

National Aeronautics and Space Administration



**Science Museum of Minnesota
Title VI-Limited English Proficiency (LEP)
Compliance Report**

**Office of Diversity and Equal Opportunity
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Title VI-LEP Compliance Report

Table of Contents

I. Introduction	3
A. Legal and Policy Framework.....	3
B. Methodology	4
II. Title VI-LEP Compliance Analysis.....	4
A. Provision of Compliance Information	4
B. Efforts to Ensure Meaningful Access Regardless of English Language Proficiency.....	5
1. Compliance Standards	5
2. Analysis of the Recipient's LEP Efforts	6
3. Findings and Recommendations	9
4. Promising Practices	10
III. Conclusion.....	11
Appendix	12

I. Introduction

Title VI of the Civil Rights Act of 1964 (“Title VI”) prohibits discrimination on the bases of race, color, and national origin in programs and activities receiving Federal financial assistance.¹ The National Aeronautics and Space Administration (“NASA” or “the Agency”) Title VI implementing regulations (“NASA regulations”)² require the Agency to conduct periodic compliance reviews of its grant recipients.³ NASA conducted this compliance review of the Science Museum of Minnesota (“SMM” or “the Museum”) under Title VI and Agency regulations. SMM, a recipient of NASA funding, is located in St. Paul, Minnesota. NASA conducted this compliance review to determine if SMM has taken reasonable steps to ensure meaningful access to its programs and activities to people who are limited in English proficiency (LEP), as Title VI requires.⁴

NASA finds SMM has taken reasonable steps to provide meaningful access to LEP persons in compliance with its Title VI obligations. NASA provides a compliance analysis with additional recommended actions SMM may take to enhance its efforts in meeting its obligations under Title VI, many of which can be performed at little or no cost.

A. Legal and Policy Framework

The Supreme Court has interpreted the Title VI statutory and regulatory provisions prohibiting national origin discrimination to encompass LEP.⁵ The regulations also state that a recipient, where it determines that the services and benefits of the program or activity it administers may not be equally available to some racial or nationality groups, may properly consider race, color, or national origin to make the benefits of its program more widely available to such groups.⁶ These provisions require a recipient to ensure that it is taking reasonable steps to provide meaningful access to services and programs regardless of the program beneficiary’s level of English proficiency.

In addition, Executive Order 13166 (“EO 13166” or “Executive Order”), “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000), directed each Federal agency that extends Federal financial assistance, for example, grant funding, to clarify Agency recipients’ obligations regarding LEP.⁷ The Executive Order required the U.S. Department of

¹ 42 U.S.C. 2000d, et seq.

² 14 C.F.R. Part 1250.

³ 14 C.F.R. Sec. 1250.106(a).

⁴ The NASA Title VI regulations state that a recipient may not discriminate by “utilizing *criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their national origin* or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular national origin.” 14 C.F.R. Sec. 1250.103-2(b) (emphasis added). The Supreme Court, in *Lau v. Nichols*, 414 U.S. 563 (1974), interpreted the same provision in regulations of the former Department of Health, Education, and Welfare (45 CFR 80.3(b)(2)) to hold that Title VI prohibits conduct having a disproportionate effect on LEP persons because such conduct constitutes national origin discrimination. The Court in *Lau* held that the recipient of Federal funds in the case, the San Francisco Unified School District, was required to take reasonable steps to provide a meaningful opportunity for its LEP students to participate in its educational programs. 414 U.S. 565-569.

⁵ See fn. 4 above.

⁶ 14 C.F.R. Sec. 1250.103-4(g).

⁷ [Executive Order 13166](#) "Improving Access to Services for Persons with Limited English Proficiency" (August 11, 2000) (published at 65 Fed. Reg. 50123, August 16, 2000).

