



LANGUAGE ACCESS IN THE DISTRICT

2010 Annual Compliance Review

Executive Summary



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Executive Summary

Introduction

The United States of America, a nation that thrives on its cultural diversity, is now considered one of the most multicultural and multilingual nations in the world. The Nation's capital is a city bolstered by a multicultural community made up of immigrants mainly from Africa, Asia, and Latin America. In an effort to support the integration of the District's immigrant communities, the city passed the DC Language Access Act of 2004 (the "Act").



The Act is important civil rights legislation designed to address Limited English Proficient or Non-English Proficient (LEP/NEP) residents' language needs that operate as artificial barriers to full and meaningful participation in Federally funded programs and activities. Specifically, it was also intended to:

"To provide greater access and participation in public services, programs, and activities for residents of the of the District of Columbia with limited or no-English proficiency by requiring that District government programs, departments, and services assess the need for, and offer, oral language services; provide written translations of documents into any non-English language spoken by a limited or no-English proficient population that constitutes 3% or 500 individuals, whichever is less, of the population served or encountered, or likely to be served or encountered..."¹

The Act's approach is a holistic one; it requires agencies to provide in-language services, both oral and written, to residents requesting services integral to their well being and the well being of their family. These benefits include, Medicare, childcare, food stamps, emergency response services, affordable housing, and school enrollment, just to name a few.

In addition, thirty four (34) agencies, or covered entities with major public contact are required to assign a language access coordinator² whose primary responsibilities are to develop an agency biennial language access plan (BLAP), report quarterly on their BLAP's progress, and monitor the implementation of their BLAP's goals and objectives. An increased commitment to effective oversight and enforcement of the Act will lead to its effective implementation and, therefore, to a concerted effort by the DC government to meet the needs of their LEP/NEP residents.

Target Population

There continues to be a great need for the DC government to actively support their LEP/NEP communities. In 2009, 72,110 residents were foreign born, 70,526 residents age five (5) and over speak a language other than English (12.6%), and 22,701 residents age five (5) and older speak English less than "very well" (4.0%).³ Furthermore, three and one-half percent (3.5%) of all District households were linguistically isolated, meaning that all persons age fourteen (14) and over in the household were LEP/NEP, in 2008.⁴ Of those linguistically isolated households, twenty eight and one-tenth percent (28.1%) were speaking Spanish, seven and nine-tenths percent (7.9%) were speaking other Indo-European languages (i.e. French, Portuguese, Italian, Gujarathi, Hindi, Urdu, Russian, Armenian, Persian, and others), twenty seven and seven-tenths percent (27.7%) were speaking Asian and Pacific Island languages, and sixteen and nine-tenths percent (16.9%) were speaking other languages.⁵ While for three decades District immigration trends have supported the proliferation of robust multicultural and multilingual communities, a new trend has emerged.

According to a July 2009 Brookings Institute report entitled, *Language Access in the District: Five Years in the*

¹ DC Law 15-167; DC Official Code § 2-1931 *et seq.*

² The language access coordinator's responsibilities are "added duties as assigned." In other words, these are not full-time positions.

³ American Community Survey 1-Year Estimates, 2009: <http://factfinder.census.gov>.

⁴ Migration Policy Institute Data Hub: <http://www.migrationinformation.org/org/datahub>.

⁵ Migration Policy Institute Data Hub: <http://www.migrationinformation.org/org/datahub>.

