

**REQUEST FOR BOARD ACTION**  
**HENDERSON COUNTY**  
**BOARD OF COMMISSIONERS**

**MEETING DATE:** 15 December 2005

**SUBJECT:** Limited English proficiency

**ATTACHMENT(S):** Draft plan

**SUMMARY OF REQUEST:**

Strategy 4.2 of the 2005 Henderson County Strategic Plan is to “[d]evelop a plan to address service delivery needs for the non-English speaking population”. Such a plan is required by the Federal government of all recipients of Federal funds.

Pursuant to your Strategic Plan, each department of county government was surveyed as to their needs regarding non-English speaking customers. A committee then discussed how to best meet the Federal requirements within the context of the needs of county government. The plan is attached.

**COUNTY MANAGER RECOMMENDATION/BOARD ACTION REQUESTED:**

The County manager supports this proposal.

Henderson County  
100 North King Street  
Hendersonville, NC 28792

## **LIMITED ENGLISH PROFICIENCY PLAN**

*A Plan for Meeting the Needs of Non-English Speaking Residents of  
Henderson County According to Federal Guidelines and Giving the Best  
Service To Taxpayers at a Reasonable Cost*



**Condado de Henderson  
Carolina del Norte**

## Limited English Proficiency Plan

*A Plan for Meeting the Needs of Non-English Speaking Residents of Henderson County According to Federal Guidelines and Giving the Best Service to Taxpayers at a Reasonable Cost*

### DEFINITIONS AND FEDERAL LAW INTERPRETATIONS

Before going through the jargon created by the Federal Government regarding "Limited English Proficiency", it is good to have a common vocabulary:

**Limited English Proficiency (LEP) Individual:** Individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English can be limited English proficient, or "LEP." These individuals may be entitled language assistance with respect to a particular type or service, benefit, or encounter.

**LEP Requirements for County Government:** Persons who are LEP must have "*meaningful access*" to federally funded programs and activities.

**Basis for Federal LEP Requirements:** The Civil Rights Act of 1964, and Executive Order 13166.

**Basis for County LEP Plan:** 2005 Henderson County strategic Plan strategy 4.2 "Develop a plan to address service delivery needs for the non-English speaking population".

**What is a "federally funded program or activity"?** Any program receiving federal assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Sub-recipients are also covered, when federal funds are passed from one recipient to a sub-recipient. Recipients of federal funds range from state and local agencies, to nonprofits and other organizations.

**What is Henderson County, as a recipient of Federal financial assistance, required to do?** Recipients and federal agencies are required to take reasonable steps to ensure meaningful access to their programs and activities by LEP persons. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors:

- The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee;
- The frequency with which LEP individuals come in contact with the program;
- The nature and importance of the program, activity, or service provided by the program to people's lives; and
- The resources available to the grantee/recipient or agency, and costs. As indicated above, the intent of this guidance is to find a balance that ensures meaningful access by LEP persons to critical services while not imposing undue burdens on small business, or small nonprofits.

## HOW THIS PROPOSAL WAS FORMULATED

Providing a Henderson County LEP policy was a requirement of your 2005 Strategic Plan. To begin formulation of such a plan, a survey was undertaken by your Legal Department of the other departments of County Government to determine their actual and potential interactions with LEP persons. Once the survey was returned and results were tabulated, a committee of representatives of several of the departments most highly affected by LEP individuals met over time to devise strategy. This committee has included the following:

- Justin Hembree, Assistant County Manager
- Penny Summey, Department of Social Services
- Barbara Stanley, Department of Public Health
- Toby Linville, Development and Enforcement Services Director
- Nedra Moles, Register of Deeds
- Tim Hopkin
- Linda Charping, Department of Public Health
- Betsy Alexander
- Greg Gore
- Sandy Knowles
- Connie Rayfield, Paralegal
- Russ Burrell, Legal Department

Federal guidelines on the formulation of LEP plans are specific.

- Language assistance must be provided at no cost to the recipient.
- The language assistance provided must be "appropriate", considering:
  - the size of the entity providing services
  - the size of the eligible LEP population served by the entity
  - the nature of the program or services provided
  - the objectives of the program or service
  - the resources available to the entity
  - the frequency with which particular languages are encountered, and
  - the frequency with which LEP persons come into contact with the program or service.

Local government LEP programs are assessed by the Office of Civil Rights ("OCR") of the Justice Department, and the various compliance offices of each other Federal cabinet-level Department from which funding is received by the local government. OCR has stated that it will consider an entity to be in compliance when it abides by the following four elements: (1) the entity assesses the language needs of the population it serves; (2) the entity develops a comprehensive written policy on language access; (3) the entity adequately trains its staff; and, (4) vigilant monitoring of the program is performed to insure that LEP persons have meaningful access to the program. OCR will view the totality of the circumstances in making its final assessment. Note that failure of the OCR compliance review could result in a cut-off of Federal assistance to the County's programs.

The assessment by the County of the language needs of the population it serves should identify the non-English languages that are likely to be encountered, and estimate the number of LEP persons that are eligible for services. As a part of this, the County could note the language needs of each LEP client, and record this information in the client's file. The County's assessment should also identify the points of contact in the program where language assistance is likely to be necessary, and what will be necessary to provide meaningful assistance, and how to arrange for it in a timely fashion.

The County's written policy must cover all of the following:

- On-going assessment of changing LEP needs.
- Plan for responding to the need for oral language assistance in a timely manner.

- Giving notice to LEP clients, in a language they can understand, of the right to free language assistance.
- Provision of periodic training for staff.
- Provision for program monitoring.
- Provide for the translation of written materials that are routinely provided in English to clients and the public, to be available in languages other than English which are regularly encountered by the County. This is particularly important for documents informing clients of their rights.