Justice (“DOJ”) to issue guidance on recipients’ Title VI obligations in the LEP context, stating that “the guidance sets forth the compliance standards that recipients must follow to ensure that the programs and activities they normally provide in English are accessible to LEP persons and thus do not discriminate on the basis of national origin in violation of Title VI.”⁸ NASA published its Title VI-LEP Guidance to Grant Recipients in December 2003.⁹ Although neither the DOJ nor the NASA guidance establish binding requirements, they provide assistance to recipients in assessing whether they are providing meaningful access to LEP populations and how to provide such access.

B. Methodology

NASA reviewed documentation provided by the SMM in response to the Agency’s information request regarding LEP efforts. NASA also conducted an onsite review, interviewed the SMM President and staff, as well as participated in a tour of the SMM’s facilities and exhibits. NASA’s tour of SMM involved a walk-through survey designed to replicate as much as possible a patron’s experience of the facility, such as the observation of visitor-staff interactions and the availability of appropriate signage for exhibits, public notices, and informational materials in languages other than English.

II. Title VI-LEP Compliance Analysis

NASA’s compliance analysis focuses on SMM’s efforts in: A) providing required information, and B) ensuring meaningful access to LEP individuals.

A. Provision of Compliance Information

Under NASA regulations and policies, recipients of NASA financial assistance must maintain and provide all compliance information requested in a timely, complete, and accurate manner.¹⁰ In addition, as a condition to a grant award’s approval, the award must contain an assurance that the recipient operates in compliance with all requirements imposed by NASA, including civil rights requirements under Title VI. NASA Form 1206, “Assurance of Compliance with the NASA Regulations Pursuant to Nondiscrimination in Federally Assisted Programs,” serves as the NASA’s assurance of civil rights compliance from its recipients.

SMM currently receives \$3.5 million in grant funding from NASA. The grant funds the NASA Space and Earth Informal STEM Education (SEISE) network,¹¹ a partnership of science museums’ and universities’ science, technology, engineering, and mathematics (STEM) programs designed to engage public audiences nationwide in informal and lifelong STEM learning. SMM completed NASA’s 1206 form as a condition of its award, responded to NASA information requests pursuant to this review, and participated in interviews with NASA staff. We note that although the SMM indicated in its response to NASA’s pre-onsite information request that it would initiate an LEP working group and begin addressing related issues during its first quarter of Fiscal Year 2020 (July-September 2019), the group was not established at the time of NASA’s

⁸ Id. at Section 1. DOJ guidance issued pursuant to the Executive Order, titled “Enforcement of Title VI of the Civil Rights Act of 1964 – National Origin Discrimination against Persons with Limited English Proficiency,” publishing its guidance simultaneously with the Executive Order. DOJ issued an updated version of its guidance in 2002, published at 67 Fed. Reg. 41455 (June 18, 2002) (hereafter cited as DOJ LEP Guidance).

⁹ Published at 68 Fed. Reg. 70039 (December 16, 2003) (hereafter cited as NASA LEP Guidance).

¹⁰ 14 C.F.R. Sec. 1250.105(b).

¹¹ STEM is an acronym for science, technology, engineering and mathematics.

onsite review in October 2019. However, NASA does not find SMM out of compliance based solely on this concern, as the vast majority of the information the SMM provided and the efforts it is currently undertaking reflect reasonable steps to ensure meaningful access to LEP persons. In addition, the SMM responded to NASA’s information request timely and completely.

B. Efforts to Ensure Meaningful Access Regardless of English Language Proficiency

1. Compliance Standards

NASA grant recipients must take reasonable steps to ensure meaningful access to their programs and activities for LEP persons.¹² DOJ and NASA guidance states that the starting point to ensure meaningful access is for the grant recipient to conduct an assessment that balances four factors as detailed in the NASA Title VI-LEP Guidance.¹³ Although not explicitly required in the regulations, DOJ and NASA highly recommend conducting a Four-Factor analysis (FFA) as a time-tested method of ensuring meaningful access to LEP persons. The Four Factors are:

- 1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee from a language group served or encountered in the eligible service population;
- 2) The frequency with which LEP individuals come in contact with the program;
- 3) The nature and importance of the program, activity, or service provided to people’s lives; and
- 4) The resources available to the recipient and the costs of compliance.

