

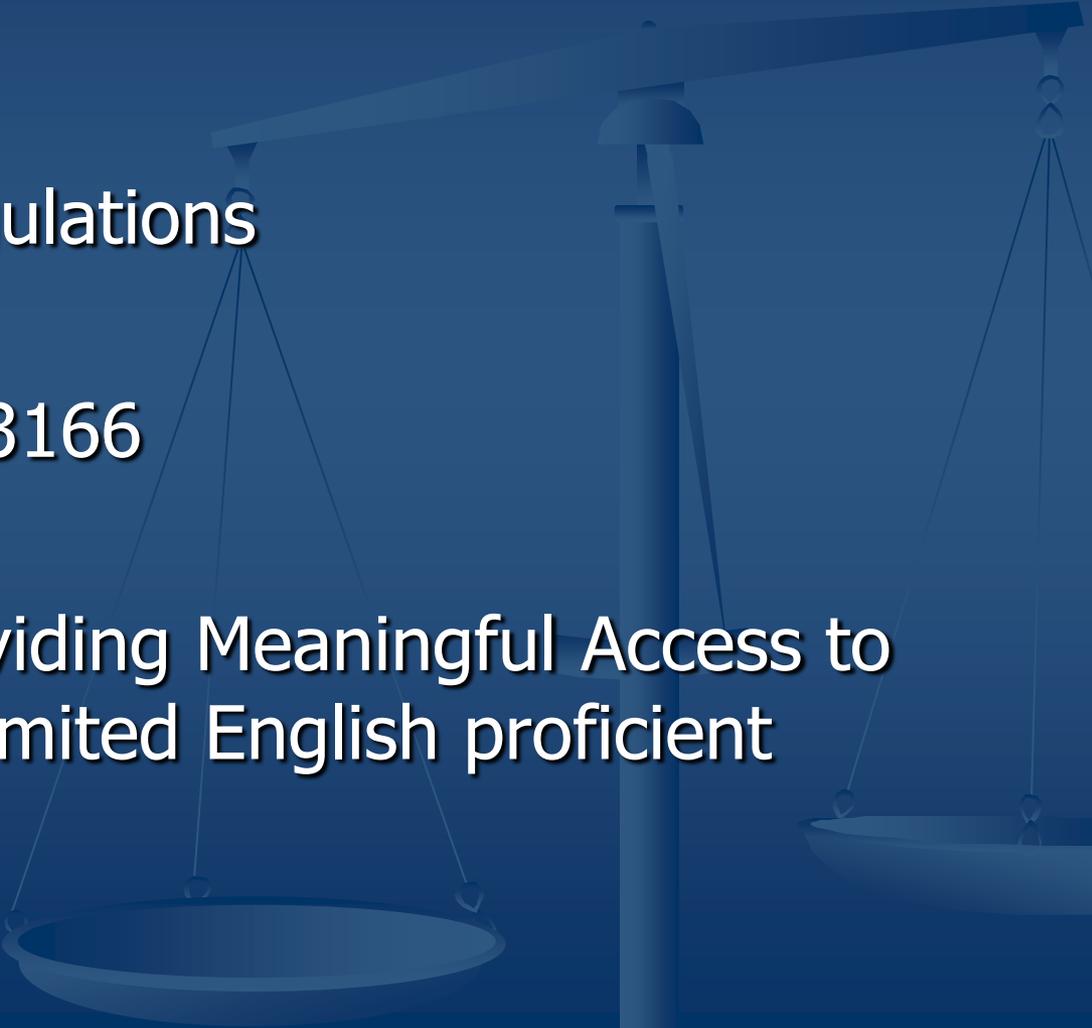


Title VI of the Civil Rights Act of 1964

Implications for Persons who are Limited English Proficient

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What We'll Cover



- The Laws and Regulations
- Executive Order 13166
- Guidelines for Providing Meaningful Access to Persons who are limited English proficient

Glossary of Terms

- Statute/Law
 - i.e. Title VI of the Civil Rights Act
- Regulation
 - 45 C.F.R. Part 80
 - Have the force and effect of law
- Guidelines
 - Recommendations, advice, not enforceable



The Law:

Title VI of the Civil Rights Act

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.

- Section 601 of Title VI of the Civil Rights Act of 1964
42 U.S.C. Section 2000d et. seq.

Title VI of the Civil Rights Act of 1964

- Granddaddy of post-War civil rights statutes
- Prohibits discrimination on basis of race, color, national origin in programs receiving federal financial assistance
- Protects persons of every race, color or national origin
- Generally does not cover employment-- Title VII does that



Who Is Covered?



All recipients of HHS Federal financial assistance, either directly or indirectly, through a grant, contract or subcontract.

Federal Financial Assistance

- A state Department of Social Services uses funds from its Community Services Block Grant to support job training centers.
- A local private refugee resettlement agency operates in a building that once was a Social Security District Office.
- A Commission Corp Officer is detailed to a state office of emergency preparedness.

Title VI of the Civil Rights Act

- Recipients of federal financial assistance shall not:
 - deny an individual a service, aid or other benefit
 - provide a benefit, etc. which is different or provided in a different manner
 - subject an individual to segregation or separate treatment



Title VI (continued)

- Recipients shall not:
 - restrict an individual in the enjoyment of benefits, privileges, etc.
 - treat an individual differently in determining eligibility
 - deny a person opportunity to participate on planning board



