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FEMA Assistance: Limited English Proficiency and Equity

Individuals with Limited English Proficiency (LEP) often encounter disproportionate risk during hazards as well as barriers to federal relief. Statute requires the Federal Emergency Management Agency (FEMA; the lead agency for domestic emergency management) to ensure that disaster relief reaches individuals with LEP. This In Focus summarizes select risks that language barriers impose during hazard response and recovery (e.g., evacuation and sheltering), federal authorities addressing disaster relief for individuals with LEP, and recent policy proposals to enhance the delivery of federal relief for such individuals.

Language Barriers—Select Risks

Language barriers may exacerbate the effects of hazards and hinder relief efforts in the following ways:

- Individuals with LEP may not understand evacuation notices or instructions, raising the risk of casualty.
- Individuals with LEP may not understand emergency relief providers, impeding access to emergency medical care, sheltering assistance, and key relief commodities.
- Individuals with LEP may not be able to access federal aid applications, written guidance, and oral instructions, deterring or delaying their requests for relief or yielding insufficient awards. (FEMA does report that it can provide some assistance in English and Spanish, and contracts for assistance in additional languages.)
- Officials with LEP in state, local, tribal, and territorial governments (SLTTs) and nonprofits may not understand relief instructions and procedures, inhibiting the delivery of critical assistance.

Key Authorities

Relevant Statutes

Title VI of the Civil Rights Act of 1964 requires recipients of federal assistance to ensure that persons with LEP have meaningful access to such assistance. Additionally, Section 308 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act, P.L. 93-288, as amended) requires the issuance of regulations ensuring the provision of disaster relief without discrimination, including based on English proficiency.

In 2006, the Post-Katrina Emergency Management Reform Act (PKEMRA, P.L. 109-295) amended the Stafford Act. It required the FEMA Administrator to (1) work with SLTTs to identify LEP populations and ensure that they are incorporated into the disaster planning process; (2) ensure that such populations could access disaster relief information, and (3) develop and maintain a database on

successful language assistance programs that could be provided to SLTTs during an incident (42 U.S.C. §5196f).

FEMA Regulations and Agency Notices

FEMA issued regulations implementing statutory civil rights obligations for federal disaster relief at 44 C.F.R. §206.11 and 44 C.F.R. Part 7. Per these regulations, entities receiving most forms of FEMA assistance (e.g., SLTTs and nonprofits) may not discriminate against individuals on the basis of national origin, among other grounds, when administering such relief (LEP is not explicitly mentioned). FEMA may refuse or terminate financial assistance in cases of noncompliance. Additionally, neither federal personnel nor agencies may discriminate against individuals when providing federal disaster assistance.

In 2011, the Department of Homeland Security (DHS) released guidance for agency components, including FEMA (“2011 DHS Notice”; 76 *Federal Register* 21755). The guidance (1) details federal assistance recipients’ responsibilities to ensure access to individuals with LEP and (2) explains how DHS evaluates compliance.

Federal Communications Commission (FCC)

State and local agencies can send emergency alerts through FEMA’s Integrated Public Alert and Warning System (IPAWS), which distributes alerts via radio, television, cell phones, and other means. FEMA coordinates with the Federal Communications Commission (FCC), which regulates commercial broadcast and mobile service providers. The FCC has adopted rules for the Emergency Alert System (EAS), which delivers alerts via television and radio (47 C.F.R. Part 11), and the Wireless Emergency Alerts (WEA) system, used by mobile service providers to send alerts to cell phones (47 C.F.R. Part 10). FCC mandates that EAS broadcasters providing foreign language programming should transmit EAS announcements in the primary language of the EAS participant (47 C.F.R. §11.55(c)(4)). The FCC also requires EAS participants to report actions taken or planned to reach non-English speaking audiences to help states acquire information on how best to disseminate multilingual alerts (47 C.F.R. §11.55(d)). The FCC adopted WEA rules (47 C.F.R. §10.480) requiring wireless service providers to transmit WEA alerts issued in Spanish or that contain Spanish-language characters, to cell phone users who specify Spanish as their preferred language. Some stakeholders have urged the FCC to expand and improve multilingual alerting capabilities for both EAS and WEA.

