responsibilities related to language access;
  - d. Effective communication techniques and protocols, which may include health literacy and plain language standards;
  - e. Proper usage of interpreters, bilingual/multilingual staff, and/or translation services; and
  - f. Cultural sensitivity and awareness.
- (3) New Employee. New employees must be trained on the policies and procedures of the Agency’s language access obligations and any available language access services. The HQ and Area Offices, as well as IHS facilities, will provide in-depth training if the new employee will likely have immediate contact with beneficiaries and other eligible individuals with LEP.
- (4) Bilingual/Multilingual Staff. All IHS employees who volunteer or are requested to serve as an interpreter or communicate with beneficiaries and other eligible individuals with LEP must meet the definition of “qualified bilingual/multilingual staff” and will receive training on language access-related matters, ethics, privacy, and any other topics needed to provide language assistance services appropriately and effectively.
- G. Element 7: Assessment & Accountability: Access, Quality, Resources, Reporting.
- (1) Assessing Accessibility and Quality. The IHS will establish and/or amend infrastructures and standards to measure the success and areas of

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improvement related to patient communication and patient care. Accessibility and quality measures must be assessed and established consistent with the needs and capacity assessments described in Section 5-38.3 (Element 1) of this Chapter.

The HQ and Area Offices, as well as IHS facilities providing language assistance services must:

- a. Regularly assess IHS programs, functions, services, and activities and establish accessibility and quality standards and/or measures to improve communication with beneficiaries and other eligible individuals with LEP. Measures and standards, at minimum, should address language accessibility, patient satisfaction, and the annual cost of providing language assistance services.
- b. Determine the effectiveness and best practices of language assistance services provided in IHS programs and services by identifying non-English languages frequently encountered and the primary methods of interacting with beneficiaries and other eligible individuals with LEP (e.g., telephonic, in-person, correspondence, web-based, etc.)
- d. If deemed appropriate, use national standards, such as the *National Standards for Culturally and Linguistically Appropriate Services*, 2000 when implementing this subsection. Community outreach and education activities may also be a part of the assessments identified in this subsection.
- e. Maintain an accurate record of language assistance services provided in its offices and facilities consistent with Agency records management policy. All language assistance programs must be regularly assessed to determine the effectiveness and best practices of language assistance services. Assessments may include identifying non-English languages frequently encountered, identifying the primary channels of contact with beneficiaries and other eligible individuals with LEP whether telephonic, in person, correspondence, web-based, etc., reviewing Agency programs and activities for language accessibility, reviewing Agency language assistance plans and protocols, reviewing the annual cost of



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translation and interpreter services, or reviewing patient satisfaction surveys.

H. Element 8: Consultation with Health Care and Human Services Partners.

Consultation is considered an essential element for a sound and productive relationship with Indian Tribes and occurs in various formats (e.g., Tribal delegation meetings and/or letters sent to the Tribal leaders, etc.). The IHS will consult with Indian Tribes and confer with UIOs on language access-related matters as appropriate, to ensure beneficiaries and other eligible individuals with LEP are afforded meaningful access to IHS information, services, activities, or programs.

I. Element 9: Digital Information.

The IHS currently uses a secure information technology (IT) system to support its health care delivery system. The IHS IT infrastructure incorporates government and industry standards for the collection, processing, storage, and transmission of information. The IT systems include, but are not limited to, website, patient health information, and financial systems. HQ and each Area IT office will:

- (1) Take protective steps to ensure that digital information containing vital documents is accessible to beneficiaries and other eligible individuals with LEP. Due to the complexity of translating some native languages, the availability of vital documents in native languages in a digital format may vary.
- (2) Display links or tag lines listing language access related documents or information available in languages other than English on the IHS Website.
- (3) Take reasonable steps to ensure digital information containing vital information is accessible to beneficiaries and other eligible individuals with LEP. When appropriate, all digital information will be made available consistent with applicable security regulatory and statutory provisions.
- (4) Monitor and determine the capability of providing online public information for non-English languages.

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- (5) Advertise that language assistance services are available at no cost to beneficiaries and other eligible individuals with LEP on the IHS website.
- J. Element 10: Grant Assurance and Other Compliance by Recipients of IHS Funded Federal financial assistance.
- (1) Grants and Cooperative Agreements. The IHS will ensure that award recipients/recipients of IHS-funded Federal financial assistance understand and comply with relevant civil rights statutes and regulations, as applicable, related to language access. When appropriate, the HQ and Area Offices must update or amend award notices and/or announcements to ensure full compliance with civil rights obligations, as applicable, related to language access, consistent with IHS's legal authorities.
- (2) Grant Assurance Training. IHS will train the Agency staff who communicate with IHS-funded Federal financial assistance recipients about the requirements of Title VI and Section 1557, as applicable and offer training resources to promote awareness of the IHS LEP Guidance.
- (3) Ensure Agency program staff can make current and prospective recipients of Agency provided Federal financial assistance aware of their obligations under Federal civil rights statutes and regulations, especially obligations under Title VI and Section 1557, as applicable, with respect to LEP accessibility, including ensuring persons with LEP can utilize language assistance services.
- (4) Technical Assistance. Provide and promote links to resources and technical assistance documents on the grant-making Agency's program website(s).