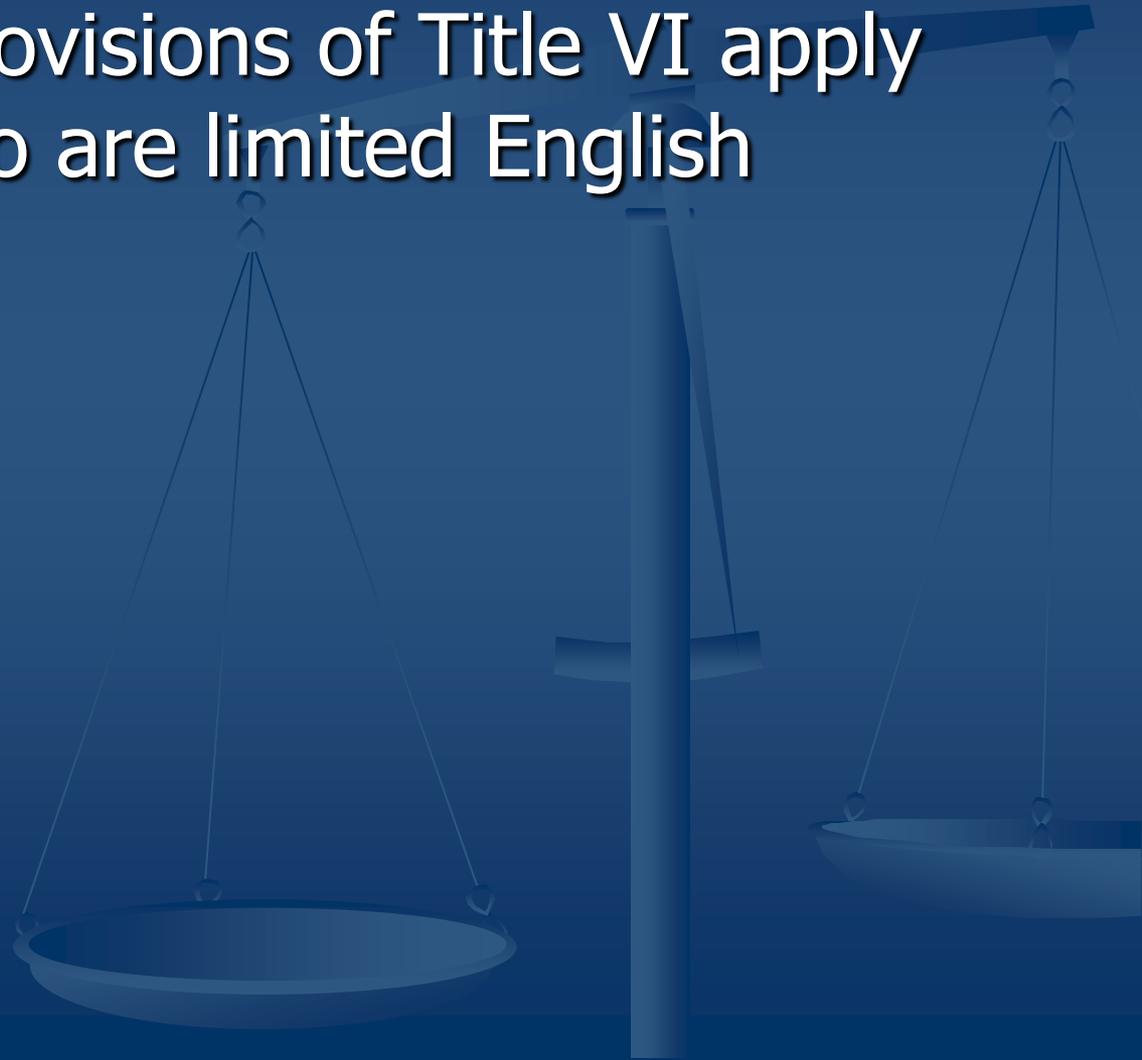
Other Title VI Requirements

- may not use any criteria or methods of administration to defeat or impair accomplishment of a program's objective(s)
- may not select sites or locations of facilities that will exclude protected individuals



The Connection

- How do the provisions of Title VI apply to persons who are limited English proficient?



HHS Title VI Regulation

Recipients may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color or national origin...

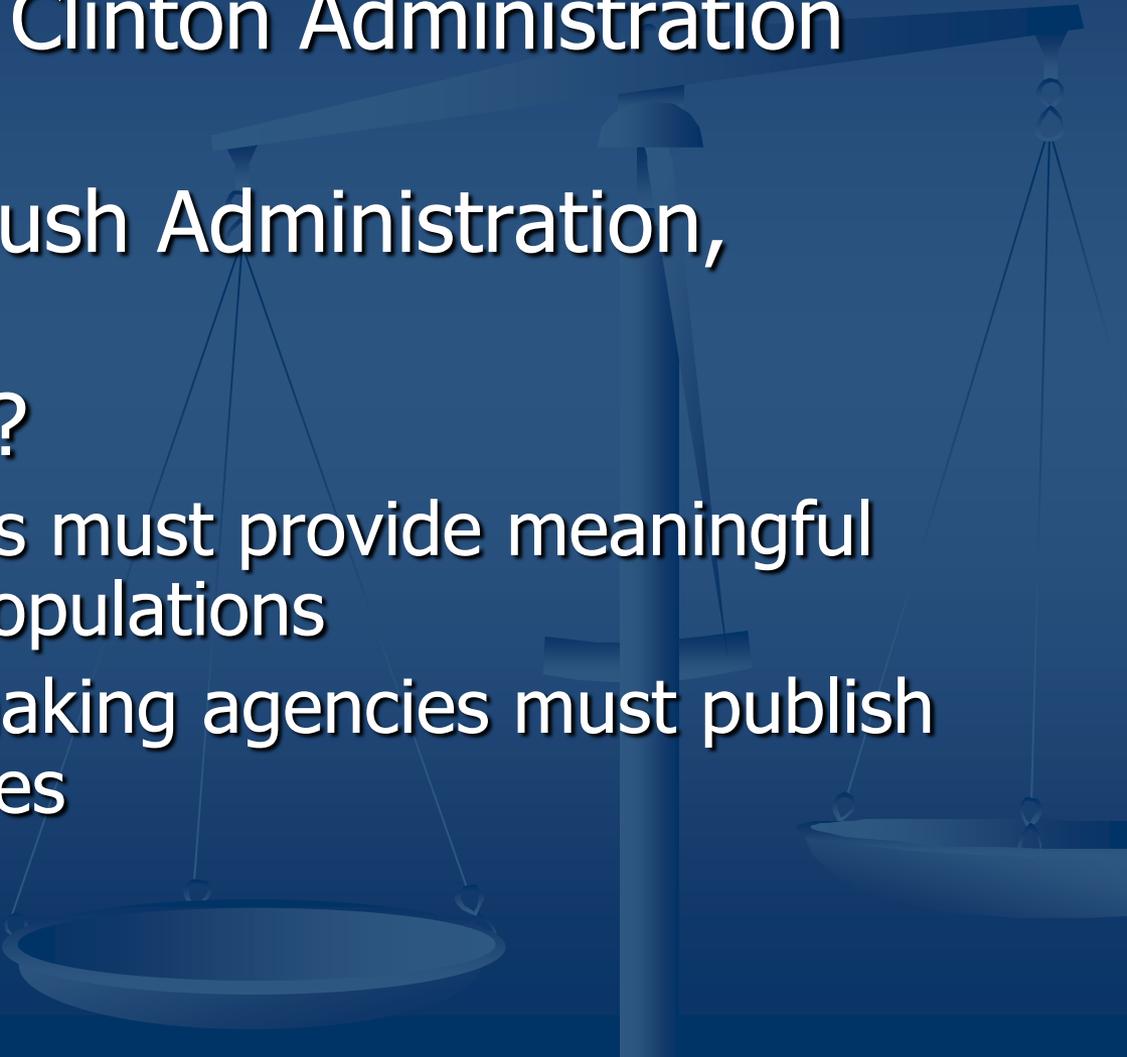
- 45 C.F.R. Section 80.3 (b)(2) The HHS regulation implementing Title VI (Sec. 601 & 602).

The Supreme Court Decision

Title VI prohibits conduct that has a disproportionate effect on LEP persons because such conduct constitutes national-origin discrimination.

