

# Limited English Proficiency (LEP) Plan

**October 2024 Update**

Presented by:



## INTRODUCTION

This *Limited English Proficiency Plan* has been prepared to address the North Dakota Department of Transportation's (NDDOT) responsibilities as a recipient of federal financial assistance as they relate to the needs of individuals with Limited English Proficiency language skills. The plan has been prepared in accordance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq, and its implementing regulations, which state that no person shall be subjected to discrimination on the basis of race, color or national origin.

Executive Order 13166, titled ***Improving Access to Services for Persons with Limited English Proficiency***, indicates that differing treatment based upon a person's inability to speak, read, write, or understand English is a type of national origin discrimination. It directs each agency to publish guidance for its respective recipients clarifying their obligation to ensure that such discrimination does not take place. This order applies to all state and local agencies which receive federal funds, including all NDDOT.

### **Plan Summary**

The NDDOT has developed this **Limited English Proficiency Plan** to help identify reasonable steps for providing language assistance to individuals with Limited English Proficiency (LEP) who wish to access services provided. As defined Executive Order 13166, LEP individuals are those who do not speak English as their primary language and have limited ability to read, speak, write, or understand English. This plan outlines how to identify a person who may need language assistance, the ways in which assistance may be provided, staff training that may be required, and how to notify LEP individuals that assistance is available.

To prepare this plan, the NDDOT used the four-factor LEP analysis which considers the following factors:

1. The number or proportion of LEP persons served or encountered in the eligible service population.
2. The frequency with which LEP individuals meet the program, activity, or services.
3. The nature and importance of the program, activity, or service provided by the program.
4. The resources available to the recipient and costs.

### **MEANINGFUL ACCESS: FOUR-FACTOR ANALYSIS**

#### **1. The Number or proportion of LEP served or encountered in the eligible service population.**

The North Dakota Department of Transportation is a state agency with a statewide service area. NDDOT has 20 divisions and eight districts. NDDOT has district offices in 8 defined service areas throughout North Dakota. Services may be provided statewide or by district.

All previous contacts with LEP persons were identified by language along with the

type of service provided for the reporting period, October 1, 2023, through September 30, 2024. The following contacts occurred.

*In-person contacts:*

- Driver License testing at 8 major offices and 6 satellite offices offered in 13 foreign languages- Arabic, Spanish, Somali, Russian, Vietnamese, Turkish, Swahili, Nepali, Serbo-Croatian, French, Chinese, Dari, Pashto, and automated American Sign Language (ASL).
- Motor Vehicle walk-in customers licensing/titling, motor carrier services, mobility placards- Spanish Telephonic Interpreter Services:
- Driver License- call-in/walk-in communication with LEP persons; questions, scheduling, driver license renewals- Spanish, Haitian Creole, French-Canadian, French, Russian, and Arabic.
- Motor Vehicle Division- call-in/walk-in communication with LEP persons; questions, licensing/titling, motor carrier services, mobility placards- Spanish.
- Legal Division- Administrative Hearings for driver license and driver license related issue hearings an interpreter is accessed by telephone- Spanish, and Somali.

NDDOT attempted to identify LEP minority populations that are eligible beneficiaries that may be underserved because of existing language barriers. The following data was identified.

- Driver License Tests were offered and taken at all major offices and 6 satellite offices.
- All 13 foreign languages and automated American Sign Language (ASL) for the Written Knowledge Test were available and utilized across the state.
- All requested languages were interpreted.

Additional data on LEP populations was obtained from sources such as: census, school systems, community organizations, community agencies, and state and local governments.

NDDOT consulted additional data sources:

U.S. Census for North Dakota

- 2022 American Community Survey 5-Year Estimates
  - The NDDOT staff reviewed the 2022 American Community Survey 5-Year Estimates for North Dakota and determined that 48,226 individuals, in North Dakota [6.65% of the population] speak a language other than English. Of those 15,390 individuals have limited English proficiency; that is; they speak English less than "very well" or "not at all." This is only 2.12% of the overall population in North Dakota.
  - Individuals with Limited English Proficiency that are greater in number than 5% of the language group in the United States are: Spanish, French, French Creole, Portuguese or Portuguese Creole, Serbo-Croatian, German, Greek, Russian, Polish, Chinese, Arabic, Hebrew, Japanese, Korean, Thai, Vietnamese, Tagalog, Persian, Gujarati, Hindi, Urdu,

Navajo, Scandinavian, Other Native North American Languages, Other Slavic Languages, Other Indic Languages, Other Indo-European Languages, Other Asian Languages, Other Pacific Island Languages, and African languages, and Other and unspecified languages.

