

HUD Guidance on Limited English Proficient Persons

On January 22, 2007, the U.S. Department of Housing and Urban Development (HUD) published its “Notice of Guidance to Federal Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons.” This guidance is in response to Executive Order 13166, which directs federal agencies to establish guidance for assisting people with limited English proficiency (LEP) to access federally funded services or benefits for which they are qualified. HUD defines LEP individuals as, “Persons who do not speak English as their primary language and who have a limited ability to read, write, speak or understand English can be limited English proficient, and may be entitled to language assistance with respect to a particular type of service benefit or encounter.”

The guidance sets forth a process for determining the extent of a provider’s obligation to provide LEP services. The provider would then select a variety of ways to ensure LEP individuals can access the services. For assisted housing providers, this means an obligation to provide translations of “vital documents” and oral interpreters free of charge to LEP persons.

Housing industry groups are very concerned about several aspects of the guidance. The guidance is vague as to what constitutes “vital documents,” and no funding is provided to offset any costs of providing language services. Housing providers are also responsible for ensuring the accuracy of translations and competency of interpreters. In addition, the guidance inappropriately recommends that industry trade associations set aside funds from membership fees to offset the written translations and oral interpretations costs of its members.

NAHB has joined with other industry groups in lobbying members of Congress to deal with some of these issues by inserting corrective language into an upcoming bill. The language would shift the responsibility for providing and paying for language services back to HUD, and HUD would have to specifically identify vital documents, produce standard translated versions of those documents; and provide any expected oral translations through a centralized hotline service.

This approach represents a more efficient overall use of limited federal housing dollars, relieves housing operators of an unfunded obligation which will divert funds from repairs and maintenance of the properties, and offers a higher-level of quality control over the services provided to LEP persons.