

# Translating Policy into Practice



Joint Training on Title VI and Limited  
English Proficiency by  
The Department of Housing and Urban  
Development and the  
Civil Rights Division of the Department of  
Justice

# Focus of Presentation

- Meaningful Access for Individuals who are Limited English Proficient (LEP)

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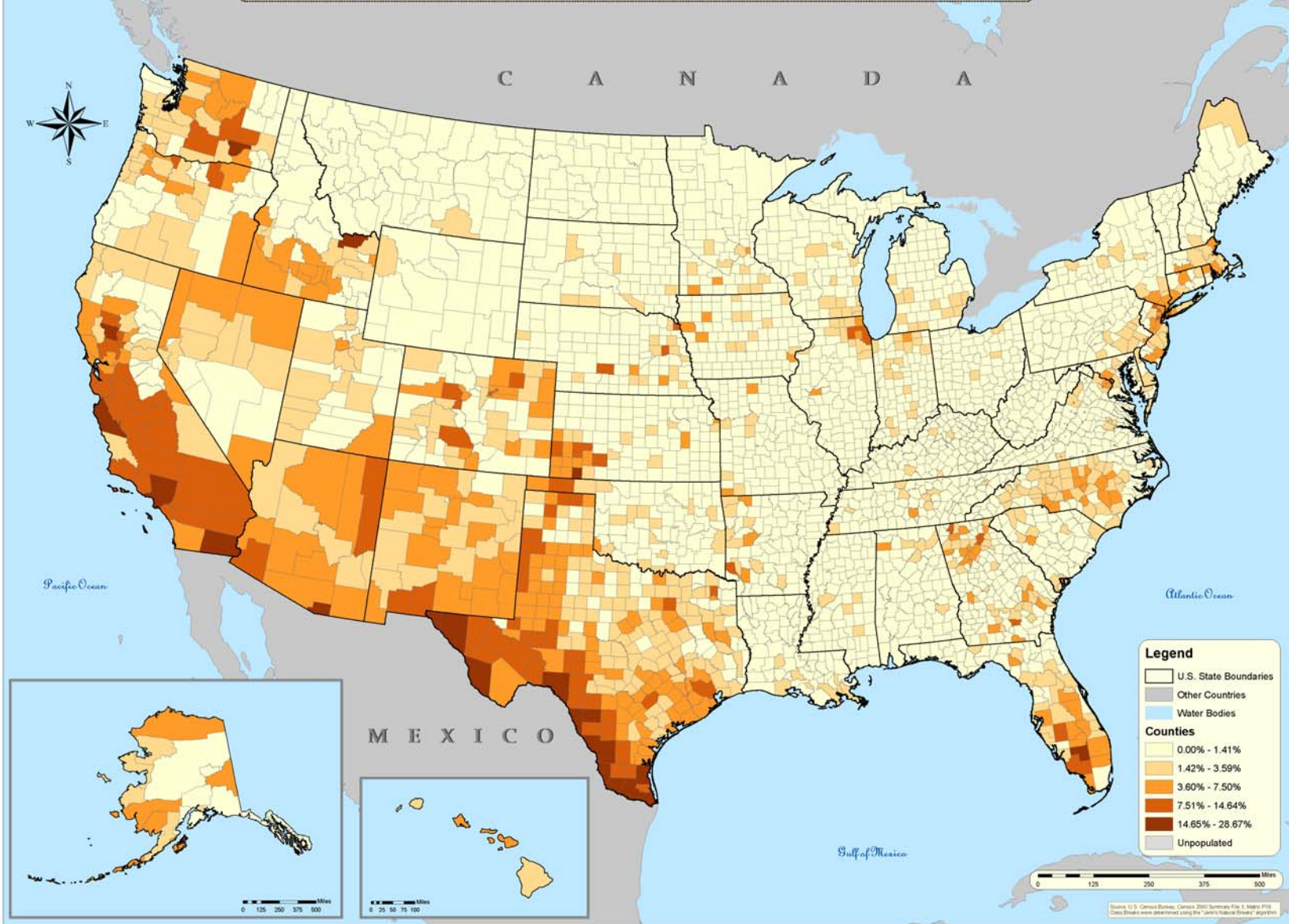
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- Meaningful Access For Individuals with Limited English Proficiency (LEP)
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- Identifying the Need for Language Services (four factor analysis from the guidance)
- Responding to the Need (types of language assistance)
- Elements of an Effective Plan (Pam Walsh)

