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March 28, 2022

The Honorable Joseph R. Biden
President of the United States
The White House
1600 Pennsylvania Ave NW
Washington D.C. 20500

Dear President Biden,

On behalf of the National Council of Asian Pacific Americans (NCAPA), a coalition of 38 national nonprofit organizations working to represent millions of Asian Americans and Native Hawaiians and Pacific Islanders (AA and NHPIs), we write to share our recommendations and principles to revamp the federal government's effort to provide language access. Your administration set forward commitments during its very first week by issuing Executive Order 13985[1] on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government and a Presidential Memorandum Condemning and Combating Racism, Xenophobia, and Intolerance Against Asian Americans and Pacific Islanders in the United States. We also appreciate the issuance of Executive Order 14031[2] on Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders, which establishes the White House Initiative on Asian American, Native Hawaiian, and Pacific Islanders (WHIAANHPI) and directs the establishment of a President's Advisory Commission on Asian Americans, Native Hawaiians, and Pacific Islanders (Commission) within the Department of Health & Human Services (HHS) to provide advice to the President on "policies and practices to improve language access services to ensure AA and NHPI communities can access Federal programs and services." In addition, it directs the establishment of a federal Interagency Working Group (IWG) as part of WHIAANHPI tasked to advance equity, justice, and opportunity for AA and NHPI communities, including ending language access and other barriers faced by AA and NHPI communities in accessing government benefits and services.[3] Such executive actions under your leadership have provided a vehicle for us to move forward on long-standing issues such as language access and data disaggregation. As our communities continue on the challenging road to healing and recovery, we are eager to see continued progress in providing increased access to the government for all communities.

[1] https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government

[2] https://www.whitehouse.gov/briefing-room/presidential-actions/2021/05/28/executive-order-on-advancing-equity-justice-and-opportunity-for-asian-americans-native-hawaiians-and-pacific-islanders/

[3] https://www.hhs.gov/about/whiaanhpi/interagency-working-group/index.html

As of 2019, 25 million limited English proficient (LEP) people live in the United States;[4] and almost three quarters of AA and NHPIs speak a language other than English at home, 31 percent reporting speaking English as less than "very well."[5] As the country strives to improve access to the federal government and its services for all, particularly LEP, disabled, low-income, immigrant, and other historically excluded communities during a global pandemic, bold policies that build accessibility infrastructure into the future are crucial now more than ever.

Members of Congress from both chambers have shown support behind improving federal language access– in August 2021, Rep. Matsui and other House members sent a letter to the Department of Justice (DOJ) to improve federal Language Access Plans (LAP), including periodic reevaluation of federal agencies' language access policies.[6] And in February 2022, Sen. Ossoff and 19 other Senators sent a similar letter to the DOJ requesting the department to issue a "memorandum directing all federal agencies to submit updated Language Access Plans to the Federal Coordination and Compliance Section of the DOJ within a year,"[7] including plans to improve online accessibility for LEP individuals.
We hope to see further announcements on the work of the Commission and IWG within the WHIAANHPI, as the establishment of the language access coordinator[8] and other workflows laid out by the DOJ and other agencies.

LEP communities are integral to the fabric of America and deserve culturally relevant and equitable language services to meaningfully access the federal government. We ask that you consider the following recommendations as your administration develops an updated, whole-of-government strategy aimed at strengthening language access for LEP communities. We offer three general principles that we believe should inform your approach, and then provide specific recommendations towards this end.

The Federal Government Must Make Language Services Available to LEP Individuals in an Equitable Fashion.

- *Provide language access equitably:* the federal government should strive to provide translation, interpretation, and other language services in, at a minimum, Spanish, Arabic, Cambodian, Chinese, Haitian Creole, French, Hindi, Hmong, Italian, Japanese, Korean, Laotian, Russian, Tagalog, Urdu, Vietnamese, Greek, Polish, Thai, and Portuguese. The more commonly spoken languages should be covered, and the language needs of a community should take into account factors such as the population size, LEP rate, and whether a particular language community has

[4] 2019 American Community Survey (ACS)
[5] Ibid.
[6] https://matsui.house.gov/media/press-releases/matsui-and-colleagues-lead-effort-expand-and-improve-language-assistance
[7] https://www.ossoff.senate.gov/wp-content/uploads/2022/02/22.02.10_Letter-to-DOJ-on-Language-Access_Signed1.pdf
[8] https://www.justice.gov/opa/speech/attorney-general-merrick-b-garland-gives-remarks-civil-rights-division-s-virtual

been historically underserved or disproportionately impacted. Geographies used in making these determinations should be localized to the fullest extent possible, lest smaller communities that still reach a critical mass in their area not receive critical services because they don't hit a certain numerical threshold when looking at national, state, or even regional totals.