- Lau v Nichols, 1974

Executive Order 13166

- Promulgated by Clinton Administration August 2000
 - Reaffirmed by Bush Administration, August 2003
 - What does it do?
 - Federal agencies must provide meaningful access to LEP populations
 - Federal grant making agencies must publish Title VI guidelines
- 

LEP Building Blocks



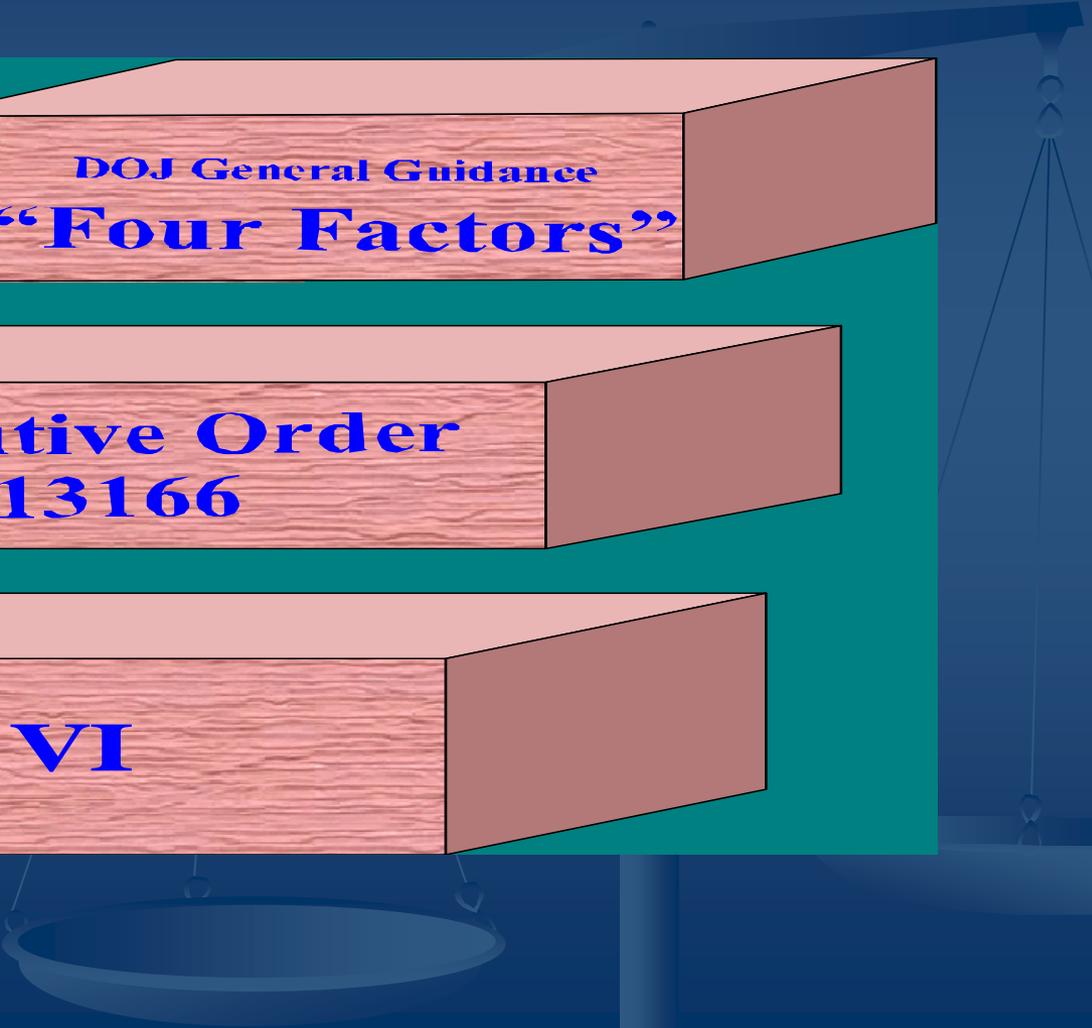
DOJ General Guidance
“Four Factors”



**Executive Order
13166**



Title VI



What Must Recipients Do?

- **Under Title VI and its implementing regulations, recipients must take reasonable steps to ensure meaningful access to their programs, activities and services for LEP persons.**

Who Is A Limited English Proficient (LEP) Person?

An LEP individual is a person who does not speak English as their primary language and who has a limited ability to read, write, speak or understand English.



Using the Four-Factor Analysis to Determine the Level of Response

- 1. Number or Proportion of LEP Persons Eligible to be Served or Likely to be Affected by the Program or Service***
- 2. Frequency of Contact***
- 3. Nature and Importance of the Program, Activity, or Service***
- 4. Costs and Resources Available***

Factor 1: Number of Persons

How many LEP persons are eligible to be served, or likely to be affected, by a recipient program or activity?

- **Potential sources of data may include:**
 - **encounter data**
 - **Data from Census, school systems, state and local government**
 - **community organizations**

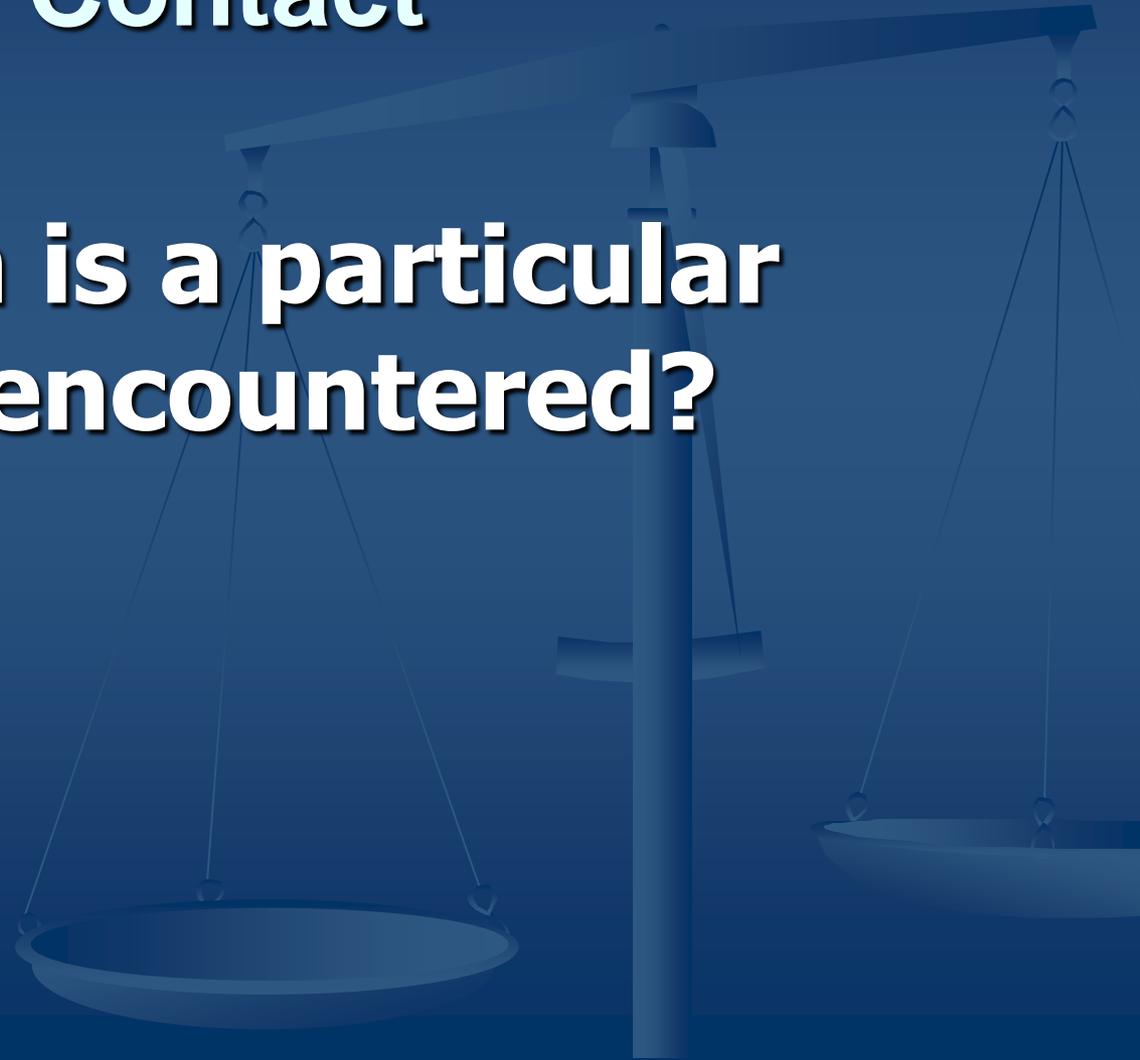
Factor 1: Number of Persons

Also consider:

