

Limited English Proficiency Plan



March 2017



**Binghamton Metropolitan
Transportation Study**

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Approved by BMTS Policy Committee on March 9th, 2017

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**BINGHAMTON METROPOLITAN TRANSPORTATION STUDY
POLICY COMMITTEE
RESOLUTION 2017-04**

Resolution approving the BMTS Limited English Proficiency Plan as revised.

WHEREAS the Binghamton Metropolitan Transportation Study Policy Committee has been designated by the Governor of the State of New York as the Metropolitan Planning Organization responsible, together with the State, for the comprehensive, continuing, and cooperative transportation planning process for the Binghamton Urban Area, and

WHEREAS Executive Order 13166, entitled "Improving Access to Services by Persons with Limited English Proficiency" was issued on August 11, 2000, and instructed Federal agencies to develop means to comply, and

WHEREAS the United States Department of Transportation issued "Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient (LEP) Persons" for all recipients and sub-recipients of DOT funds, and

WHEREAS the Binghamton Metropolitan Transportation Study is committed to a policy of non-discrimination on the basis of race, color, or national origin, as specified in Title VI of the Civil Rights Act of 1964, and

WHEREAS BMTS staff has updated the original plan that was adopted in 2011 to reflect updated US Census data, and

WHEREAS the BMTS Policy Committee has created a Planning Committee of technical representatives to advise it on matters concerning the implementation of the urban transportation planning process, and

WHEREAS the BMTS Planning Committee on February 23rd, 2017 has approved by consensus a resolution recommending approval of the Draft BMTS Limited English Proficiency Plan as revised, and

NOW THEREFORE BE IT RESOLVED that the BMTS Policy Committee approves the BMTS Limited English Proficiency Plan, to be dated for reference March 2017.

CERTIFICATION OF RESOLUTION 2017-04

I, the undersigned, duly elected Chair of the Binghamton Metropolitan Transportation Study Policy Committee, do hereby certify that the foregoing is a true and correct copy of BMTS Policy Committee Resolution 2017-04, adopted by consensus this 9th day of March, 2017.


Michael Marinaccio, Chair
BMTS Policy Committee


Date

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Introduction & Federal LEP Requirements

The Binghamton Metropolitan Transportation Study (BMTS) is the Metropolitan Planning Organization (MPO) responsible for continual, cooperative, and comprehensive transportation planning in the Binghamton urban area. BMTS plans for the use of federal and state dollars spent on transportation projects and programs. The Limited English Proficiency (LEP) Plan is a part of this planning process. This LEP plan will serve as a guide for BMTS staff to identify reasonable procedures in providing language assistance during the transportation planning process. It will detail procedures on how to identify persons who may need language assistance, the way in which assistance may be provided, and how to notify LEP persons that assistance is available.

LEP plans are required of MPOs as a result of several legislative actions. On August 11, 2000, President William J. Clinton issued Executive Order 13166, *Improving Access to Services by Persons with Limited English Proficiency*. The order's purpose was to build upon Title VI of the Civil Rights Act of 1964, in which it is declared that no person shall be subjected to discrimination on the basis of race, color or national origin. The order states that differing treatment based on a person's ability to speak, read, or write English may be considered to be discrimination. This applies to any agency receiving federal funds and requires such agencies to develop and implement a system through which LEP people can meaningfully access services.

In accordance with the Executive Order, the U.S. Department of Transportation (DOT) published *Policy Guidance Concerning Recipient's Responsibilities to Limited English Proficient (LEP) Persons* in 2005. The publication explicitly identifies MPOs as organizations that must follow this guidance. BMTS's LEP Plan will be evaluated by the Federal Highway Administration and the Federal Transit Administration as a part of the MPO's regular federal certification review. LEP plans must be found to be consistent with Title VI of the Civil Rights Act of 1964 and Executive Order 13166. Below is a summary of these laws and policies as they relate to this plan.