While designed to be a flexible and fact-dependent standard, the intent of the FFA is to provide a balance that ensures meaningful access for LEP persons to critical services while not imposing undue burdens on grant recipients. Importantly, NASA guidance states, “[e]ven recipients that serve LEP persons on an unpredictable or infrequent basis should use this balancing analysis to determine what to do if an LEP individual seeks services under the program in question.”¹⁴

After completing the FFA, a recipient should develop a language assistance or access plan (“LAP”) to address the identified needs of the LEP populations it serves.¹⁵ The development and maintenance of a periodically updated written LAP for LEP persons for use by recipient employees serving the public will likely be the most appropriate and cost-effective means of documenting compliance and providing a framework for the provision of timely and reasonable language assistance. In addition, such written plans would likely provide additional benefits to a recipient’s managers in the areas of training, administration, planning, and budgeting. While DOJ guidance pursuant to the Executive Order strongly recommends the use of LAPs for recipients, it states that LAPs are not required.¹⁶

¹² Executive Order 13166, Sec. 1.

¹³ NASA Title VI-LEP Guidance, Sec. V.

¹⁴ Ibid.

¹⁵ Ibid. Sec. VII.

¹⁶ The DOJ LEP Guidance states: “[The Department elects at this juncture to strongly recommend but not require written language assistance plans. The Department stresses in this regard that neither the absence of a requirement

<i>Recipient Steps: LEP Analysis and Language Assistance Measures</i>	<i>Yes</i>	<i>No</i>
The recipient has taken reasonable steps to ensure meaningful access to LEP persons, for example, the following recommended practices:		
1. Identifying and analyzing LEP access needs regarding the recipient’s programs and activities, including identification of the LEP populations in the service area, frequency of contact with LEP persons, importance of the contact, and available resources.	X	
2. Notifying LEP individuals of the availability of language assistance;	X	
3. Providing qualified language interpretation services;		X
4. Providing written translations of program materials and information, for example, on the recipient’s website and exhibits;	X	
5. Conducting outreach with local advocacy groups and community organizations to help address language access and assistance needs; and	X	
6. Training staff on LEP requirements.		X

2. Analysis of the Recipient’s LEP Efforts

Identifying LEP Access Needs

NASA’s review shows that the Museum’s efforts to meet LEP access needs can be strengthened by a more accurate and complete analysis of these needs. In this regard, the FFA, while not a requirement on recipients, reflects an effective first step in ensuring LEP access. The Museum has conducted the first part of an FFA by identifying the LEP populations in the Twin Cities Metro area, which consists of the cities of St. Paul and Minneapolis. Based on a report of the Twin Cities Metropolitan Council issued in December 2014, the Museum defined a person who is LEP as someone who spoke a language other than English at home, regardless of English fluency.¹⁷ This definition is over-inclusive, and, as a result, does not provide a clear picture of the level and kind of language assistance services the Museum should provide. This report also relied on data from the American Community Survey (ACS) from 2009-2013, which is not the most recent data from the ACS.

The Museum is currently conducting the second part of the analysis: assessing the frequency of its contacts with LEP persons. The Museum relies on two methods: deployment of an exit survey of patrons and its “Tell Us” cards. These mechanisms are designed for much broader purposes than LEP issues, but the Museum informs NASA that they have been useful in learning more about the frequency of LEP contacts. Currently, two out of the three data collectors for the survey are bilingual and are able to converse with LEP persons in Spanish. In 2018, the Museum began deploying the survey in Spanish. Museum staff also analyze the surveys on a quarterly basis and conduct an annual analysis to examine trends. The Tell Us

of written LEP plans in all cases nor the election by an individual recipient against drafting a plan obviates the underlying obligation on the part of each recipient to provide, consistent with Title VI, the Title VI regulations, and the DOJ Recipient LEP Guidance, reasonable, timely, and appropriate language assistance to the LEP populations each serves.” 67 Fed. Reg. 41455, 41456 (June 18, 2002)