# BACKGROUND

- Law
- Demographics
- Mission

**Percent of Persons 5 Years and Over Who Speak a Language Other Than English at Home and Speak English Less Than "Well"**





# The Growing Numbers of Limited English Proficient Students

1991/92 - 2001/02



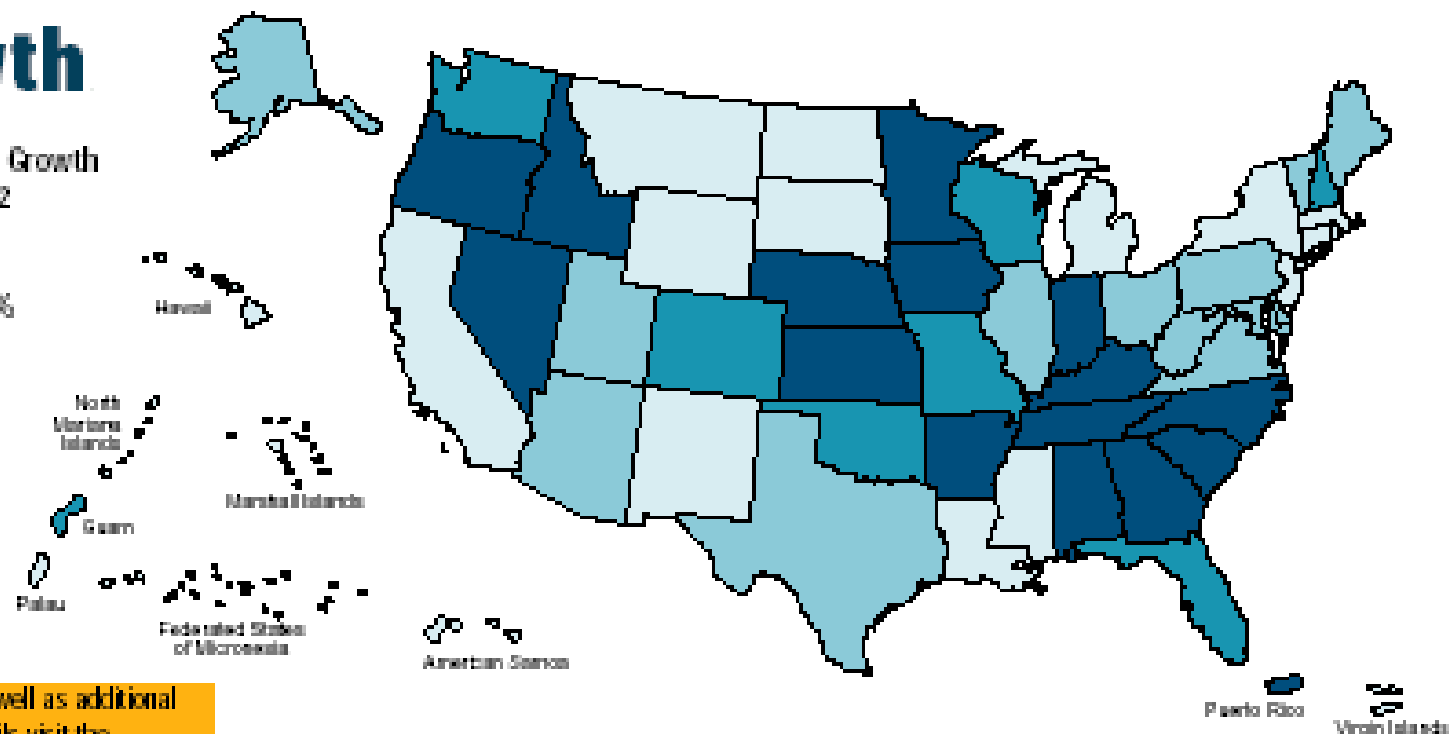
Year	Total K-12 Enrollment <sup>1,2</sup>	Growth Since 1991	LEP Enrollment <sup>3,4</sup>	Growth Since 1991
91-92	43,134,517	—	2,430,712	—
92-93	44,444,939	3%	2,735,952	13%
93-94	45,443,389	5%	3,037,922	25%
94-95	47,745,835	11%	3,184,696	31%
95-96	47,582,665	10%	3,228,799	33%
96-97	46,714,980	8%	3,452,073	42%
97-98	46,023,969	7%	3,470,268	43%
98-99	46,153,266	7%	3,540,673	46%
99-00	47,356,089	10%	4,416,580	82%
00-01	47,665,483	11%	4,584,946	89%
01-02	48,296,777	12%	4,747,763	95%