Table 1: Summary of LEP Law and Policy

Title VI of the Civil Rights Act of 1964	LEP Executive Order 13166 of 2000
Federal Law	Federal Policy
Enacted in 1964	Enacted in August 2000
Considers all persons	Considers eligible population
Contains monitoring and oversight compliance review requirements	Contains monitoring and oversight compliance review requirements
Factor criteria is required, no numerical or percentage thresholds	Factor criteria is required, no numerical or percentage thresholds
Provides protection on the basis of race, color, and national origin	Provides protection on the basis of national origin
Focuses on eliminating discrimination in federally funded programs	Focuses on providing LEP persons with meaningful access to services using the four factor criteria

In addition to being federally mandated, LEP plans are good planning practice for encouraging inclusive planning. As expressed in BMTS's [Public Participation Plan](http://bmtsonline.com/reportsanddocuments) (bmtsonline.com/reportsanddocuments), public involvement is essential for informing transportation planning and programming decisions. Excluding people on the basis of their ability to communicate in English would undermine the Public Participation Plan.

Who is Limited English Proficient?

A limited English proficient (LEP) person is defined by the U.S. Census Bureau as an individual who speaks a language at home other than English, and who doesn't understand English well or at all.

Determining the Need: 4-Factor Analysis

A four-factor analysis process has been established by LEP policy guidance to help MPOs determine the reasonable level of LEP services to be provided. The four factors are listed below.

1. The number and proportion of LEP persons in the MPO planning area
2. The frequency with which LEP persons may come in contact with MPO services
3. The nature and importance of services provided by the MPO to LEP populations
4. The available resources and the cost associated with providing LEP access

BMTS LEP Analysis

LEP policy guidance gives recipients of federal funds the ability to determine what language assistance is appropriate through the four-factor analysis. The following is an assessment of need for LEP assistance in the Binghamton urban area using the four-factor analysis. It is this evaluation that is used to determine how BMTS programs and services should accommodate LEP persons.

Factor 1: The number and proportion of LEP persons in the MPO service area

The first factor of the LEP analysis involves collecting demographic data on LEP persons in the BMTS planning area. This includes the numbers and proportions of LEP persons that are eligible to be served, likely to be served, or likely to be encountered by the MPO through participation in the transportation planning process. Data was collected from Broome and Tioga County. Data was collected for the Binghamton urban area as well; however, it is less helpful for the development of this plan since it does not encompass the entire BMTS planning area. BMTS's plans and activities impact the entire Broome-Tioga County region and as such, the county data is most representative of the planning area's demographics. Urban area data remains helpful for providing a comparison between county-wide and urban LEP populations.

MPO staff used data from the 2015 American Community Survey 5-Year Estimates from the U.S. Census Bureau for this analysis. As mentioned previously, people who speak a language other than English at home and don't speak English well or at all are considered to be a LEP person. In Broome County there are 2,079 LEP persons, comprising 1.11% of the total county population. Tioga County has 185 LEP persons, or .39% of the county's total population. Combined, the BMTS planning area's LEP population comprises .96% of the total population. Comparatively, the LEP population in Binghamton urban area makes up 1.28% of the area's total population. Table 1 shows a detailed breakdown of LEP numbers and proportions by major language categories for both counties as well as the urban area.

Table 2: LEP Persons Numbers and Proportions by Language Category 2015

Geography	Population 5 Years & Older	All LEP Persons		Spanish LEP Persons		Other Indo- European LEP Persons		Asian and Pacific Island LEP Persons		Other Languages LEP Persons	
	Total	Total	Percent	Total	Percent	Total	Percent	Total	Percent	Total	Percent
Broome County	187,978	2,079	1.11%	453	0.24%	786	0.42%	723	0.38%	117	0.06%
Tioga County	47,566	185	0.39%	100	0.21%	42	0.09%	33	0.07%	10	0.02%
Binghamton Urban Area	148,235	1,901	1.28%	422	0.28%	629	0.42%	723	0.49%	127	0.09%

Factor 2: The frequency in which LEP persons come in contact with MPO services

As there is a small percentage of LEP persons in the BMTS planning area, the frequency in which LEP persons come into contact with BMTS is low. To date, BMTS has not received any formal requests by LEP individuals for language translation of any document or any requests for an interpreter at any public activity. In the coming years, the LEP population in the area may increase as the United States continues to become more diverse, and as a result, the probability of contact with BMTS may increase.