- **Does the program serve minors whose parents/guardians are LEP?**
- **Are there populations who may be underserved because of language barriers ?**

Factor 2: Frequency of Contact

- How often is a particular language encountered?**

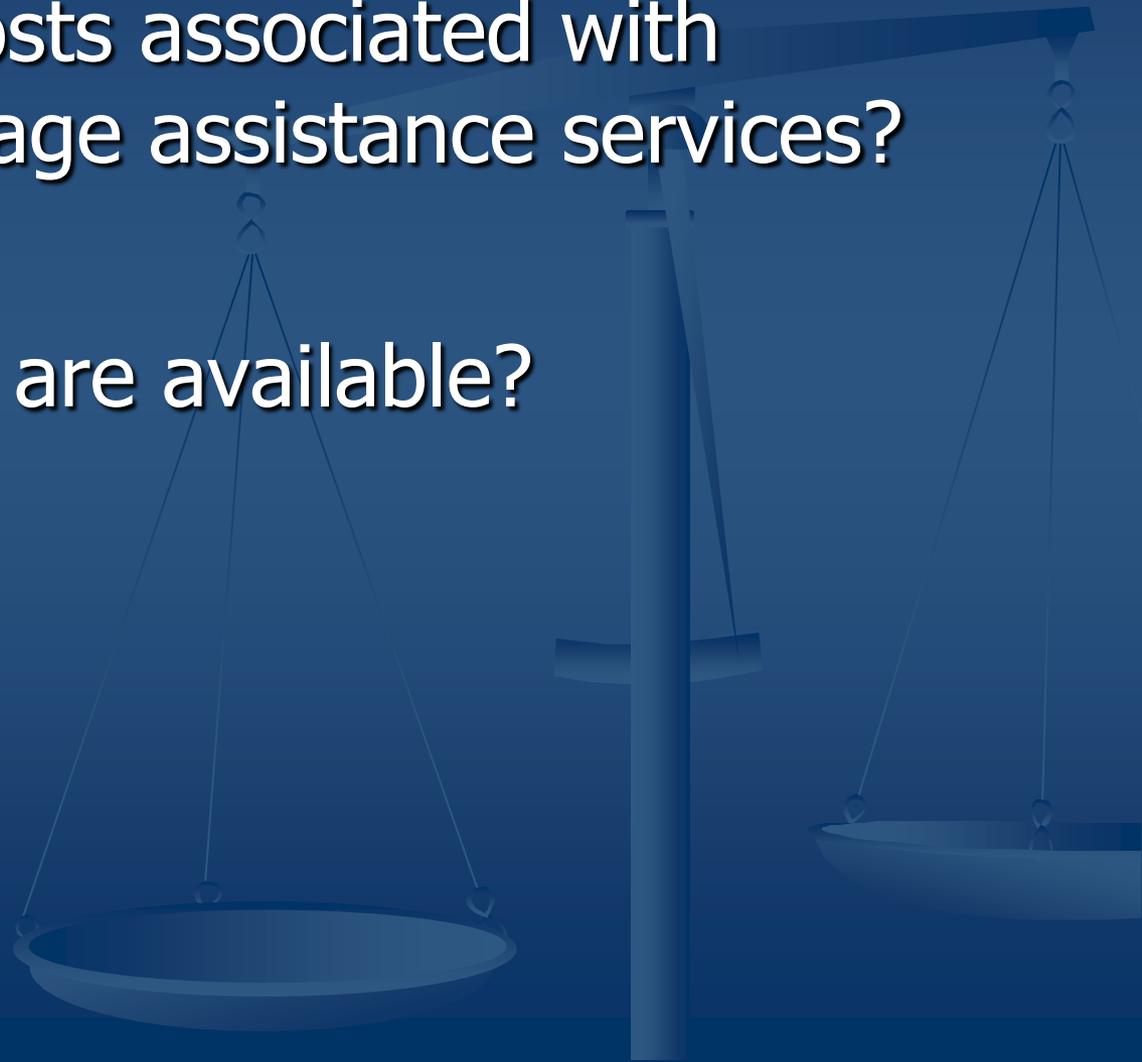


Factor 3: Nature and Importance of the Program, Activity, or Service

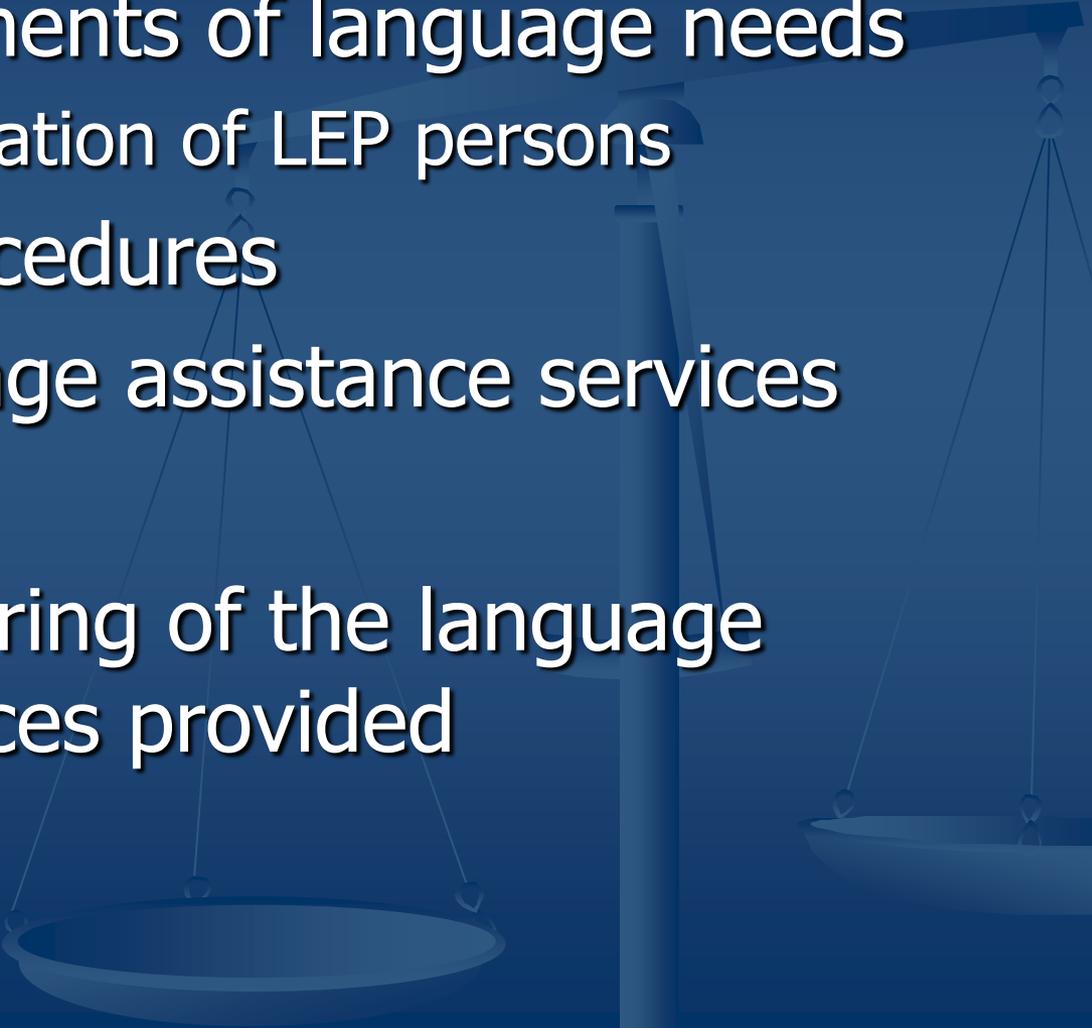
- How important is the recipient's activity, information, service, or program?**
- What are the possible consequences if effective communication is not achieved?**
- Could denial or delay of access to services or information have serious life-threatening implications?**