The U.S. Department of Education  
[www.ed.gov](http://www.ed.gov)

Office of English Language Acquisition,  
 Language Enhancement and Academic  
 Achievement for Limited English  
 Proficient Students (OELA)  
[www.ed.gov/offices/OELA/](http://www.ed.gov/offices/OELA/)

### LEP Population Growth from 1992-2002



For individual state data, as well as additional national data and details visit the NCELA website state pages: [www.ncele.org/usa/states/](http://www.ncele.org/usa/states/)

<sup>a</sup> U.S. Department of Education's Survey of the Status, Limited English Proficient Students and Available Educational Programs and Services, 1991-1992 through 2000-2001.

National Center for Educational Statistics Core of Common Data, 1998-99 through 2001-2002

FY 2008 Consolidated State Applications for State Grants  
under Title DE, Part C, § 9102 of the Elementary and  
Secondary Education Act (ESEA, 107-110)

For additional copies, contact:

**NCCLA**  
2121 K Street, N.W., Suite 260  
Washington, DC 20037  
Tel: 202-467-0867 or 800-321-6223  
[askNCCLA@nccla.org](mailto:askNCCLA@nccla.org)

One more slide on demographics to be inserted  
here once prepared

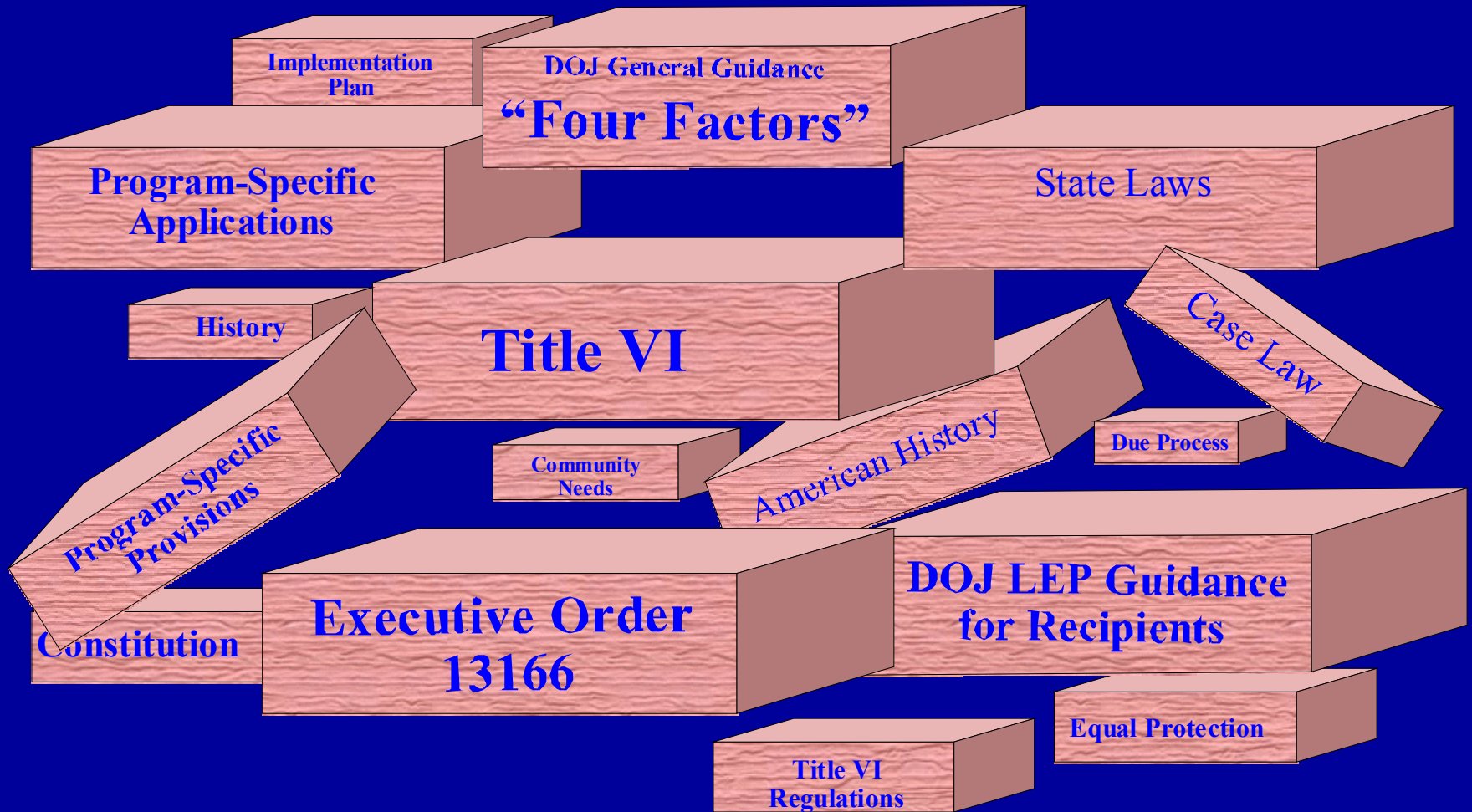
# A NOTE ON MISSION

HUD recipients provide many critical services, benefits, and information.

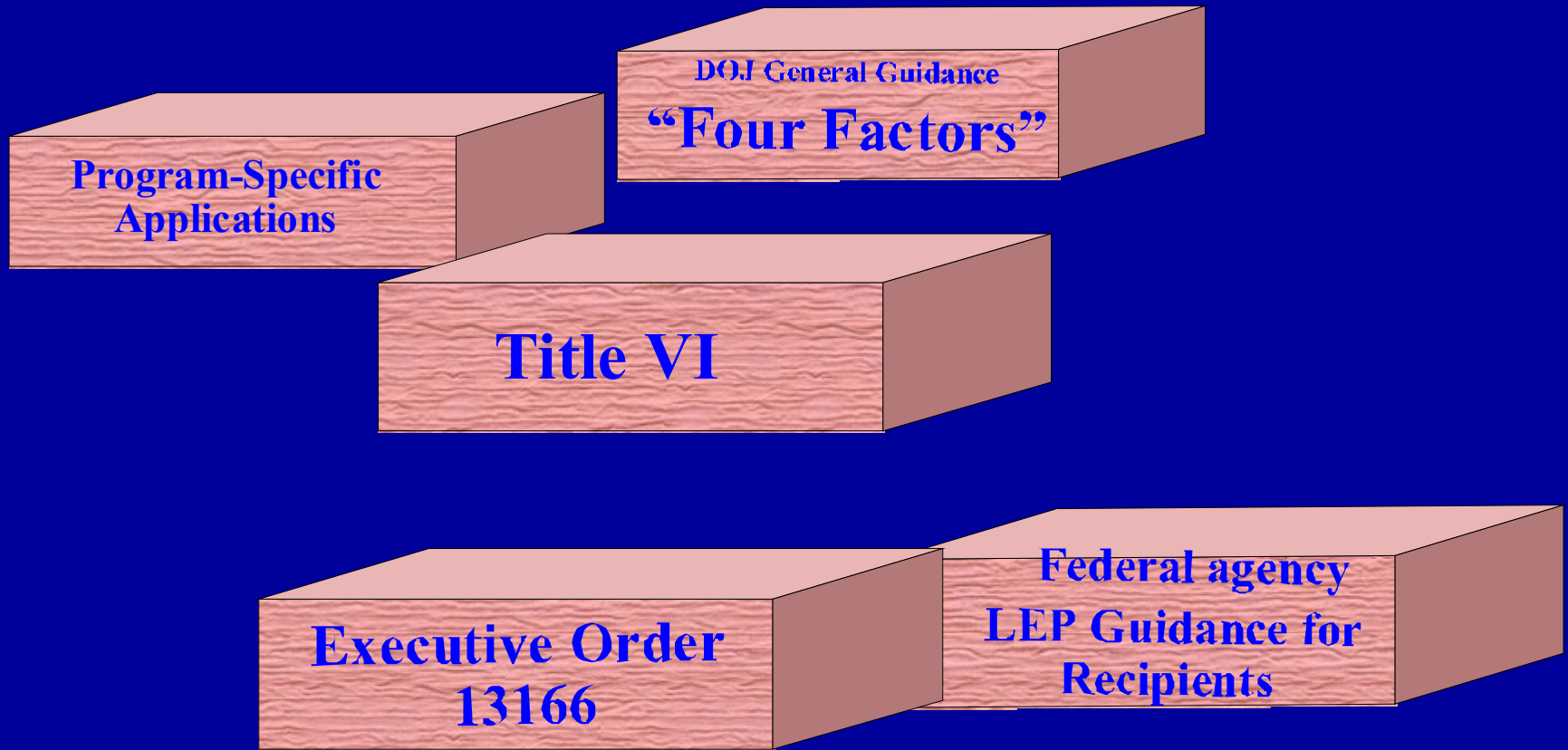
Many recipients have already developed practices and tools that respond to the needs of the communities they serve.