Executive Orders

On August 11, 2000, President Clinton signed Executive Order (E.O.) 13166, Improving Access to English Services for Persons with Limited English Proficiency, which

requires federal agencies to examine the services they provide and develop and implement a system to provide individuals with LEP “meaningful access” to agency services. The E.O. builds on the prohibitions on discrimination due to national origin in Title VI of the Civil Rights Act of 1964, as amended. E.O. 13166 directs all agencies providing federal financial assistance to prepare a Language Access Plan (LAP) to improve access to programs by eligible individuals with LEP. The E.O. further directs the Department of Justice (DOJ) to oversee agency compliance and consistency in implementation.

Through DOJ guidance, agencies and recipients of federal financial assistance must assess “meaningful access” to their programs and activities through a four-factor analysis:

1. The number or proportion of individuals with LEP served or encountered in the service population;
2. The frequency of contact with individuals with LEP;
3. The nature and importance of the program; and
4. The agency’s available resources.

DOJ explains, “Applying the four factors, for example, a small police department with limited resources encountering very few LEP people has far fewer language assistance responsibilities than larger departments with more resources and large populations of LEP individuals.” (66 *Federal Register* 3834).

FEMA Policy and Guidance

In 2016, FEMA issued a LAP (updated in 2020) to comply with E.O. 13166. The LAP explains how FEMA conducts “demographic assessments” to identify affected LEP populations following a Stafford Act declaration. The LAP reported that FEMA releases some relevant information to disaster survivors in different languages based on these assessments, including “Civil Rights Notices” that acknowledge the right of individuals with LEP to receive accessible communication, and notice that FEMA can provide interpreter services in up to 69 languages (at certain locations). Separately, FEMA’s 2020 LAP reported that the agency publishes a range of flyers, press releases, and information online in 21 different languages. FEMA’s LAP also identifies a number of evaluation tools that the agency uses to assess federal measures to ensure and enhance language accessibility. Consistent with stakeholder and expert recommendations, FEMA planning guidance for SLTTs also recommends that emergency operations planning efforts involve individuals with LEP.

Select Policy Issues

Establishing Trust Across Language Barriers

Language barriers may undermine trust between disaster survivors and emergency responders, jeopardizing evacuation and relief efforts. For example, some immigrants with LEP may avoid government officials due to fears of immigration surveillance and enforcement.

Implementation Gaps and FEMA Capacity

FEMA’s bilingual workforce has sometimes fallen short of demand in post-disaster areas. For example, FEMA was found to have insufficient Spanish-speaking staff to serve local residents in Puerto Rico following Hurricane María (GAO-18-472). Such shortfalls may be particularly common when concurrent disasters require limited FEMA personnel to deploy to multiple regions. FEMA may require additional appropriations to support more bilingual permanent staff, short-term reservists, or translators.

Recent Policy Recommendations

Federal Hiring for Language Competency

The 2022 inaugural report of President Joseph R. Biden’s Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders (the Commission) called upon the Office of Personnel Management to provide guidance on hiring bilingual staff, interpreters, and translators to federal agencies that directly provide federal disaster assistance. Other experts also recommended hiring local residents that share survivors’ cultures and languages.

New Requirements for Federal Grantees

The Commission’s report also called upon FEMA to revise requirements for SLTTs receiving federal assistance. Specifically, the Commission recommended that FEMA require such entities to identify LEP communities and detail how they will ensure meaningful access to federal relief in those communities. Currently, DHS recommends similar actions to establish compliance with federal civil rights requirements (see 2011 DHS Notice). The Commission suggested incorporating requirements into grant terms, scoring methods, and notices of funding opportunities.

Incorporate LEP Communities into Planning

Federal and nonfederal stakeholders and experts recommend that preparedness and planning efforts include individuals with LEP (and representative organizations) to ensure sufficient consideration of their needs.

Direct Outreach to Affected Populations

A recent coalition of groups representing disaster survivors (e.g., Ayuda Legal Puerto Rico) recommended that FEMA provide assistance notices and application guidance through door-to-door campaigns to affected, hard-to-reach populations, particularly individuals with LEP, among others. FEMA supported similar outreach efforts during the COVID-19 pandemic and Hurricane Ian.

Data on Language Outreach

FEMA’s National Advisory Council (an advisory body of representatives from SLTT governments, emergency management professionals and experts, and populations with special needs) proposed that FEMA track the languages used to reach survivors as part of an effort to assess the equitability of different agency programs.

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