Factor 3: The nature and importance of services provided to LEP populations

Transportation is an important part of life for everyone, including LEP persons. However, BMTS uses federal funds to plan transportation projects, and thus does not provide any direct transportation service or program, such as medical transportation or transportation services for basic needs. This is not to say that the implications of investment priorities and planning decisions by BMTS are unimportant, but rather they are less direct and immediate. In other words, while the services and programs provided by BMTS are significant, their nature does not share the same importance of LEP persons' everyday transportation needs. This lesser importance is an indicator that there is less need for language assistance compared to other transportation agencies. A public transit agency, for example, would have a larger need to provide language assistance since it provides an actual transportation service.

It is recognized that some LEP persons may also be a part of groups or minorities who are typically underserved or underrepresented in transportation. The consideration of the impact of proposed transportation investments on underserved and underrepresented groups is part of BMTS's planning process. Through the methods employed in BMTS's Public Participation Plan, it is ensured that everyone, including LEP populations, are included in the transportation planning process. The Public Participation Plan is considered a part of this plan by its mention.

Factor 4: The available resources and the cost associated with providing LEP access

Given the small size of the LEP population in the BMTS planning area and current financial constraints, full translations of large transportation plan documents and maps are not warranted. Furthermore, the composition of the LEP population is diverse, meaning there is not one single language spoken by LEP persons, but many. The cost of translating documents into each language spoken by MPO area residents would be very costly and outweigh any collective benefit that would be achieved. However, continued monitoring of the growth of the area's LEP populations ensures that BMTS will be aware if LEP populations grow to the point where translation is warranted or necessary.

Meeting the Requirements and Implementation

Safe Harbor Stipulation

Federal law provides a “safe harbor” stipulation so recipients of federal funding can ensure compliance with their obligation to provide written translations in languages other than English with greater certainty. “Safe harbor” indicates that an MPO does not necessarily need to provide written translations of documents under certain specified circumstances. Under these circumstances, such inaction will still be considered compliant with translation obligations under Title VI. Thus, failure to provide written translations does not signify noncompliance, but rather provides BMTS with a guide for greater certainty of compliance in accordance with the four factor analysis.

Compliance with written translation obligations under “safe harbor” includes providing written translations of vital documents for each LEP language group that constitutes 5% of the population or 1,000 persons, whichever is less, of eligible persons served or likely to be impacted by services. As detailed on page 3, no language group meets this threshold in the BMTS planning area. Thus, BMTS currently has no obligation to provide document translation, although the MPO can decide to do so anyway on certain occasions. The “safe harbor” provision applies to the translation of written documents only. It does not affect the requirement to provide meaningful access for LEP individuals through competent oral interpreters where oral language services are needed and reasonable to provide.

The rest of this section details methods through which BMTS plans to meet federal requirements for providing language assistance to LEP persons.

Providing notice to LEP Persons

US DOT guidance indicates that once an agency has decided, based on the four factor analysis, to provide language services, it is important that they notify LEP persons of language services available free of charge in a language they will understand.

The following are methods BMTS may choose to use to notify LEP persons of services.

- **Public Notice Statement:** Public notices for BMTS meetings or events can include information for LEP persons who need language assistance in their native language. While it’s not realistic to include this statement in all languages, the most popular languages can be included. In the BMTS planning area, the most dominant LEP language is Spanish. The following is an example of a LEP statement that can be included in both English and Spanish on public notices.

Persons who require translation services (free of charge) should contact BMTS at 607-778-2443 or bmts@co.broome.ny.us at least five days prior to the meeting.