# LAW AND GUIDANCE

# LEP BUILDING BLOCKS



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# Section 601 of the Civil Rights Act of 1964, 42 U.S.C. 2000d

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

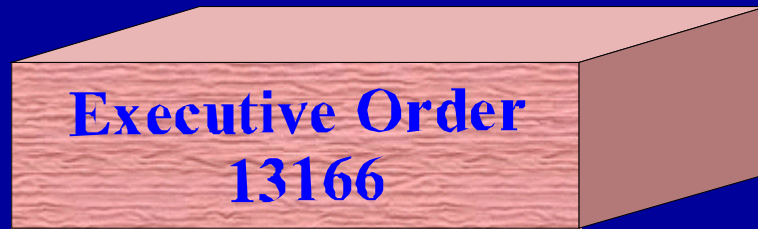
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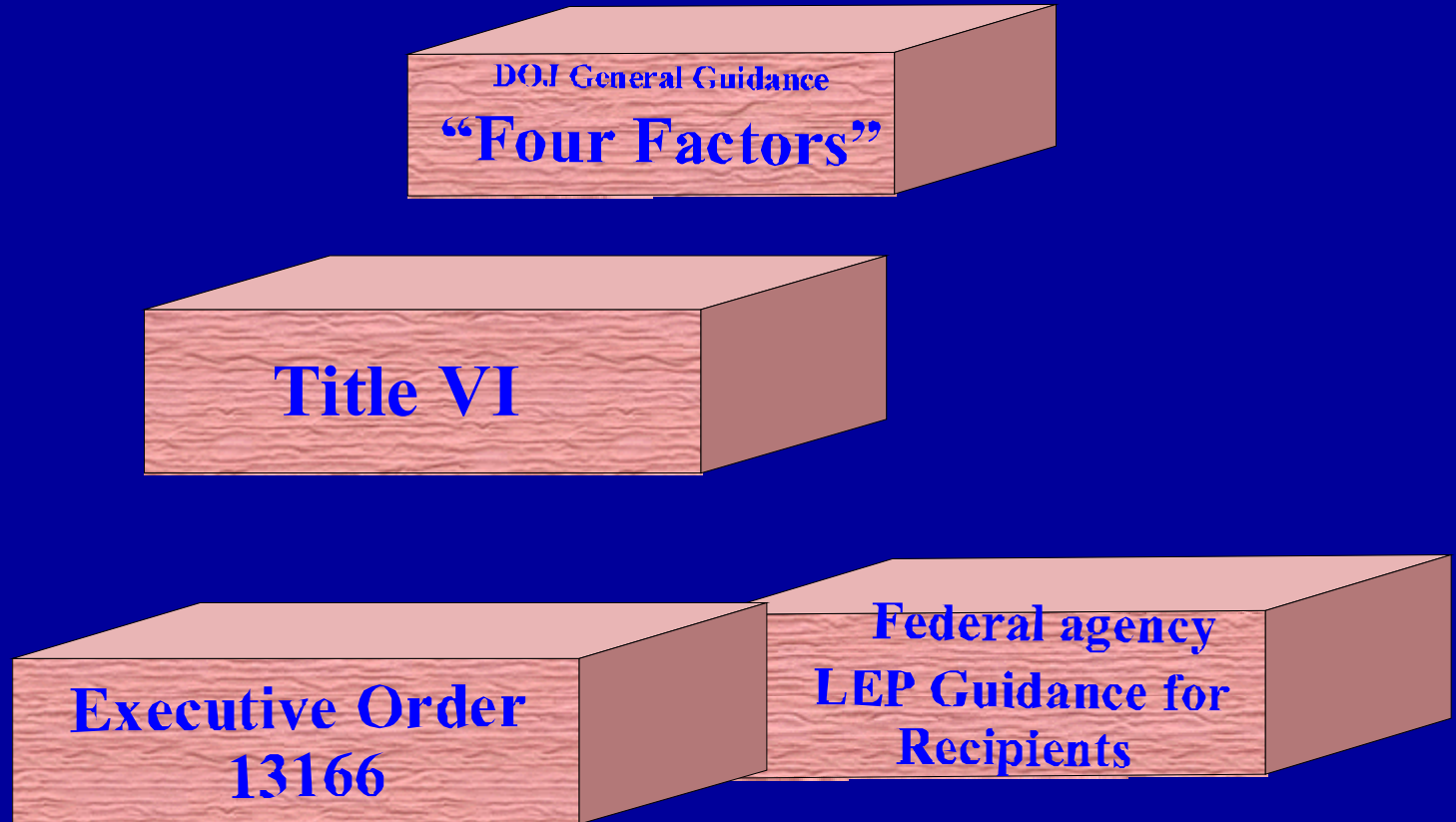
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- Questions regarding viability of LEP guidance in light of the Supreme Court's decision in *Alexander v. Sandoval* in 2001.