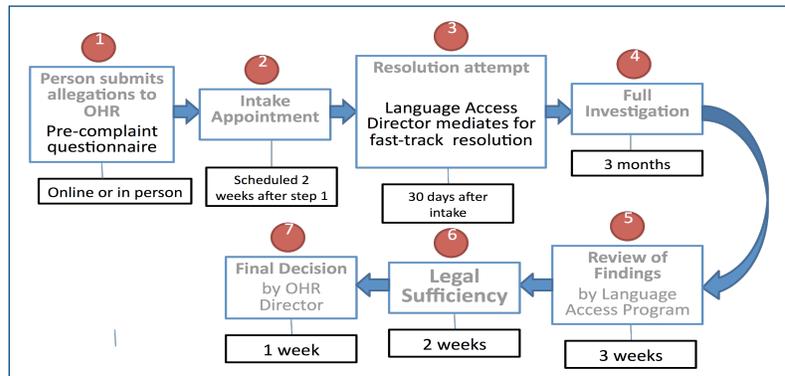
Making, the Washington, D.C. metropolitan area has more than 1 million foreign-born residents (1 out of every 5) and ranks eighth (8th) among major U.S. cities with large immigrant populations.⁶ The same report, however, demonstrates that while during the years 2000 to 2007 the number of LEP/NEP residents in the Washington, D.C. metropolitan area increased 22 percent (22%)⁷ the District’s LEP/NEP population decreased 34 percent (34%)⁸, suggesting an inner city LEP/NEP migration to Southern Maryland and Northern Virginia.⁹ While further study needs to be done to understand the factors associated with the District’s decline in the LEP/NEP population, it is reasonable to conclude that economic factors,¹⁰ has put downward pressure on vulnerable populations such as the LEP/NEP community frustrating further their ability to meet their basic needs.

Oversight and Enforcement

In August 2004, the Office of Human Rights (“OHR”) established the Language Access Program (“Program”) with a mission to effectuate change within the government by researching best practices, tailoring existing measures to fit the needs of the District, and instituting policy that both reflects the Act’s intent and meets the needs of the target population. The Program was designed to support, guide, and oversee the 34 agencies’ compliance with and implementation of the Act by ensuring that they meet the goals and objectives set out in their BLAP. At the same time, the Program is mandated to enforce the Act when agencies are found to be out of compliance. Therefore, oversight and enforcement are strategies working together like a self-supporting system. The Program’s oversight and enforcement strategy is made up of 3 components: (1) language access complaints; (2) mandatory planning and self-reporting; and (3) language access testing. The latter two components follow a methodology, which will be described later, that quantifies and measures agency performance resulting in overall compliance measures highlighted in this report.

Language Access Complaints

The Program coordinates OHR’s formal investigations of complaints of noncompliance. Referred to as a “public complaint”, any individual, group, or organization alleging language access violations at a covered entity may file a complaint with OHR. Below is a graphic representation of the complaint process:



⁶ Audrey Singer, *Language Needs and Abilities in the Nation’s Capital*, 2007: www.brookings.edu/metro.

⁷ From 408,000 to 500,000.

⁸ From 29,000 to 25,000.

⁹ Audrey Singer, *Language Needs and Abilities in the Nation’s Capital*, 2007: www.brookings.edu/metro.

¹⁰ For example, the recent increase in the District’s cost of living.

In FY 2010, there were eight (8) language access complaints, a twenty five percent (25%) increase from FY 2009 and a thirty eight percent (38%) increase from FY08.¹¹ All of the complaints that have been completed this year, five (5) total, were determined not to have violated the Act.¹² Of the 19 complaints filed in the past three (3) fiscal years, four (4) were determined to have violated the Act equaling a twenty one percent (21%) violation rate, which is significantly higher than the eleven percent (11%) violation rate found in OHR's discrimination complaints.

	FY2008	FY2009	FY2010*	Total
# of Cases	5	6	8	19
# of No Probable Cause	2	4	5	11
# of Probable Cause	2	2	0	4
Settled In Mediation	1	0	0	1

* 3 cases are still under review

Language Access Audit

In FY 2010, the Program conducted its first language access audit.¹³ The language access audit is a mechanism that strengthens the Program's overall enforcement strategy. As mandated by the Act, the OHR has the authority to audit agencies demonstrating systemic language access violations. This three and a half month audit resulted in a determination that the agency in question violated the Act followed by a series of corrective actions currently being addressed.

Planning and Self-Reporting

In order to better assess agencies' efforts in providing equitable access to services for LEP/NEP consumers, OHR established a mandatory planning and self-reporting process. Self-reporting plays an important, albeit challenging, role in measuring language access implementation. The Program monitors the 34 covered District agencies' observance of their legal obligations under the Act by way of the following reporting process:

- (1) Reviewing agencies' pre-established goals and objectives as prescribed in their BLAP to determine what it is that agencies have set out to provide and the desired quality;
- (2) Reviewing agencies' quarterly progress reports to determine if services are being provided; and
- (3) Regularly communicating with Language Access Coordinators to determine if the services are being performed according to their plans.