Factor 4: Cost and Resources

- What are the costs associated with providing language assistance services?
- What resources are available?



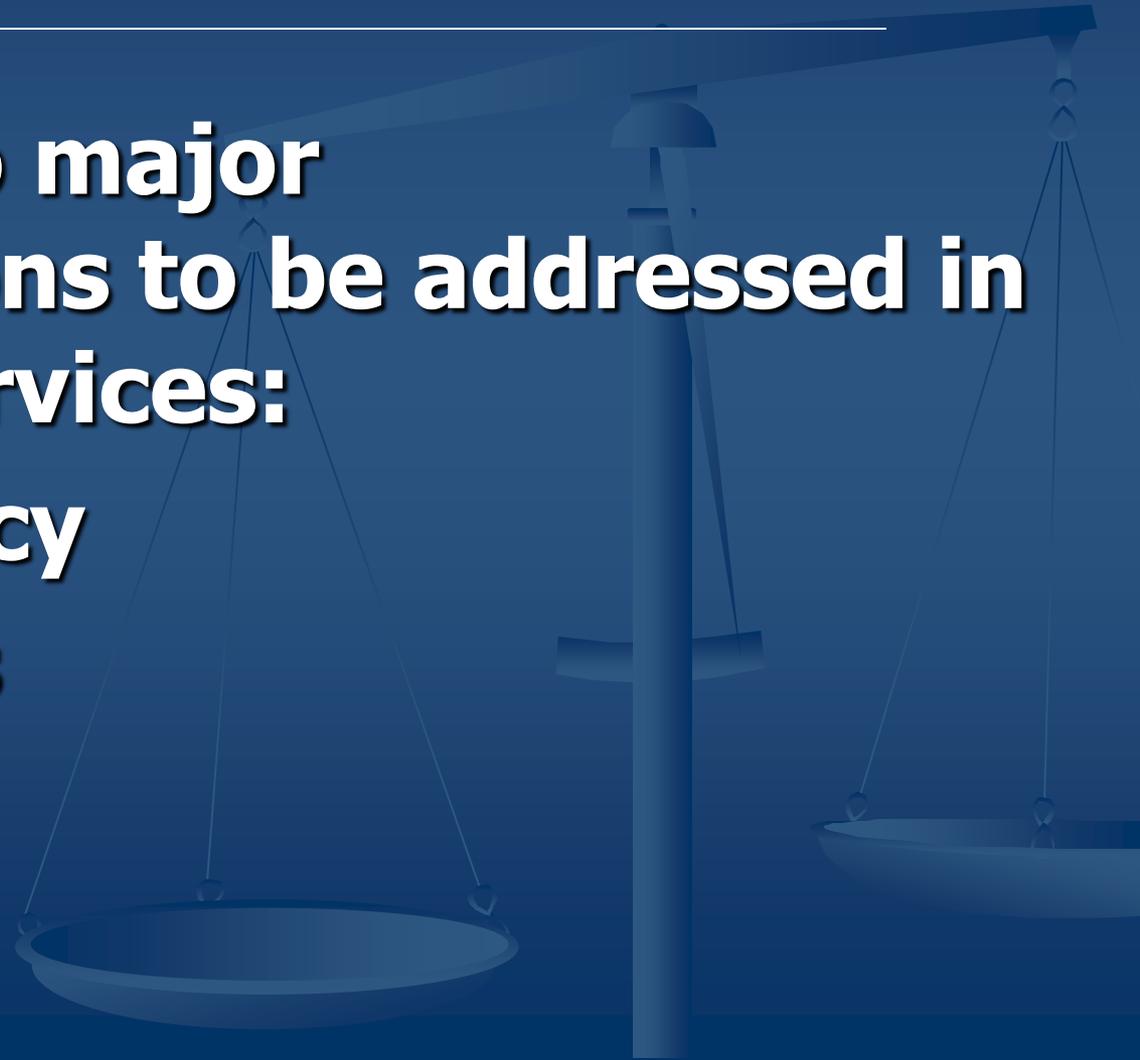
Language Assistance Program

- Regular assessments of language needs
 - Correct identification of LEP persons
 - Policies and Procedures
 - Notice of language assistance services
 - Staff training
 - Ongoing monitoring of the language assistance services provided
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Selecting Language Assistance Services

There are two major considerations to be addressed in selecting services:

- **Competency**
- **Timeliness**

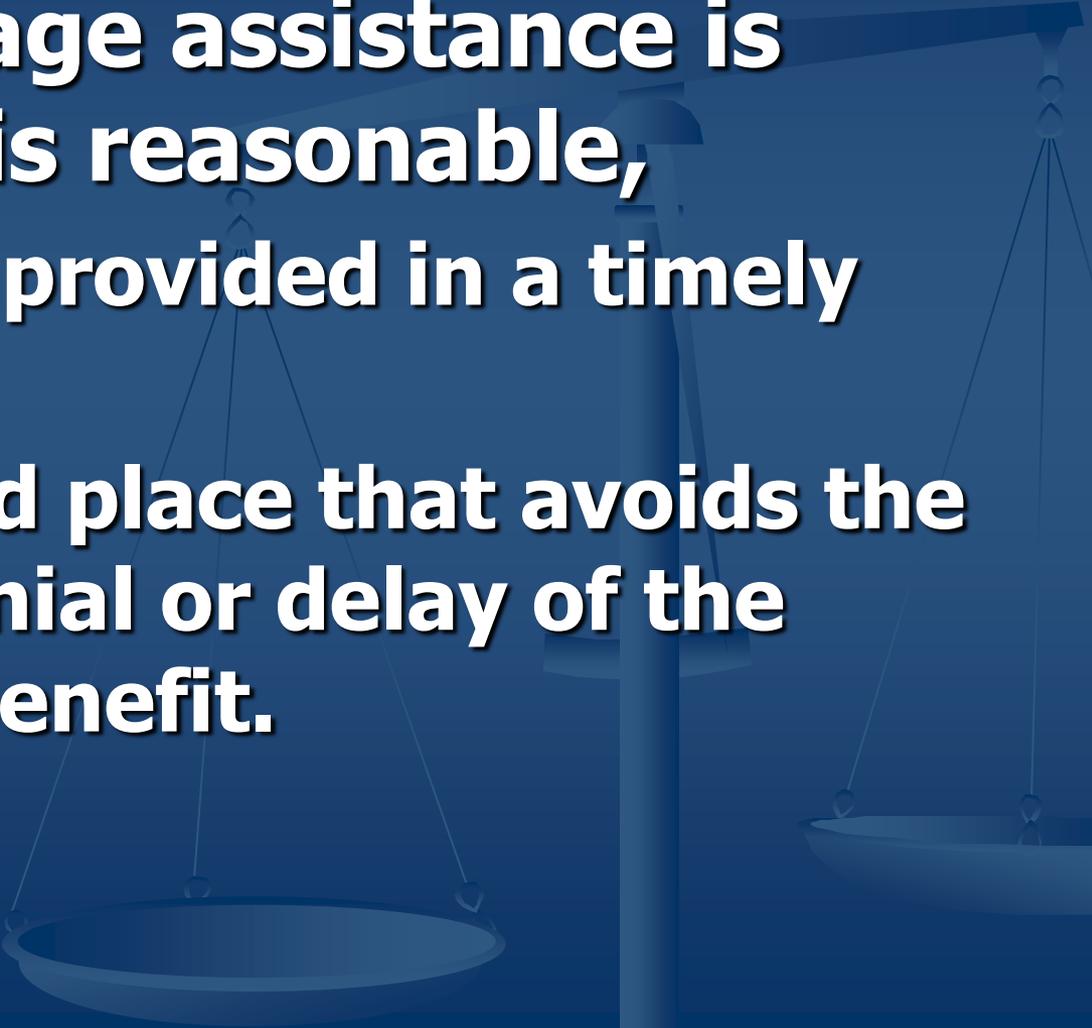


Interpreter Competency

The recipient should take reasonable steps to assess that the interpreter is able to:

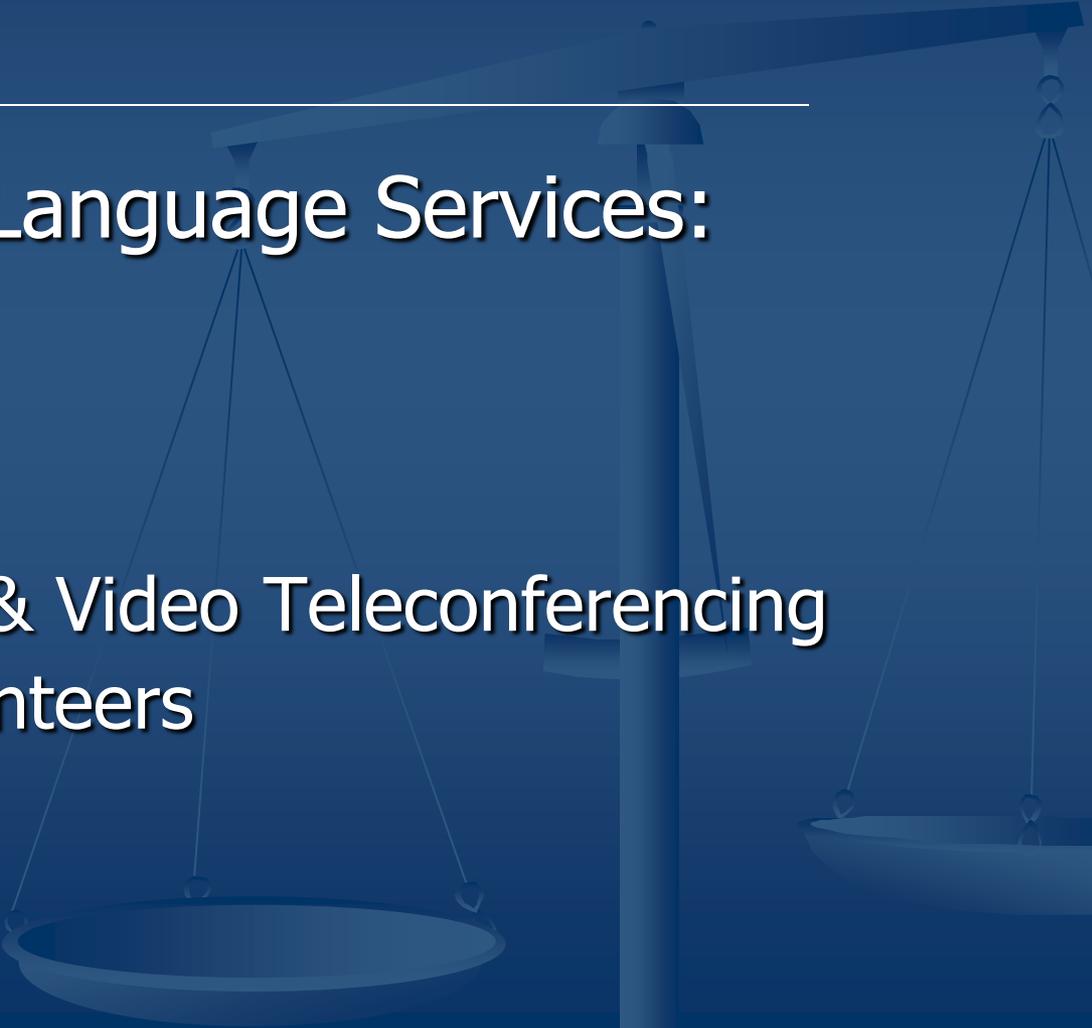
- **Demonstrate proficiency in both English and in the other language**
- **Demonstrate knowledge of specialized terms or concepts**
- **Demonstrate an understanding of the need for confidentiality and impartiality**
- **Understand the role of interpreter**