These groups reside throughout the state and most groups are small.

- Detailed Languages Spoken at Home and Ability to Speak English - Table 35, 2009-2013 Release Date October 2015
- Scandinavian: consists of 4 languages (2 undisclosed); Norwegian and Swedish
- Other Native North American Languages: consists of 20 languages (14 undisclosed); Okanogan, Hidatsa, Mandan, Dakota, Arikara, American Indian
  - Other Slavic Languages: consists of 5 languages (3 undisclosed); Ukrainian and Czech
  - Other Indic Languages: consists of 6 languages (5 undisclosed); Nepali
  - Other Indo-European Languages: consists of 7 languages (6 undisclosed); Romanian
  - Other Asian Languages: consists of 6 languages (4 undisclosed); Telugu and Turkish
  - Other Pacific Island Languages: consists of 7 languages (5 undisclosed); Indonesian and Malay
  - African languages: consists of 9 languages (2 undisclosed); Amharic, Cushite (Somali), Sudanic, Swahili, Bantu (group of 250 languages/dialects), Mande, (group of 3) Kru, Ibo, Yoruba
  - Other and unspecified languages consist of 4 languages (2 undisclosed); Finnish and Syriac
- Characteristics of People by Language Spoken at Home – 2022 ACS Survey 5-year Estimate Table S1603
  - Educational Attainment: Of 506,256 individuals who are 25 years and over 32,907 individuals or 6.5% have less than a high school education.
  - North Dakota Department of Public Instruction (NDDPI) - and the US Department of Education-National Center for Education Statistics- (US NCES) Reports the English Language Learner (ELL) languages in North Dakota:  
In 2021 US NCES reported 3,929 ELL students
    - In 2021-2022 ND DPI reported 4,115 ELL students in 73 schools.
      - 38% Spanish or 1574 students
      - 8% Somali or 330 students

- 8% Nepali or 329 students
- 21% Other
- The North Dakota State Assessment for Grades 3-8 and 11 for the School Year 2021-2022 showed:
  - Of 2,016 LEP students, 59% were not proficient in Reading
  - Of 2,072 LEP students, 67% were not proficient in Mathematics

Refugee Resettlement Support Services-ND Dept of Human Services (RRSS-ND) and Lutheran Immigration and Refugee Service (LIRS-ND), Global Friends Coalition, and Bismarck Global Neighbors assist with refugee resettlement in ND.

- RRSS-ND and LIRS-ND both assist as agencies for resettlement of refugees in North Dakota.
  - Resettled 128 in 2022.

## 2. The frequency with which LEP individuals encounter the program, activity, or service.

NDDOT identified the frequency with which NDDOT division and district staff have or should have contact with LEP individuals from different language groups seeking assistance.

Spanish speaking individuals are the most frequently encountered LEP language group.

### *Driver License Division*

- Written Knowledge Tests were administered in 13 foreign languages and automated American Sign Language (ASL) at 8 major offices and 6 satellite offices, and 1 administrative/supervisor account for all locations, see in the chart below. There was a total of 3,874 tests administered. A breakdown of the 8 major offices, 6 satellite offices and 1 administrative account is provided in the table below.
- Telephonic interpreter service was used for 185 walk-in and/or call-in customers during the past 12-month reporting period of September 30, 2023, through September 30, 2024.