¹⁷ See “Metro Stats: New Americans Living in the Twin Cities Region Today, December 2014, accessed <https://metrocouncil.org/getattachment/793a15d9-3262-4b54-8591-aa94cc212562/.aspx>.

card is a comment card that enables Museum patrons to provide feedback on their Museum experience, however, it is deployed only in English. While the Museum staff informed NASA that they immediately review every card and make every effort to address promptly any concerns raised and assess trends, neither the exit survey nor the Tell Us card includes a question about language accessibility. To enhance its analysis as to the frequency of contact with LEP individuals, the survey and the card should be available in Spanish and both should include questions on language accessibility and specific needs on language assistance. Spanish is by far the most prevalent language other than English spoken in the Twin Cities metropolitan area, and the Museum is therefore making effective use of its resources by focusing on Spanish.¹ The Museum may also wish to consider making its materials available in other languages, based upon consideration of the other languages spoken in the Twin Cities area, data obtained from visitors, and the Museum's resources.

On the third and fourth factors of the LEP analysis – identification of the most important program elements requiring interpretation and/or translation services, and the resources available to be expended on these measures – NASA's review shows that the Museum has not addressed these factors to date. Such analysis is needed, however, to fully address LEP access needs to the Museum's programs and services.

Notifying LEP Individuals of the Availability of Language Assistance

The Museum currently provides some notice to LEP individuals in the form of plaques showing the Museum's three "foundational" statements, which are located prominently near the Museum's entrance and translated into Spanish. These statements include the Museum's "Statement on Equity and Inclusion," "Statement on Climate Change," and "Statement on Evolution." Nonetheless, both DOJ and NASA guidance recommend more specific action regarding notice to LEP individuals. For example, recipients should provide notice of free language assistance available and translated into the language of each frequently encountered LEP group likely eligible to be served by the recipient's program.¹⁸ Additionally, recipient notices advising LEP individuals of free language assistance should be translated in the recipient's physical space as well as online. The Museum does not provide such notice.

Providing Qualified Language Interpretation Services

The Museum is taking reasonable steps to provide interpretation services, although there are areas for improvement. A listing of staff who speak a language other than English, referred to as the Museum's "Staff Languages Resource Document," currently shows 15 staff members self-identified as bilingual. Museum staff informed NASA that if an LEP individual approaches a staff member, the staff member would refer to the Staff Languages Resource Document to determine whether there is a staff member working that day who speaks the same language as the LEP patron. The staff member is then called to assist the patron. The Museum reports that

¹⁸ According to the U.S. Census Bureau, American Community Survey, in the Twin Cities Metropolitan area, there are 3,228,222 people. Of these, 182,762, or 5.7% of the total population, are LEP persons. Of the total number of LEP persons, 63,539 (34.8% of the total LEP population) are Spanish speakers. Spanish represents the highest percentage by far of individuals who spoke English less than "very well" at home. The next three most prevalent languages were: Hmong (24,721 or 14%), Vietnamese (12,074 or 7%) and Chinese (8,973 or 5%).

in almost all cases, a staff member was available. In addition, multiple Museum staff stated that the Museum uses “I Speak” buttons to indicate to LEP individuals that a particular employee speaks that particular language. NASA recognizes bilingual staff may be helpful to LEP patrons and assist them in gaining meaningful access to the Museum’s programs and activities. It appears, however, that the Museum does not have in place a means of testing the competence or fluency level of staff interpreters. In addition, the Museum does not have any professional interpreters on staff or contract interpreters, and has not made a formal assessment as to whether these are needed, either in the day-to-day running of the Museum or in its educational programs and other services, for example, emergencies.