Personas que requieren servicios de traducción (libre de cargo) deben comunicarse con BMTS al 607-778-2443 o bmts@co.broome.ny.us al menos cinco días antes de la reunión.

- **Published Materials:** A statement identical or similar to the one above can be included in public distributions such as transportation plans, informational brochures, booklets, or other outreach materials. This serves to inform LEP persons about language services available from BMTS.
- **BMTS website:** The BMTS website states its commitment to make language services available upon request. This can be found in English and Spanish on the website's Contact and Resources pages.
- **Press Releases:** Press releases may be translated and distributed to local Hispanic, or other cultural, media outlets if they are available in the region. It is noted that these media outlets do not currently exist.
- **Partnering Activities:** Local community-based organizations are great places to share information about BMTS and the available language assistance services. One particularly helpful resource is the American Civic Association (ACA) located in Binghamton. The ACA provides volunteer translator and language interpreter services to the community, as well as acts as a liaison between the community, local agencies, and LEP people. Other local organizations, such as cultural groups, may also be helpful in translation services, but also are great for data dissemination between BMTS and LEP groups.
- **Signs and Flyers:** Signs advertising language assistance can be posted in key LEP languages at entry points to BMTS events/meetings. By doing this, LEP persons can understand how to access those services at initial points of contact.

Identifying LEP Persons

To the extent appropriate, BMTS will use the U.S. Census Bureau's *I Speak Flashcard* for the purpose of identifying LEP persons who come into contact with BMTS. As shown in the appendix, these cards say, "Mark this box if you read or speak [name of language]" in 38 different languages. The *I Speak Flashcard* will be made available at the sign-in area of public workshops/meetings and at the BMTS office. Once a language is identified, the BMTS staff will assess feasible translation or oral interpretation assistance for subsequent meetings or events.

Language Assistance Measures

Language assistance measures available from BMTS include translation in the written form as well as oral interpretation and communication. There are several ways which these measures may be obtained. The simplest method is using free online translation tools such as Google Translate. Technological tools such as this make it easy to communicate in other languages without expending many resources.

However, online translators may not be adequate for every language assistance request, so human translators and interpreters can also be employed. There are many certified linguistic professionals in the area who provide language translation or interpretation services for a fee. For many LEP persons, a family member who understands English can be used to translate. BMTS may also call on, as appropriate, the American Civic Association in Binghamton for translation and interpretation needs, as they have a longstanding reputation for offering volunteer language assistance to community members. Furthermore, there are many local ethnic neighborhood groups and

organizations who may be able to provide free language assistance when asked. Since financial constraints are likely to remain an issue for providing language assistance, these options which rely on volunteers or family members will be explored first.

When contacted by a LEP person who would like language assistance services, there are several measures to be taken depending on the method of contact. When responding to a LEP individual in-person, BMTS staff can utilize the *I Speak Flashcards* explained previously to gather in which language the individual needs assistance, then arrange for that assistance to be made as appropriate.

Written communication from a LEP person can be translated using online translation tools and responded to in the same fashion. Once it is understood what language services are needed, BMTS staff can accommodate them. Responding to LEP persons over the telephone can be challenging, yet is still possible. If a caller who does not speak English reaches out to BMTS in their native language, BMTS may not be equipped to immediately respond. Thus, staff can ask in simple English for the person to come to the office or email BMTS in order to have their request responded to appropriately in the means just discussed. If the caller is able to understand some English, accommodations can be discussed on the phone.

Federal LEP guidance encourages MPOs to ensure translator and interpreter competency, particularly when vital documents are being translated. Competence can often be achieved by the use of certified translators. However, certification or accreditation may not always be possible or necessary. Competence can often be ensured by having a second, independent translator check the work of the primary translator. Alternatively, one translator can translate the document, and a second independent translator could translate it back into English to check that the appropriate meaning has been conveyed. This is otherwise known as “back translation.” BMTS will decide when this is necessary on an individual basis.