*Satellite Offices are denoted with an (S) Noncommercial (Class D) Foreign Language Tests										Oct 1, 2023-Sept 30-2024				
Office Location/Language	ARABIC	SPANISH	SOMALI	RUSSIAN	VIETNAMESE	TURKISH	SWAHILI	NEPALI	SERBO-CROATIAN	FRENCH	CHINESE	DARI	PASHTO	AMERICAN SIGN LANGUAGE
Fargo	114	405	21	64	41	0	10	5	2	141	13	90	19	0
Grand Forks	18	513	21	72	7	40	6	10	0	35	6	11	4	0
Dickinson	6	247	0	58	4	1	0	1	0	34	1	8	0	0
Bismarck	5	385	0	83	5	0	4	0	0	166	2	0	0	0
Williston	35	407	0	27	1	53	0	0	0	32	7	0	0	0
Jamestown	0	29	0	31	0	0	1	0	0	1	0	0	0	0
Devils Lake	0	27	0	7	1	0	0	0	0	0	0	0	0	0
Minot	5	255	0	33	8	1	0	1	0	151	2	0	0	0
Grafton (S)	0	5	0	0	0	0	0	0	0	1	0	0	0	0
Administration	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Valley City (S)	0	2	0	4	0	0	0	0	0	0	0	0	0	0
Wahpeton (S)	0	7	0	5	0	0	0	0	0	0	0	0	0	0
Watford City (S)	0	36	0	0	0	0	0	0	0	1	2	0	0	0
Bottineau (S)	0	11	0	0	0	0	0	0	0	0	0	0	0	0
Beulah (S)	0	4	0	0	0	0	0	0	0	3	0	0	0	0
<b>Total Tests</b>	<b>183</b>	<b>2333</b>	<b>42</b>	<b>384</b>	<b>67</b>	<b>95</b>	<b>21</b>	<b>17</b>	<b>2</b>	<b>565</b>	<b>33</b>	<b>109</b>	<b>23</b>	<b>0</b>

Note: These are the number of tests administered. Some individuals attempt the test more than one time.

- Contacts ranged from 1 to 33 per month. Call-in/walk-in customers were for Spanish, French, French-Canadian, Arabic and Russian- speaking individuals.

*Motor Vehicle Division*

- Telephonic interpreter services were used for 55 call-in/walk-in customers during the past 12-month reporting period.
  - Contacts ranged from 1 to 9 per month, and all contacts were for Spanish-speaking customers.

*Legal*

- Telephonic interpreter services were utilized for 3 Administrative Hearings for driver license related issues for Spanish, and Somali speaking individuals.

**3. The nature and importance of services provided by the NDDOT to the LEP population.**

NDDOT determined the importance of its services for the LEP population in North Dakota by reviewing and considering the following factors including the identification of vital documents.

Identification of Vital Documents

- A document will be considered vital if it contains information that is critical for obtaining the federal services and/or benefits or is required by law.
- Examples:
  - Applications
  - Consent and complaint forms,
  - Notices of rights and disciplinary action
  - Notices advising LEP people of the availability of free language assistance.
  - Written tests that assess competency for a particular license, job, or skill for which English competency is not required.
  - Letters or notices that require a response from the beneficiary or client.
  - Larger documents, translation of vital information contained within the document will suffice and need not be translated in its entirety.
  - Outreach docs: difficult to determine if vital- lack of awareness may effectively deny LEP persons' access. It's important to continually survey/assess the needs of eligible service population to determine what outreach materials are critical to translate.

NDDOT provides a Request for Reasonable Accommodations form for individuals to request services for oral or written translations as determined by the Four-Factor Analysis or defined by Safe Harbor requirements. Safe Harbor applies to written translations only.

Vital documents will be translated when a significant number of percentages of the population eligible to be served, or likely to be directly affected by the

program/activity, needs services or information in a language other than English to communicate effectively.

If the English language version is posted on NDDOT website, the translation will be posted on the website.

NDDOT considered the importance of immediate and long-term effects of a delay in written translations. Most services have several days to weeks allowed for comment or completion.

Failure to provide written translation under these cited circumstances does not mean that the recipient is in noncompliance; rather, it provides a starting point for recipients to consider in relation to the Four Factors.

Immediate oral telephonic interpreter services are provided free.

#### **4. The resources available to the recipient and costs.**

##### *Telephonic Interpreter Services*

NDDOT has joined the State of North Dakota WSCA contract for telephonic interpreter services that is available to all state and local governments.