The Museum has not completed its analysis of the frequency of contact with LEP populations. This is a needed step, however, in order to ascertain the level of interpretation services needed, and to prepare for its analysis of available resources, as discussed above. If the Museum determines there is no regular need for a particular language skill, both the Museum’s list of self-identified bilingual/multi-lingual staff as well as contract interpreters are cost-effective options.¹⁹ In addition, many community-based organizations and mutual assistance associations provide interpretation services for particular languages.²⁰ Another low cost option is the use of telephonic interpretation services. DOJ and NASA guidance state that telephonic interpreter service lines often offer speedy interpreting assistance in many different languages, and the Museum should consider exploring this language assistance option.²¹

Providing Written Translations of Program Materials and Information

The Museum is taking some steps to provide translated material onsite, although not online; the latter of which reflects one of several areas for improvement in this regard. As stated, regarding onsite signage, the Museum has interpreted its three foundational statements, located at the entrance, and its exit survey. In addition, for the past seven years, the Museum has been translating all of its exhibit signage into Spanish, and currently, approximately half of the exhibit signage is in both English and Spanish. NASA commends the Museum for these efforts to expand access among its LEP patrons. We note, however, that the Museum has not translated the vast majority of brochures, maps, and rack cards onsite. In addition, signage throughout the Museum, including television monitors outside of the Omnitheatre and emergency exit signs, are only available in English. Further, the Museum may wish to consider translation of its signage into additional languages based upon its analysis of the demographic data for the Twin Cities area, responses to its Tell Us cards and surveys, and the Museum’s available resources.

Finally, and importantly, the Museum’s online presence is solely English. In today’s world, an organization’s website is often the first exposure an individual will have with that organization and to look for information about that organization. With information only available in English, LEP persons are unable to meaningfully access the Museum’s online information, including learning about the Museum’s programs and services, and emailing the Museum with comments, questions or concerns.

¹⁹ Ibid. at Sec. VI.

²⁰ Ibid.

²¹ Ibid.

Conducting Outreach with Local Advocacy Groups and Community Organizations

In 2017, the Museum created an Access and Equity Division whose mission is to “connect and co-create with audiences in whom the museum has historically underinvested its resources, specifically Indigenous, Black and People of Color, and people with limited wealth.” Staff explained to NASA that the goal of the Division is to create more inclusive access and equity for greater numbers of people, regarding both programs and exhibits. To date, however, it appears that the Division has focused its efforts primarily on limited or low-income individuals, not specifically on LEP communities or patrons. A more targeted and sustained approach to interaction with community organizations and advocacy groups, particularly those focused on the needs of language minorities, would optimize the positive impact such groups can have on the Museum LEP access efforts.

Training Staff on LEP Requirements

Museum staff reported in interviews that they provide some discussion of language assistance in training orientation for new employees and volunteers. NASA’s review of these materials indicates, however, that they do not provide clear direction to employees on what to do if they encounter an LEP individual requesting assistance. In addition, there is no clearly defined protocol for staff working on educational programs involving LEP students. Finally, while the Museum has translated the request form for parents to provide approval for participation, there is no indication of how the Museum will address LEP parents who wish to participate themselves in an educational offering, for example, family night.

3. Finding and Recommendations

Based on its review, NASA finds that the Museum is taking reasonable steps to provide meaningful access to LEP individuals, as required by Title VI. The Museum may, however, implement the following recommendations to enhance its efforts by taking additional steps. These may include:

- 1) More accurately identifying the population of LEP individuals to whom language assistance services may be needed by:
 - Analyzing the most recent ACS data available; and
 - Defining persons who are LEP as those who speak limited English or no English.
- 2) Determining the frequency of the Museum’s contact with LEP populations to decide which services to provide and in what languages, including:
 - Adding a language access question on the exit survey;
 - Translating the Tell Us Card and display the cards at various areas throughout the Museum where the public frequents;
 - Including a language access question on the Tell Us Card;
 - Evaluating, through a survey, the extent to which the Museum comes in contact with LEP patrons through their offsite programs and determining the level of language assistance the Museum should provide to LEP program participants;

- Gathering data to determine the specific languages for which the Museum should provide language assistance, such as interpretation and translation; and
- Establishing a specific timetable, for example, biannually, for reviewing all of the data gathered and analyzing it to make a statistically sound determination as to the frequency of contact for each LEP population.