Timeliness

- **When language assistance is needed and is reasonable,**
 - **it should be provided in a timely manner**
 - **at a time and place that avoids the effective denial or delay of the service, or benefit.**
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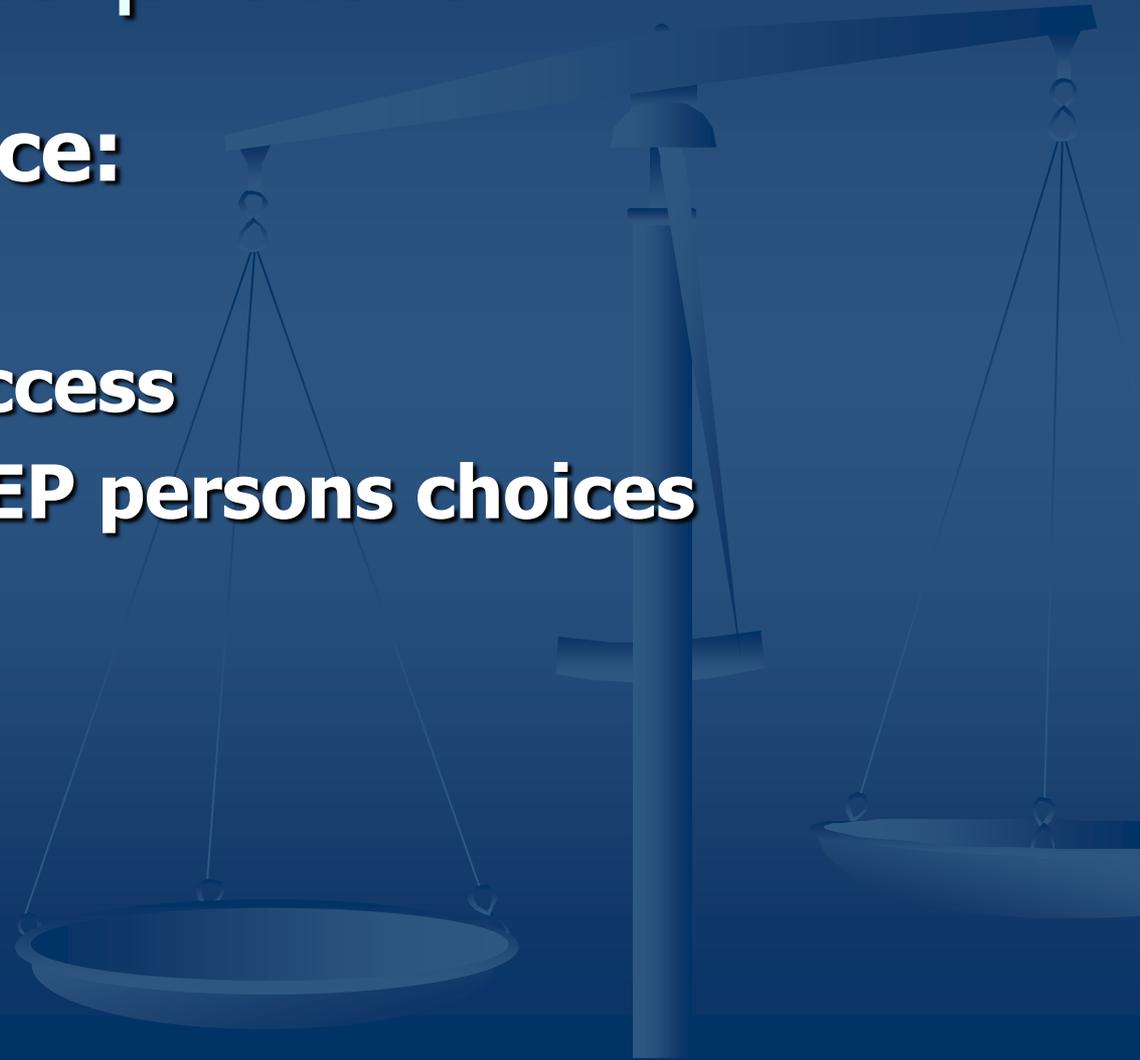
Selecting Language Assistance Services

Options for Oral Language Services:

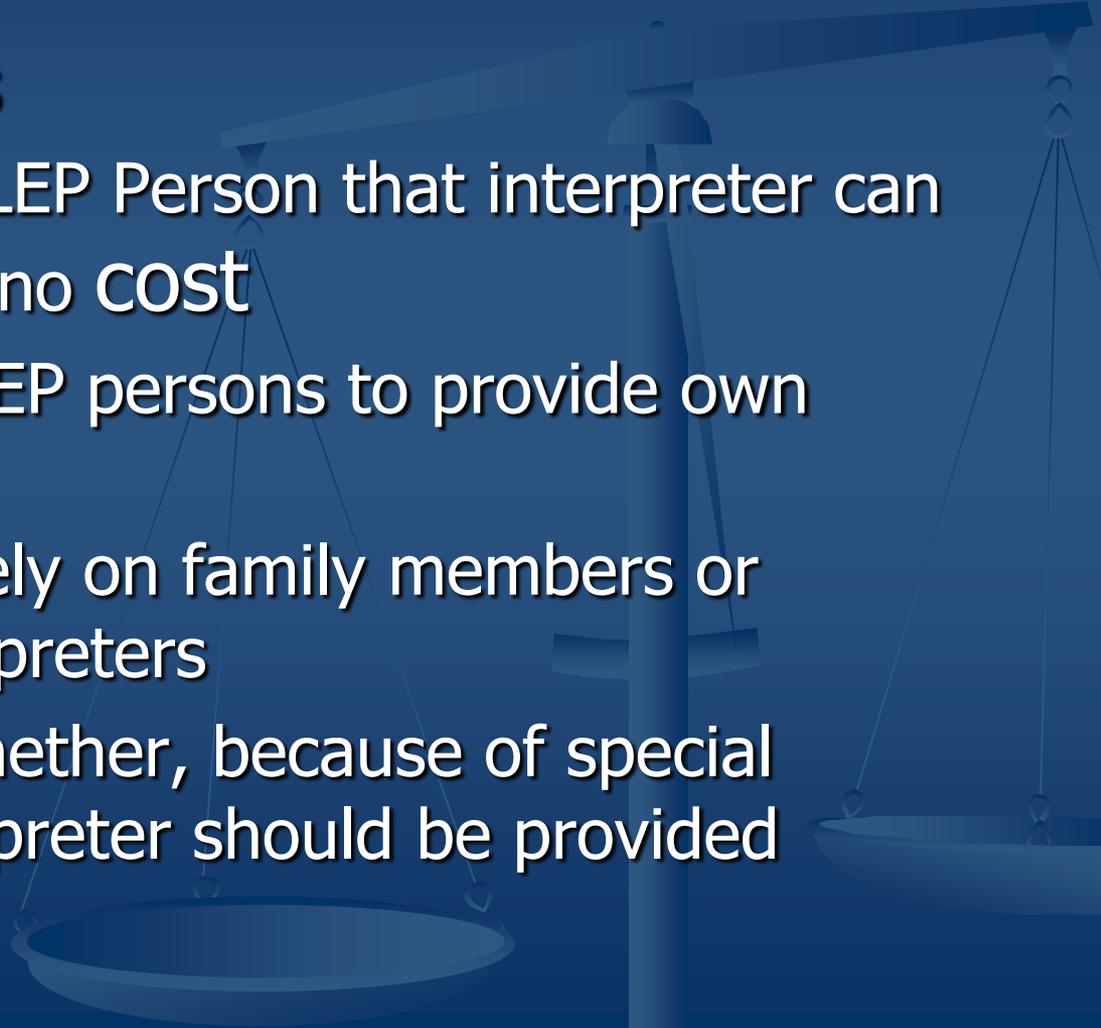
- Bilingual Staff
 - Staff Interpreters
 - Contractors
 - Telephone Lines & Video Teleconferencing
 - Community Volunteers
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Family Members or Friends as Interpreters