**BACKGROUND DATA**

Henderson County, total population, April 2000 (US Census)	89,173
Henderson County, total population, July 2004 (US Census estimate)	95,361
<b>Growth in population, 2000 to 2004 (percentage increase)</b>	6,188 (6.9%)
Latino population percentage, Henderson County 2000 (total number)	5.5% (4,905)
Henderson County, projected population, 2010 (estimated at 2000-2004 rate of growth)	102,884
Latino population percentage, projected at 40% higher growth rate than non-Latino population, 2010	5.7% (5,816)
FY 2004-2005 sales tax receipts for Henderson County (20.97% of total revenue for Henderson County)	\$19,730,435
<b>2.0% of FY 2004-2005 sales tax receipts</b>	<b>\$394,609</b>

The proposals stated herein assume a normal pattern of cultural assimilation for non-English speaking immigrants.<sup>1</sup> That being the case, this is a problem for county government which will ease (unlike most county government problems), if not be eliminated, within less than a generation.<sup>2</sup>

**IMPORTANT NOTE**

The scope of this plan does *not* include single-department responses. The Henderson County Departments of Social Services and Public Health, and Emergency Medical Services have been attempting to comply with LEP requirements of the Federal Department of Health and Human Services for several years. The Public Library has in the FY 2005-2006 budget included a position targeted at LEP persons. This plan is an attempt to meet the needs of county departments with "lesser" needs according to LEP analysis, but real LEP needs nonetheless. It is an attempt to meet the needs of Henderson County government which cannot easily be located within a single department, or where a single department's LEP needs could not economically be met.

<sup>1</sup> "The first, or immigrant, generation typically arrived in the US as young adults and spoke mainly their mother tongue, learning just enough English to get by. Their children, the second generation, were raised in homes where parents and older adults spoke the mother tongue to them. However, they preferred to speak English, not only on the streets and in schools, but even when responding to parents. When they were old enough to raise their own families, they spoke English with their children. Those children, the third generation, were thus the first generation to be monolingual in English, though they may have learned fragments of the mother tongue from their grandparents." Richard Alba, **"Bilingualism Persists, But English Predominates"**, 2004, Migration Policy Institute, Washington, D.C.

<sup>2</sup> Under Federal LEP standards, only plans for communication with Spanish-speaking LEP individuals requires substantial planning for the County. The real-time translation services noted herein will more than meet the needs of LEP speakers of other languages.

## **PROPOSAL FOR HENDERSON COUNTY FY 2006-2007**

This proposal for Henderson County is in three parts:

1. Emergency preparedness, and preparing the LEP public to know how to obtain emergency information.
2. Regular program preparedness, and dealing with "everyday" LEP problems.
3. System preparation – before services are requested. This portion is encompassed within both other parts.

### **EMERGENCY PREPAREDNESS**

The ability to communicate effectively with all persons in emergencies is the most important LEP need for local government.<sup>3</sup> It seems obvious that the primary means of meeting these needs will be with the advance distribution of information to LEP individuals. The following is proposed:

- Use of bilingual public service announcements ("PSAs") on Mediacom Channel 11 (HCTV-11), informing LEP individuals of county government services, and particularly emergency services, which may be available, and, more importantly, where to go for more information in a real emergency.
- Use of bilingual PSAs on local radio stations.
- Plans for use of HCTV-11 to communicate with LEP persons during an emergency.
- Cooperative plans for bilingual interviews on local radio stations during an emergency.
- Bilingual information sent home with school children in Henderson County Public Schools and offered to local private schools.
- Locating a roster of volunteer interpreters to be available to all county agencies in an emergency.
- Translation of emergency directive materials commonly used in English.

### **EVERYDAY "CROSS-DEPARTMENTAL" NEEDS**

A more difficult (that is, "expensive") problem to solve is the everyday LEP needs of Henderson County Government. These LEP needs are not easily predictable or constant from day-to-day. Problems include, for example:

- Enforcement Department staff may need to communicate with a LEP tenant or "purchaser" of property in an illegal subdivision
- The Recreation Department staff may need to communicate with the LEP parents of prospective participants in facilities reservations.
- A telephone inquiry is made by a LEP person of county administration.
- Various indubitably "routinely provided" English-language documents are not available in Spanish.

Federal LEP policies do not allow for preferential use of family members (in any instance child family members) of LEP individuals as interpreters. The solution offered of this sort of problem is three-fold:

- Hiring of a trained translator/interpreter to work generally within Henderson County Government, although **not** exclusively for any one department. This translator would:
  - Translate "routinely provided" documents into Spanish.

---

<sup>3</sup>As noted above, it is outside the scope of this plan to assess the needs of, for example, the Henderson County Sheriff's Department (with the Detention Center and the E-911 Center, and the needs of patrol officers), or the Henderson County Departments of Social Services, Public Health, or Emergency Medical Services.

- Be available to act as an interpreter for various county departments needing to communicate with LEP individuals. This would primarily be with advance planning, but could include some *ad hoc* translation service when the translator/interpreter was available.
- North Carolina is presently considering certification for interpreters (and, in the long run, for translators as well), and this person would need to become certified as such certifications become available.
- Act as language coordinator for County emergency services including being in charge of translation at County shelters.
- Contracting for telephone interpreting service on an "as-needed" basis for telephone inquiries and overflow work.
- Minimal training for front-line and other Henderson County staff in departments without substantial LEP resources available. Some Departments, primarily the Public Library, do this already, with good success. Blue Ridge Community College and private providers can tailor classes to the needs of the individuals being trained.

The final segment of the proposed LEP plan would require the periodic monitoring and revisiting of LEP issues as they relate to Henderson County, and the readjustment of the County's plan as circumstances dictate.