BLAPs

Published in the DC Register, the BLAP is 2-year compliance plan that guides individual agency accountability to the Act and is developed by all 34 agencies. Unlike the quarterly self-reporting process, BLAPs are developed in collaboration with the Language Access Director, the D.C. Language Access Coalition, the agency Language Access Coordinator, the agency's Director, and the Language Access Consultative agencies. This process facilitates transparency and accountability during the development of agency's 2-year goals and objectives. The broad legislative/programmatic requirements that agency's are mandated to comply with and that the BLAP establishes goals and objectives for are the following: (1) Data collection on language(s) spoken by an agency's consumer base; (2) Provision of oral language services; (3) Provision of written translations of vital documents; (4) Linguistic and cultural competency training of staff; and (5) Outreach and education to LEP/NEP communities.

Quarterly Reports¹⁴

Agencies are required to submit quarterly progress reports of their BLAP by responding to the following specific requirements:

¹¹ There were six (6) in FY 2009 and there were five (5) in FY 2008.

¹² The remaining three (3) complaints have yet to come to a determination.

¹³ See Office of Human Rights v. Department of Consumer and Regulatory Affairs, dated August 31, 2010.

¹⁴ See Appendix B for a template of the quarterly report.

- (1) Report data on LEP/NEP constituents served per quarter and languages spoken by these constituents;
- (2) Report data on oral interpretations to LEP/NEP populations, as needed and requested (i.e. telephonic interpretation and in-person interpretation);
- (3) Report data on archives of vital documents as reported in agency's BLAP;
- (4) List all vacant public contact positions
- (5) Report data on recruitment activities for bilingual staff;
- (6) Update bilingual employee matrix;
- (7) Report data on language access related training sessions conducted per fiscal year to ALL agency staff that fill a public contact position;
- (8) Report data on Language Line Services training sessions conducted per fiscal year to ALL agency staff that fills a public contact position;
- (9) Report data on the language assistance activities/resources that was provided to All agency staff;
- (10) Report data on the outreach activities provided to each LEP/NEP community the agency encountered or is likely to be encounter;
- (11) Report data on public meetings conducted with the LEP/NEP community; and
- (12) List all language access related complaints the agency received each quarter.

The challenge with the self-reporting system is that more emphasis is placed on ensuring that items on the legislative checklist are adhered to and less emphasis is placed on the quality and outcomes of the programs and services agencies provide. The self-reporting system alone would be an ineffective oversight and enforcement mechanism; however, when performed in tandem with language access testing and complaint investigation, the Program has proven to be effective.

Self-Reporting Methodology [Compliance Measure] in Brief

Sixty percent (60%) of an agency's overall compliance rating is based on quarterly report submissions. Progress on each legislative/programmatic requirement is rated based on the agency's self-reported evaluation as prescribed in their BLAPs.

Upon review of each report, OHR assigned a rating of "fully met" (2 points) for each requirement that was completely met; "partially met" (1 point) for each requirement that was partially met or not fully responded to; and "not met" (0 points) when the requirement was either not met or no information was provided indicating otherwise. Some agencies received a rating of "no rating" for requirements that were not applicable based on particular circumstances. For example, if an agency faced a hiring freeze, it may not have been feasible or appropriate for them to recruit for bilingual staff. In this case, an agency would not be penalized for not submitting information on this requirement only *if* the OHR was fully informed of the situation and the agency justified its position.

Language Access Testing

The objective of the language access tests ("tests") is to assess the access and quality of the services agencies have in place to assist LEP/NEP residents. This is the second year that OHR conducted language access testing. Two (2) types of tests were conducted: (1) "face-to-face" or in-person tests and (2) telephone tests. All tests were conducted solely in the six (6) foreign languages mostly spoken in the District.¹⁵ Testing of this nature has historically been contracted out to the Office of Unified Communications (OUC) to conduct as an arm of their existing customer service testing. However, OHR opted to take over this responsibility beginning FY2009 to more closely monitor the agencies. The focus of the testing program was modified to place a greater emphasis on evaluating agencies' adherence to legislative/programmatic requirements while also taking into consideration the customer's experience.