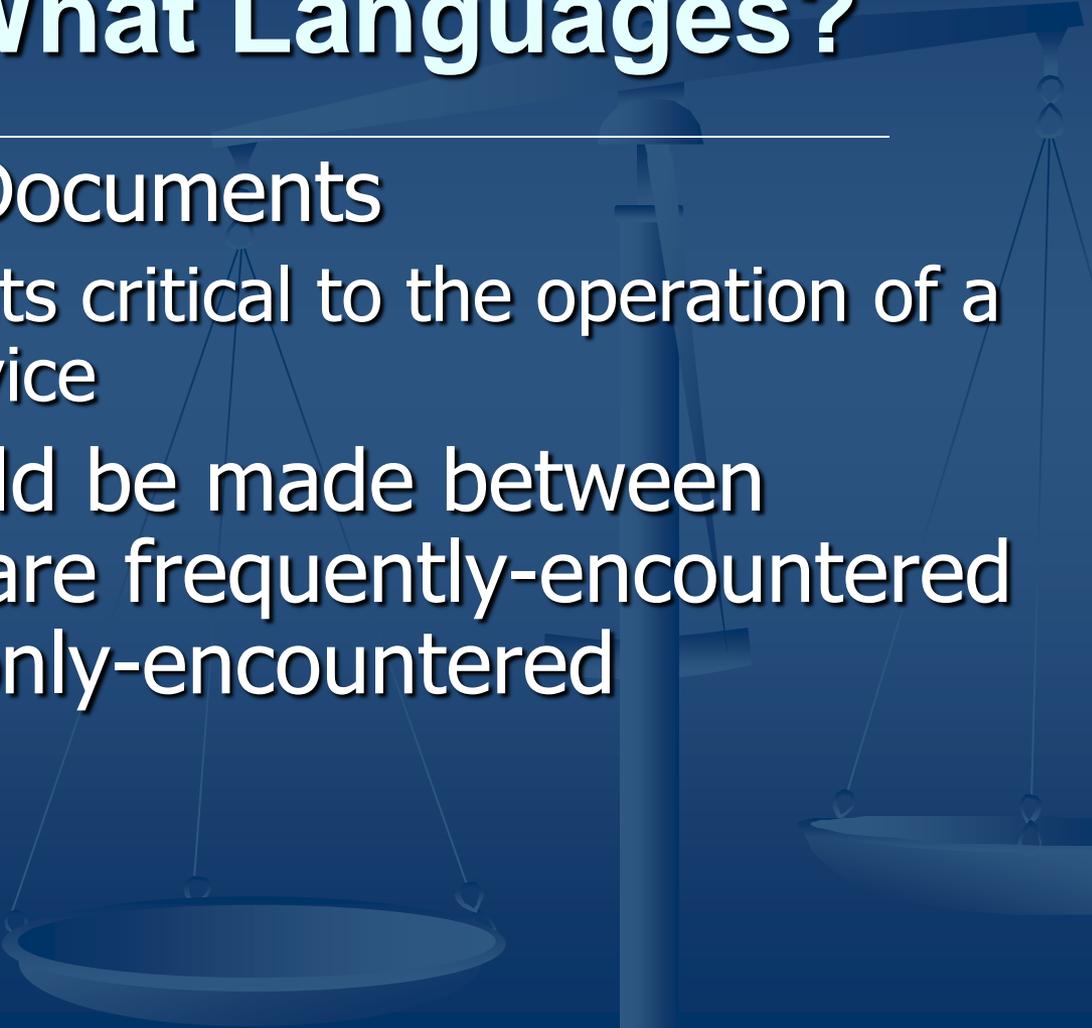
- **Strike a balance:**
 - **Meaningful access**
 - **Respect for LEP persons choices**



Use of Family Members or Friends

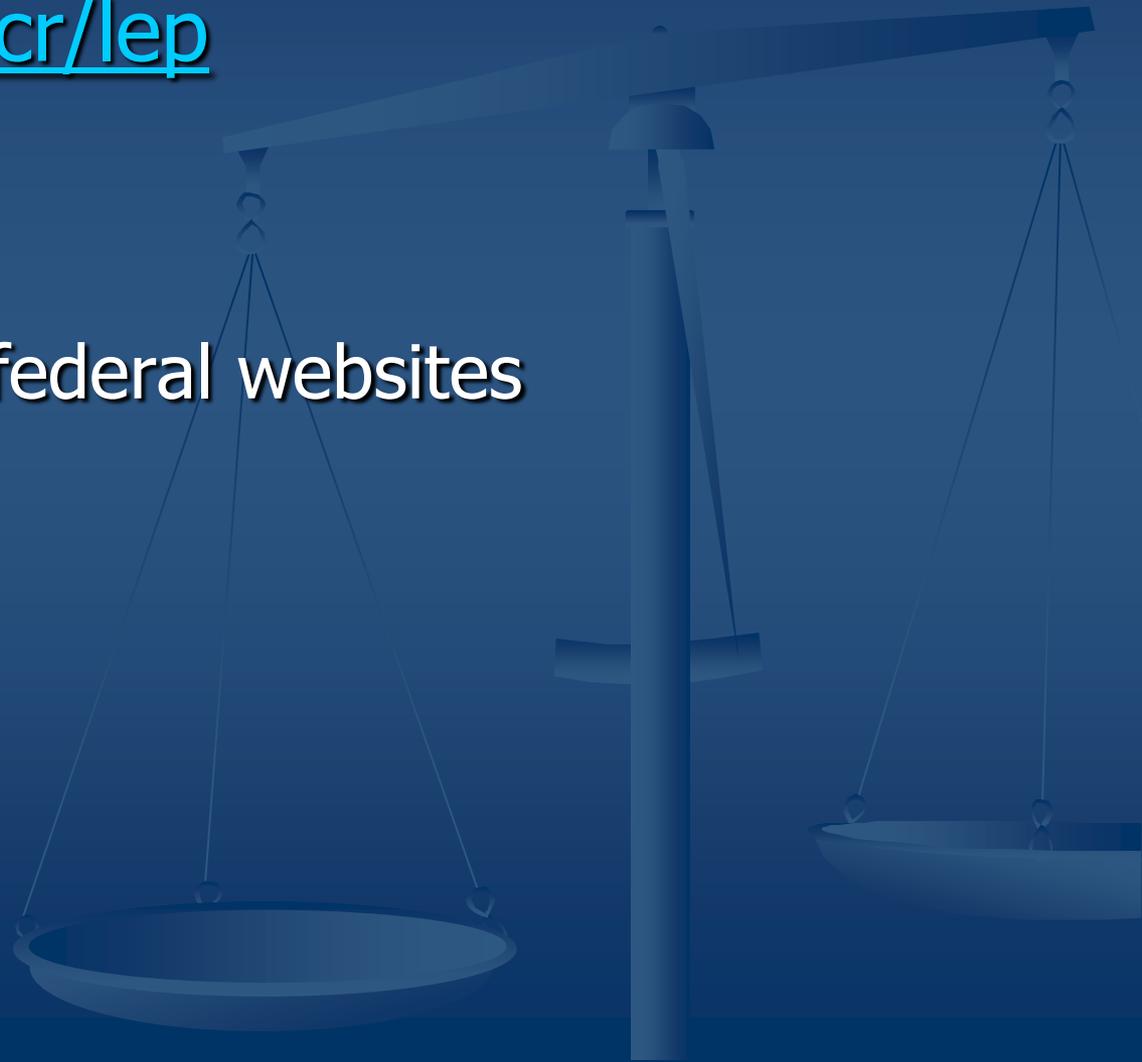
- Do's and Don'ts
 - Do inform the LEP Person that interpreter can be provided at no cost
 - Don't require LEP persons to provide own interpreter
 - Don't plan to rely on family members or friends as interpreters
 - Do evaluate whether, because of special concerns, interpreter should be provided
- 

Written Translations: What Should be Translated... and Into What Languages?

- Translate Vital Documents
 - Those documents critical to the operation of a program or service
 - Distinction should be made between languages that are frequently-encountered and less commonly-encountered languages
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Some Resources

- www.hhs.gov/ocr/lep
 - OCR website
- www.lep.gov
 - Portal to other federal websites



Contact Information

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