Translation of Vital Documents

Federal guidance on defining vital documents is subjective. It is based on the importance of the document as it relates to LEP persons, the scope of the document, and the consequences of not properly informing LEP individuals of the document’s development. According to this guidance, BMTS has identified the following as vital documents:

- Long Range Transportation Plan
- Transportation Improvement Program
- Public Participation Plan
- Coordinated Transportation and Human Services Plan

Though they are vital, there is no requirement to translate these documents at this time. As mentioned previously, the Safe Harbor stipulation says that MPOs do not need to provide written translation of vital documents if there is a very small LEP population. The BMTS planning area has no particular language group that exceeds 1,000 people or 5% of the total population. If one of these benchmarks are reached, BMTS will translate

these vital documents into the corresponding languages. Otherwise, current resources constrain BMTS's ability to do so.

Dissemination of the Limited English Proficiency Plan

The BMTS Limited English Proficiency Plan is available on the BMTS [website](http://bmtsonline.com/reportsanddocuments) (bmtsonline.com/reportsanddocuments). Anyone with internet access can access it this way. For those without personal internet, the Limited English Proficiency Plan can be accessed from places that offer free internet access, such as a library. The document is also available in print at the BMTS office. Alternatively, any person or agency may request a copy of the plan at no cost via telephone, mail, or in person.

Staff Training

In order to establish meaningful access to information and services for LEP individuals, BMTS staff are trained on the following topics:

- Understanding the Limited English Proficiency (LEP) Plan
- What language assistance BMTS offers
- How to approach and assist individuals with LEP
- How to use the Census Bureau's *I Speak Flashcards*

Discrimination Complaint Procedures

BMTS does not intend to exclude anyone requiring language assistance and will always perform its due diligence to accommodate language assistance requests. In accordance with Title VI, LEP persons have the opportunity to file a discrimination complaint. LEP persons are advised of the opportunity to file a discrimination complaint using an interpreter or any type of translator tool. Complaints may be made in person at the BMTS office, by email (bmts@co.broome.ny.us), by phone (607-778-2443) or at a BMTS event/meeting. Complaints which are in a language other than English will be translated and responded to in a timely fashion with the help of an interpreter or translation tool.

Monitoring and Updating LEP Plan

BMTS understands that the profile of the Binghamton urban area may not remain static and that the four-factor analysis may reveal the need for more LEP services in the future. Therefore, the LEP plan will be examined periodically in conjunction with review of the Public Participation Plan to ensure that it remains reflective of the area's needs. The following criteria will be used to review the effectiveness of the LEP plan:

- LEP population numbers and proportions in the area
- LEP population affected by BMTS
- Frequency of encounters with LEP language groups
- Nature and importance of activities to LEP persons
- Availability of resources, including technological advances and sources of additional resources, and the costs imposed to provide language assistance
- Whether existing assistance is meeting the needs of LEP persons
- Whether staff understands the LEP plan and how to implement it
- Whether identified sources for assistance are still available and viable
- Public input received for the improvement of the LEP plan

Appendix

I Speak Flashcard
U.S. Census Bureau

ON NEXT PAGE



LANGUAGE IDENTIFICATION FLASHCARD

☐

املاً هذا المربع اذا كنت تقرأ أو تتحدث العربية.

Arabic

☐

Խորհրդով եմք նշում կատարեք այս քառակուսով,
եթե խոսում կամ կարդում եք հայերեն:

Armenian

☐

যদি আপনি বাংলা পড়েন বা বলেন তা হলে এই বাক্সে দাগ দিন।

Bengali

☐

សូមបញ្ជាក់ក្នុងប្រអប់នេះ បើអ្នកអាន ឬនិយាយភាសា ខ្មែរ ។

Cambodian

☐

Matka i kahhon komu un taitai pat un sang i Chamorro.

Chamorro

☐

如果您具有中文閱讀和會話能力，請在本空格內標上X記號。

Chinese

☐

Make kazye sa a si ou li oswa ou pale kreyòl ayisyen.