Language Access Testing Methodology [Compliance Measure] in Brief

Forty percent (40%) of agencies' overall compliance rating is based on results garnered from language access testing conducted by the Program. Agencies' FY 2008 self reported data of LEP/NEP consumers served as a baseline to determine the top three (3) languages most frequently encountered by each agency. OHR used this data to determine in which language(s) an agency would be tested. Agencies were then divided into three (3) categories based on the languages they most frequently encountered and the volume of LEP/NEP constituents they serve.¹⁶

¹⁵ Chinese, Ethiopian, French, Korean, Spanish and Vietnamese.

¹⁶ Examples include: D.C. Public Schools (*Category I*); Department of Housing and Community Development (*Category II*); D.C. Office of Zoning (*Category III*)

Specific locations to be visited and scenarios to be used were identified based on suggestions from various stakeholders (i.e., the D.C. Language Access Coalition; the Mayor’s Offices on African Affairs, Asian and Pacific Islander Affairs, and Latino Affairs; agency Language Access Coordinators; and LEP/NEP communities who have expressed concerns about the lack of services offered in some specific District government locations). OHR then created a master list of service centers for all 34 agencies and coordinated with each District agency being tested to ensure that the addresses and phone numbers to all locations were accurate.

Once the test locations and languages were identified, scoring criteria incorporating requirements of the Act and the customer’s overall experience were developed and/or tailored from existing criteria used by OUC. OHR developed Test Report Forms for testers to use as an evaluation tool. Scoring of tests followed a four-pronged approach:¹⁷

- (1) *Tester’s impression of their experience*: Testers were required to answer all questions on the Test Report Forms, provide narratives of all encounters, and rate the agencies on their overall impression using the following scale:

	1 – Poor	2 – Average	3 – Good
3	The LEP customer was fully assisted and was provided by exemplary service from the employee. Employee went above and beyond, was very pleasant and served the LEP client efficiently and without hesitation either through the use of Language Line Services or through a bilingual staff member. Employee clearly knows how to assist a LEP client and provided the answer in a timely manner and in the order upon which he/she arrived.		
2	Employee was knowledgeable on the agency’s available resources to assist LEP customers, and utilized some or all resources to serve the customer. Employee may have taken a lengthy amount of time to assist the LEP customer and may not have fully addressed the customer’s needs (e.g., did not provide the customer with the material necessary to assist in the situation presented). Customer service provided to LEP customer was average. End result: Some or all Service was provided.		
1	Employee did not or was unable to assist. Employee may not have any real knowledge on how to assist a LEP and/or what resources are available in employee’s agency to do so or was not willing to assist at all. Employee attempts to dismiss the LEP customer. Examples for this rating include, (1) Employee may have provided poor customer service; (2) Employee may have insisted that the LEP customer return when bilingual employees are present or with their own interpreter. End result: Service was not provided.		

- (2) *OHR’s Score*: Based on the testers’ evaluation submitted, OHR calculated a separate score of the test conducted. Both types of test had a set of questions on the report form that were assigned points by OHR. There were a total of ten (10) points available for the face-to-face tests and nine (9) points available for the telephone tests.¹⁸
- (3) *Total Score*: An average of the tester’s overall impression and OHR’s final score resulted in the overall score for the test. For example, if a tester’s overall impression for a face-to-face test was “2 – average” and the agency scored a total of six (6) possible points, the agency’s overall score would be “4.” The score of “4” would receive a rating of “1” as described below.

Face to Face Test Total Score	Rating
Score of: 6	Received a rating of 2
Score of: 3 – 5.9	Received a rating of 1
Score of: 0 – 2.9	Received a rating of 0

Telephone Test Total Score	Rating
Score of: 5.5	Received a rating of 2
Score of: 2.7 – 5.4	Received a rating of 1
Score of: 0 – 2.6	Received a rating of 0

¹⁷ See Appendix A, Table 2 for customer service testing results.

¹⁸ See Appendix B for Test Report Form template.