- *Ensure that essential announcements, common forms, and materials by the federal government are provided, in a timely way*: in written languages and American Sign Language (ASL), and in alternative formats such as large font print, electronic formats, Braille, fully accessible websites, and captioned and ASL videos for public facing videos and print materials. We urge the administration to require all government entities to make their websites accessible in the 20 languages listed above.
- *Implement a standardized interface for all digital services provided by federal agencies:* in general, federal agency websites have varying user interface (UI) for LEP persons—it can therefore be confusing for many LEP users accessing government-run digital services, provided they have access to the internet. The federal government should provide binding, enforceable guidelines for federal agencies to update their UI, taking recommendations from the recently published guide to Improve Access to Website and Digital Services for LEP Individuals.[9]
- *Provide wrap-around services beyond translations*: interpretation services and other services are critical in providing meaningful and equitable access to government information. Since certain languages are oral rather than written, a high percentage of such LEP speakers will likely be unable to read translated documents or written instructions since it is only recently that such languages have been converted to a written form. Additionally, this is essential to bridge the digital divide that separates rural, low income, and elderly populations who may not have access to or are uncomfortable with written and digital materials. The federal government should therefore ensure that language services, interpretations in particular, be provided beyond translated materials alone.
- *Provide live language assistance through multilingual staff or interpreters for languages not yet covered or available:* many agencies already have been publicizing telephone numbers for language support to assist LEP individuals. These services have been essential to informing LEP individuals of their rights and given them greater access to government services and information. Live language assistance should include rapid rates of connection to interpreters via telephone, video, or electronically.
- *Collect language access data:* In certain instances, government agencies directed to provide language access should also be directed to collect preferred language in addition to disaggregating by race/ethnicity without compromising identifiable data on LEP individuals.

The Federal Government Needs to Build In-House Language Capacity

- *Commit each government agency to allocating resources to overhaul their language access services:* following the commitment by Attorney General Merrick Garland, each government

[9] https://www.lep.gov/sites/lep/files/media/document/2021-12/2021_12_07_Website_Language_Access_Guide_508.pdf

agency should commit to increasing their own internal language access capacity, including establishing Language Access Coordinators that supplement the work of their respective civil rights departments. Language access should be considered regular business for federal agencies, and allocation of proper resources for meaningful access by each department is overdue. We recognize the considerable investments that may be needed to overhaul government-wide language access services but doing so must not take away resources from the civil rights departments tasked to provide language access services and oversight.

- *Require all government agencies to regularly monitor, review, and update their LAPs to ensure LEP communities have meaningful access to government services and information*: the Department of Justice, for example, has not updated its guidance on language access since early 2012.[10] All federal agencies should internally develop a plan to update their own LAPs, while coordinating with other agencies to ensure quality and consistency of language services. To accommodate rapidly changing communications needs, all agency LAPs should be reevaluated and updated, within the next year, and at a minimum every five years thereafter.
- *Ensure quality assurance:* translated materials should undergo quality and accuracy assessment processes. Language access personnel including bilingual or multilingual staff and interpreters should receive adequate training and certification. Public complaint forms should be available in multiple formats to provide further public oversight over the quality of translations, interpretations, and other language services.
- *Provide access and assistance through bilingual staff or professional interpreters where necessary:* government agencies should develop or strengthen internal capacity to provide translation and interpretation services. In cases where no bilingual staff member is available to provide services, agencies should contract with trusted third-party vendors with a history of providing language access services in the language(s) the agency needs.

The Federal Government Must Have a Community Engagement Plan for Working Directly with Underserved and Impacted Communities

- *Integrate the consideration of language access needs into daily government operations:* the federal government should ensure that the needs of LEP communities are incorporated into the planning, development, and execution of all government actions and grants programs and not as afterthought.
- *Dedicate resources for public outreach on federal language access*: while we acknowledge that certain languages may not be covered by any given formula or standard, a strong public outreach program to notify the public of the federal government's obligation to make information available in a language they can understand should similarly be a part of the planning and not an afterthought.
- *Federal-local coordination:* the administration should direct the local offices of federal agencies to coordinate with state, local, territorial, Tribal governments, and other local counterparts to provide language access according to the languages identified by Census data. The Census data

[10] https://www.justice.gov/sites/default/files/open/legacy/2012/05/07/language-access-plan.pdf

should inform federal agencies on how they can best localize their outreach efforts according to the state and locality.

- *Incorporate language access as a regular part of agency outreach:* it is important that federal agencies, contractors, and grantees engage in outreach to LEP communities and notify clients or constituents about the availability of language support, translated materials, including websites and other digital services, as a matter of regular business.

Recommended Further Action to Strengthen Language Access Through Congressional Action

- *Work with Congress to codify Executive Order 13166 into law:* to make the Executive Order applicable and enforceable with all appropriate federal agencies and commissions and strengthen enforcement of Executive Order 13166.
- *Amend the Court Interpreters Act of 1978:* to provide an interpreter in all cases in federal courts and expand the scenarios in which courts and agencies are required to provide interpreters and provide adequate funding for this mandate.
- *Support legislation that supports community-based organizations (CBOs):* many CBOs undertake the work of fulfilling unmet language access needs in frontline communities. Legislation that provides reimbursement for additional costs that organizations take on to provide language services for government programs and services (including health care access and delivery, service registration, etc.) is necessary to support their operations. Additionally, many CBOs are contracted by federal agencies to provide direct assistance to communities, and the government should support the language access services these organizations may provide.

Conclusion

Access to government has been a persistent issue for communities of color and other marginalized communities. Language access in government services, in particular, has been a greater challenge for AA and NHPI individuals due to the relatively smaller population and the cultural and linguistic diversity within the community. However, providing adequate access to the government to those that previously lacked access requires courage and commitment to the people, which we know your administration has. We commend your leadership thus far in responding to the COVID-19 pandemic, and myriad of other challenges we face and urge your administration to further commit its efforts towards advancing racial, social, economic, health, and immigration justice in the coming fiscal year. We look forward to continuing our work together to advance the well-being of AA and NHPI communities. Thank you for your consideration.

Sincerely,

The National Council of Asian Pacific Americans