- NDDOT set up a NASPO-Value Point agreement with the two telephone-based interpreter services, Language Link and Voiance to provide immediate interpreter services at no cost to LEP individuals statewide.
- The NASPO-Value Point contract started in 11/4/2019 and is \$0.57-\$0.69 per minute dependent on which provider is accessed. ND DOT utilized 254 telephonic service calls made; 2,203 total minutes used in 2023-2024 for a total cost of approximately \$1,261.68. The average duration of each call was 8 minutes.
- Video-Remote Interpretation is also available through both vendors. This ranges from in-person ASL for \$1.99 per minute. Video-Remote Interpretation for the 12 most common languages used is also available but was not utilized for \$0.89 per minute.
- In person interpreters- Courts List- rate varies per interpreter, approximately \$40.00 per hour; none were used this past year.

##### *Written Translation*

NDDOT has identified and contacted several written translation service providers.

NDDOT procured the audio of the Noncommercial Driver License Manual and updated the audio files to the NDDOT website for the public.

NDDOT prioritizes these needs so that language services are targeted where most needed because of the nature and importance of the activity.

Resource and cost issues can be reduced: NDDOT's vital documents are uniform throughout the department due to its being a statewide agency. NDDOT prepares templates of relevant documents for sub recipients to use in the development of their Title VI plans. The translation of subrecipient templates will be minimal cost if

they are nearly identical to NDDOT's documents.

Using qualified translators and interpreters to ensure that docs need not be fixed later and that inaccurate interpretations do not cause delay other costs NDDOT has access to qualified translators through several companies. When revisions occur, it is most likely due to legislative changes which cannot be predetermined. NDDOT's telephonic interpreter service was thoroughly tested in the procurement process and has qualified interpreters.

NDDOT has many significantly large documents. Written translation of NDDOT large documents can range from translation of an entire document to translation of a short description of the document.

## **LANGUAGE ASSISTANCE**

A person who does not speak English as their primary language or who has a limited ability to read, write, speak, or understand English may be a Limited English Proficient person and may be entitled to language assistance with respect to NDDOT services.

Language assistance can include interpretation, which means oral or spoken transfer of a message from one language into another language and/or translation, which means the written transfer of a message from one language into another language.

After applying the four-factor analysis, NDDOT has examined the following language assistance options and identified which methods will provide NDDOT with an effective LEP Plan. Spanish speaking individuals are most frequently encountered by NDDOT.

### **Selecting Language Assistance Services**

#### *Oral Language Services*

Using telephone interpreter lines offers prompt interpreting assistance in many different languages.

- NASPO Value-Point contract procured for multiple state DOTs resulted in two competent service providers able to interpret transportation technical or legal terms.
  - 300+ languages and dialects.
  - Includes all languages encountered by NDDOT for past 3 years.
  - Both contract service providers have additional services available for video conferencing and written translation.
- Contracting for Interpreters
  - The North Dakota Courts has an interpreters list available for independent contractors.
- Use of family members, friends, other customers/passengers as interpreters
  - NDDOT allows at the request of LEP individual, if they are not willing to speak with an interpreter provided by NDDOT.

## *Written Language Services*

### Translation of Documents

A "safe harbor" provision regarding the translations of documents is provided by the Department of Justice. The DOJ suggests providing written translations of vital documents for each eligible LEP language group that constitutes five percent or 1,000, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. The safe harbor provision applies to the translation of written documents only. Written translations would not be effective or useful for people with low literacy in their language. The literacy level should be determined.

For 'vital' Department documents, if there are fewer than 50 persons in a language group (that reaches five percent of the population of persons eligible to be served or likely to be affected or encountered), the Department does not translate 'vital' written materials but will provide written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

### Identification of Vital Documents

- o A document will be considered vital if it contains information that is critical for obtaining the federal services and/or benefits or is required by law.
- o Examples:

♣ Applications ♣ Consent and complaint forms, ♣ Notices of rights and disciplinary action ♣ Notices advising LEP persons of the availability of free language assistance ♣ Written tests that assess competency for a particular license, job, or skill for which English competency is not required ♣ Letters or notices that require a response from the beneficiary or client ♣ Larger documents, translation of vital information contained within the document will suffice and need not be translated in its entirety. ♣ Outreach docs: difficult to determine if vital- lack of awareness may effectively deny LEP people's access. It's important to continually survey/assess the needs of eligible service population to determine what outreach materials are critical to translate.