3) Identifying and prioritizing the kinds of language interpretation and translation services the Museum’s resources will allow, considering the following:

- Conducting a careful analysis based on a balancing test between LEP needs and available Museum resources to provide LEP access to its most critical services, for example, exhibits and education programs;
- Providing appropriate notice, onsite and online, of the availability of free language assistance in the languages most frequently encountered;
- Translating key elements of Museum’s website, e.g., information on directions, prices, exhibits;
- Training bilingual staff to act as interpreters and translators;
- Acquiring telephonic and video conferencing interpretation services;
- Translating brochures, maps, and rack cards;
- Translating other signage throughout the Museum, e.g., emergency signage; and
- Developing stronger relationships with community and advocacy groups serving the Museum’s LEP populations to make specific determinations about which services, e.g.,

4. Promising Practices

Museum Leadership “Statement on Equity and Inclusion.” NASA recognizes SMM for its publicly and broadly stated efforts to address diversity, equity and inclusion for its staff and patrons. The Museum recently published a “Statement on Equity and Inclusion” developed by its Board and signed by its President and CEO and has disseminated the statement both on its website and onsite, where it is prominently located near the main entrance to the building. This onsite version is in both English and Spanish versions. The statement pledges that the Museum is “actively working to undo systems of injustice and inequity” and committed to “create an inclusive, equity-based institution.” This is an important and positive step towards providing meaningful access to LEP individuals. What makes the statement and its translation even more meaningful, is that it is one of three that the Museum considers “foundational.” The other two are the “Statement on Climate Change” and “Statement on Evolution.” By placing its commitment to equity and inclusion on par with scientific matters at the heart of its mission as an organization, the Museum is sending a powerful message on its belief in the inherent value and strategic importance of equity and inclusion. (See the Appendix for the complete text of the Statement.)

Translation of Exhibit Signage. As reported, for the past seven years, the Museum has translated all exhibit signage into Spanish, and intends to continue doing so, an important method of expanding access to LEP individuals. Currently, approximately 50% of all exhibit signage have been translated because about half of the exhibits are more than seven years old. The exhibits are at the very heart of the benefits the Museum’s programs provide to its program participants. The Museum’s exhibit designers seek to ensure enjoyment for all patrons,

regardless of language proficiency, by focusing on the visual components of the exhibit. By taking the next step and making the exhibit signage available in a frequently encountered language other than English, it is both expanding access and communicating its commitment to equity and inclusion.

III. Conclusion

NASA's review of the Science Museum of Minnesota demonstrates compliance with Title VI because the Museum is taking reasonable steps to provide meaningful access to LEP individuals. The Museum can improve its efforts in this regard through implementation of NASA's recommendations. NASA is available to provide further technical assistance upon request.

Appendix. Science Museum of Minnesota Statement of Equity and Inclusion

Science, Technology, Engineering and Math (STEM) are valuable for communities to thrive and live in a global society. Equity, inclusion, and access to STEM are critical to the ongoing work of the museum.

THE SCIENCE MUSEUM OF MINNESOTA is actively working to undo systems of injustice and inequity. We will create an inclusive, equity-based institution that empowers people to change the world through STEM. Aspects of political, cultural, and economic systems maintain injustice and inequity through the control of power and resources. Most museums and scientific practices, including our own, have supported these systems. As a result, access to and engagement with STEM learning and practices has been limited for some.

The museum commits to using STEM as a tool to advocate for justice and equity. We will:

INSPIRE LEARNING by including, collaborating, and lifting up the voices of people who have been overlooked or excluded

INFORM POLICY by illuminating unfairness, inequality, and power imbalances

IMPROVE LIVES with productive dialogue on topics related to equity, inclusion, and public access to STEM

By prioritizing equity and inclusion, we re-imagine the scientific enterprise and continue to seek opportunities that support and encourage full participation in the vital work of connecting STEM and society through our areas of impact— our exhibitions, public programs, teaching, research, collections, operations, management, Board of Trustees, policies, and practices.