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- *Sandoval* holds principally that there is no private right of action to enforce Title VI disparate-impact regulations.

# A Note on *Sandoval*

- Questions regarding viability of LEP guidance in light of the Supreme Court's decision in *Alexander v. Sandoval* in 2001.
- *Sandoval* holds principally that there is no private right of action to enforce Title VI disparate-impact regulations.
- In 2001, the Assistant Attorney General clarified and reaffirmed the LEP Guidance, stating that because *Sandoval* did not invalidate any Title VI regulations that proscribes conduct that has a disparate impact on covered groups, the Executive Order and guidance remain in place.



# EXECUTIVE ORDER 13166

Meaningful Access By LEP Individuals	
Implementation Plan	LEP Guidance
Federally Conducted Programs or Activities	Federally Assisted Programs or Activities
Initial General DOJ LEP Guidance: “Reasonable Steps” based on Four- Factor Analysis	
Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d, <i>et seq.</i>	

# **The Four Factor Analysis**

**Number or Proportion of Population**

**Frequency of Contact**

**Importance of Service/Benefit**

**Resources Available**

# Number or Proportion

- From particular language group;
- Eligible to be served or encountered;
- The greater the number or proportion, the more likely pre-arranged language services are needed.

# Frequency of Contact

- Of particular language groups;
- With the recipient;
- Also consider frequency/intensity of individual contact;
- Greater frequency = greater need for enhanced language services

# Nature or Importance of Service/Benefit

- To the LEP person;
- Think of consequences of failure to communicate effectively;
- The more important the contact, the more likely timely, high quality language services needed.

# Resources Available, Including Costs

- Resources of recipient;
- Costs of providing different types of language services;
- Reasonable steps;
- Amortize translation costs (and share resources);
- Carefully explore all options before limiting access based on this factor.

# Options for Providing Language Assistance

# What Are Your Options for Oral Language Services?

- Bilingual staff;
- Staff interpreters;
- Contract interpreters;
- Telephonic interpretation services;
- Formal agreements with community volunteers;
- Note on informal interpreters.



# Competency Issues

- Proficiency in both languages (note difference between interpreter and bilingual person);
- Mode of interpreting;
- Special vocabulary;
- Knowledge of regionalisms;
- Confidentiality;
- Role as interpreter.

# Consider Safe Harbors for Translation of Documents for General Public

- Vital documents translated if:
- Language group constitutes 1000 or 5% of population of persons eligible to be served or likely to be affected or encountered; **or**

# Consider Safe Harbors for Translation of Documents for General Public

- If fewer than 50 person in a language group that reaches 5%:
- Provide written notice in the primary language of the LEP group of the right to receive competent oral interpretation of the documents, free of cost.

# Translations

- Vital documents
- Quality Control

# Vital Documents Might Include (per HUD Guidance)

- Consent and complaint forms;
- Important intake forms;
- Written notices of rights, denial, loss, or decreases in benefits or services;
- Notices of eviction;
- Notices advising of language assistance;
- Leases and tenant rules; and/or
- Applications.

# Vital General Documents

- Note that safe harbor focuses on translations only. **Interpretation should be available in many cases in which safe harbors do not apply.**

# Ideas for Quality Control of Translated Documents

- Consider asking for accreditations or certifications (not always available);
- Consider asking references;
- Consider having an independent translator “check” the work.
- Consider back translation, where appropriate;
- Consider many of the same competency issues as interpreters regarding knowledge of special vocabulary, target audience, etc.



<http://www.lep.gov/>

**Meaningful Access  
for People who are  
Limited English Proficient**

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**Recipients  
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**Community  
Individuals and Organizations**



[Information and Guidance for Federal Agencies on  
Language Access to Federal Programs and Activities](#)

[Information and Guidance for Recipients of Federal  
Funds on Language Access to Federally Assisted  
Programs and Activities](#)

[Information for Community Based Organizations and  
Individuals on Language Access to Federal and  
Federally Assisted Programs and Activities](#)

[Information in Other  
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Citizen Information Center](#)