Failure to provide written translation under these cited circumstances does not mean that the recipient is in noncompliance; rather, it provides a starting point for recipients to consider in relation to the Four Factors.

## **LANGUAGE ASSISTANCE MEASURES**

NDDOT employees will inform all LEP individuals attempting to access services that the Department provides free interpreter services upon request for their interactions with the department.

When NDDOT receives a request or identifies a need for services, NDDOT will make every effort to provide the services in a timely manner. NDDOT will pay for interpreter services and translation of vital documents as necessary.

- Request For Reasonable Accommodations form is available to request oral interpretation and written translation services.

- The public is notified of LEP services via Press Releases, newspaper ads, and advocacy groups, notices in division/district manual, posters, driver license study guides, Environmental Justice Brochure.
- Driver License tests are available in 13 languages and automated American Sign Language (ASL).
- Auditory driver license study guides for those who understand English but are unable to read English.
- Spanish translation of the Noncommercial Driver License study guide.
- NDDOT's website has a "Contact" webpage for "Language Interpreter Services" with a contact person and telephone number.
- To ensure competency of interpreter services, NDDOT joined a NASPO-Value Point contract where competency was thoroughly checked, verified, and tested for competency.
- NDDOT checked references to verify translation services providers to ensure competent services.

### **STAFF TRAINING**

Training includes how to obtain language assistance services and communication with interpreters and translators.

- Annual training is provided to all NDDOT employees.
  - Information to know their obligations to provide meaningful access to information and services for LEP persons.
  - Information on NDDOT LEP policies and procedures.
  - Description of language assistance services offered to the public.
  - Primary division/district contacts to assist LEP individuals.
  - Division/district process for External Complaints of Discrimination.
- Additional training is provided to employees in public contact positions who may receive telephone calls from or provide in-person services to LEP individuals as follows:
  - Instructions to work effectively with telephone interpreters.
  - Instructions for working with an in-person interpreter.
  - Instructions for transferring calls with LEP individuals on the telephone line.
  - Use of two telephonic interpreter language lists.
  - Use of "I Speak" cards for in-person LEP individuals. It is located: <http://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/ISpeakCards.pdf>
    - Access for two telephonic interpreter service providers.
    - Documentation of language assistance requests.
    - Reporting on poor-quality services by interpreter.
- Training is provided for assigned employees for specific services Request for Reasonable Accommodations
  - Instructions for processing requests
  - Accessing assistive technology
  - Follow-up on quality of services

## **MONITORING**

**Monitoring and Updating the LEP Plan** - The NDDOT will update the LEP Plan as required. At a minimum, the plan will be reviewed and updated when new data from the U.S. Census on LEP.gov is available, or when higher concentrations of LEP individuals are present in North Dakota. Updates will include the following:

- The number of encountered LEP persons, by language who received language assistance services annually.
- The frequency of encounters with LEP persons
- The current/primary language of LEP populations in the service area.
- Whether the need for translation services has changed.
- Whether local language assistance programs have been effective.
- Whether the NDDOT's financial resources are sufficient to fund language assistance resources needed.
- Determine whether the NDDOT fully complies with the goals of this LEP Plan.
- Determine the number and type of complaints received concerning the needs of LEP individuals.
- Whether staff are knowledgeable about department LEP procedures.

### **DISSEMINATION OF THE NDDOT LEP PLAN**

- Post NDDOT's LEP Plan to their website.
- Send electronic notification of the LEP Plan to advocacy groups, local governments, sub recipients, consultants, and other stakeholders via email lists.
- Display free language assistance posters in all NDDOT building's public areas.
- State on agendas, public notices, brochures, fliers, ads that a Request for Accommodation is available to request oral and written translation of documents from NDDOT.
- Post signs in public areas of Transit facilities and in transit vehicles notifying LEP individuals of the LEP Plan and how to access free language services.
- Post on the transit provider's websites, the LEP Plan and how to access free language services.