Creole

☐

Označite ovaj kvadratić ako čitate ili govorite hrvatski jezik.

Croatian (Serbo-Croatian)

☐

Zaškrtněte tuto kolonku, pokud čtete a hovoříte česky.

Czech

☐

Kruis dit vakje aan als u Nederlands kunt lezen of spreken.

Dutch

☐

Mark this box if you read or speak English.

English

☐

اگر خواندن ونوشتن فارسی بدرهستين، اين مربع را علامت بگذاريد.

Farsi

<input type="checkbox"/> Cocher ici si vous lisez ou parlez le français.	French
<input type="checkbox"/> Kreuzen Sie dieses Kästchen an, wenn Sie Deutsch lesen oder sprechen.	German
<input type="checkbox"/> Σημειώστε αυτό το πλαίσιο αν διαβάζετε ή μιλάτε Ελληνικά.	Greek
<input type="checkbox"/> अगर आप हिन्दी बोलते या पढ़ सकते हैं तो इस गोले पर चिह्न लगाएँ।	Hindi
<input type="checkbox"/> Kos lub voj no yog koj paub twm thiab hais lus Hmoob.	Hmong
<input type="checkbox"/> Jelölje meg ezt a kockát, ha megérti vagy beszél a magyar nyelvet.	Hungarian
<input type="checkbox"/> Markaam daytoy nga kahon no makabasa wenno makasaoka iti Ilocano.	Ilocano
<input type="checkbox"/> Marchi questa casella se legge o parla italiano.	Italian
<input type="checkbox"/> 日本語を読んだり、話せる場合はここに印を付けてください。	Japanese
<input type="checkbox"/> 한국어를 읽거나 말할 수 있으면 이 칸에 표시하십시오.	Korean
<input type="checkbox"/> ໃຫ້ໝາຍໃສ່ຊ່ອງນີ້ ຖ້າທ່ານອ່ານຫຼືປາກພາສາລາວ.	Laotian
<input type="checkbox"/> Zaznacz tę kratkę jeżeli czyta Pan/Pani lub mówi po polsku.	Polish
<input type="checkbox"/> Assinale este quadrado se voce lê ou fala Português.	Portuguese

<input type="checkbox"/>	Însemnați această căsuță dacă citiți sau vorbiți Românește.	Romanian
<input type="checkbox"/>	Пометьте этот квадратик, если вы читаете или говорите по-русски.	Russian
<input type="checkbox"/>	Maka pe fa'a iloga le pusa lea pe afai e te faitau pe tusitusi i le gagana Samoa.	Samoaan
<input type="checkbox"/>	Обележите овај квадратик уколико читате или говорите српски језик.	Serbian (Serbo-Croatian)
<input type="checkbox"/>	Označte tento štvorček, ak viete čítať alebo hovoriť po slovensky.	Slovak
<input type="checkbox"/>	Marque esta casilla si lee o habla español.	Spanish
<input type="checkbox"/>	Markahan ang kahon na ito kung ikaw ay nagsasalita o nagbabasa ng Tagalog.	Tagalog
<input type="checkbox"/>	ให้กาเครื่องหมายลงในช่องดำผ่านอ่านหรือพูดภาษาไทย.	Thai
<input type="checkbox"/>	Faka'ilonga'i 'ae puha ko'eni kapau 'oku te lau pe lea 'ae lea fakatonga.	Tongan
<input type="checkbox"/>	Відмітьте цю клітинку, якщо ви читаете або говорите українською мовою.	Ukrainian
<input type="checkbox"/>	اگر آپ اردو پڑھتے یا بولتے ہیں تو اس خانہ میں نشان لگائیں.	Urdu
<input type="checkbox"/>	Xin đánh dấu vào ô này nếu quý biết đọc và nói được Việt Ngữ.	Vietnamese
<input type="checkbox"/>	צייכנט דעם קעסטל אויב איר שרייבט אדער ליינט אידיש.	Yiddish