

## **Limited English Proficiency**

January 29, 2007

On January 22, 2007, HUD issued final guidance clarifying the obligation of property owners who receive any federal assistance, including Section 8, to comply with the “Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons”, as required by Executive Order 13166 dated August 11, 2000.

The rules will become effective February 21, 2007, and effectively require covered owners to translate a broad range of “vital” documents in multiple languages. Examples of the documents include resident applications, leases, lease attachment applications, facility rules, facility regulations, termination/eviction notes and more. HUD also requires verbal translations of these documents for persons who do not read in their native language.

The Executive Order requires federal agencies to assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to limited English proficiency (LEP) cannot fully and equally participate in or benefit from those programs and activities. It further requires each federal department or agency to prepare a plan to improve access to federally conducted programs and activities. In response, HUD published its final guidance to address assistance to recipients of federal financial assistance.

While NAHB supports HUD’s efforts to provide a uniform framework to address these needs, a significant number of concerns have been raised by the industry including:

- Obligations to provide written and/or oral transactions free of charge to the tenant at the project’s expense.
- Although HUD will translate leases and a document with regard to tenant’s rights in the seven different languages proposed by the Order, HUD will not translate the Notices that are required for recertification, the 5059 or any other document. The burden of translating Notices will be the responsibility of the owner itself with no additional funding by HUD to offset the additional expense of implementation and practice. The seven languages include English, Spanish, Russian, Chinese, Korean, Vietnamese, and Arabic.
- The final guidance exposes owners/agents to legal liability by repeatedly placing the responsibility for ensuring the competency of translators and accuracy of translations on the owner/agent.

The industry is asking HUD Secretary Alphonso Jackson to refrain from enforcing the final LEP guidance until concerns regarding the accuracy of translated documents and the competency of the interpreters, as well as the cost and the legal liabilities for affordable housing providers have been sufficiently addressed. We argue that HUD should bear the burden of translating basic program documents. In addition, we note that property

owners should not bear the responsibility for assuring the competency of translators and interpreters.

NAHB and the industry are asking our members to write a letter to your members of Congress in both the House and Senate, and copy HUD Secretary Alphonso Jackson. Please be sure to personalize the letters and let your Member of Congress and your Senators know about your firm's affiliation to his or her district and/or state.

Please also send a letter to HUD Secretary Alphonso Jackson requesting a delay in the guidance effective February 21, 2007. Letters may be sent to The Honorable Alphonso Jackson at:

U.S. Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington DC, 20410

Sample letters to Members of Congress and HUD Secretary Alphonso Jackson are attached for your reference.

If you have any questions concerning these efforts, please contact Peggy Cullom at 1/800-368-5242, ext. 8149 or via email communication to [pcullom@nahb.com](mailto:pcullom@nahb.com).