- (4) *Rating*: Similar to the scoring used for the legislative/programmatic requirements, agencies received a rating of “2” if they attained all possible points available for a test; “1” if they achieved a substantial portion of those points; and “0” if they achieved little to no points. Above are the ranges available for both test:

Below is a sample of an agency’s “report card” that includes both oversight and enforcement components (1) Planning and Self Reporting and (2) Language Access Testing:

SECTION I: Planning and Self-Reporting (Legislative and Programmatic Requirements)	Status Rating
1. Establish a biennial language access plan (BLAP) for the agency.	Sample: Fully met (2)
2. Identify a Language Access Coordinator (LAC).	
3. Collect data on the languages spoken by the agency’s LEP/NEP clients on a quarterly basis.	
4. Provide oral interpretations to LEP/NEP populations, as needed and requested.	
5. Develop, revise, and/or translate contents of agency’s archive of vital documents.	
6. Conduct recruitment activities for bilingual staff.	
7. Conduct a minimum of one cultural competency-related training session per fiscal year to ALL agency staff that fills a public contact position.	
8. Train agency staff (mandatory for those who fill a public contact position) on telephonic interpretation services and usage.	
9. Train ALL agency staff on the agency’s language assistance activities/resources.	
10. Conduct outreach activities to each LEP/NEP community served by the agency that meets the “3% or 500 individuals” threshold.	
11. Conduct a minimum of one (1) public meeting per fiscal year within the BLAP period.	
12. Submission of quarterly reports. (Four total.)	
13. Attendance of all quarterly meetings (Four total.)	
Subtotal (Total Rating divided by 13):	
SECTION II: Language Access Testing	Status Rating
Face-to-Face Tests Sample Score: 5.16	Sample Rating: 1
Telephone Tests	
Subtotal (Total Rating divided by 2):	

Section I Total: *Section I Subtotal* x .6 = _____ (60%)

Section II Total: *Section II Subtotal* x .4 = _____ (40%)

Total Score: _____

Agency Compliance Rating: _____

Compliance Score

The overall score on the 13 legislative/programmatic requirements (self-reporting) and test scores (language access testing) are added to produce a **compliance score**, which correspond to the rating of either *exceptional* compliance; *above average* compliance; *average* compliance; *below average* compliance; or *non-compliance* (see chart below).¹⁹

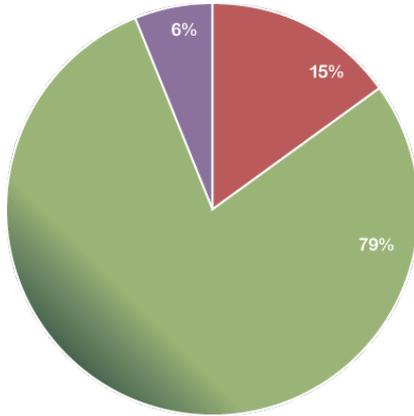
Score Range	Rating
2.0	Exceptional Compliance
1.6 - 1.9	Above Average Compliance
1 - 1.59	Average Compliance
.6 - .99	Below Average Compliance
0 - .59	Non-compliance

The District received a compliance score of 1.38, **average compliance** for fiscal year 2010.²⁰

¹⁹ The nomenclature for the compliance ratings was changed this year to reflect more accurately their meaning.

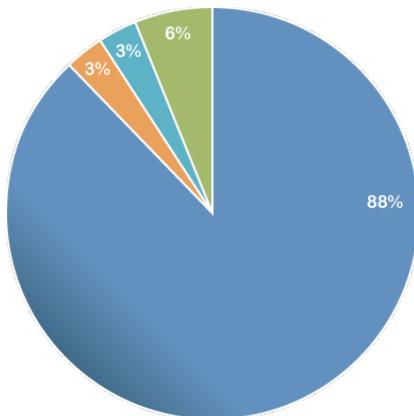
²⁰ Please note that language access tests were not conducted at OHR since the agency administers the testing program. OHR did receive a perfect score on the legislative/programmatic requirements. However, because that component consists of only sixty percent (60) of the compliance rating, OHR's compliance score was not included in the District's overall rating.

Compliance Results at a Glance



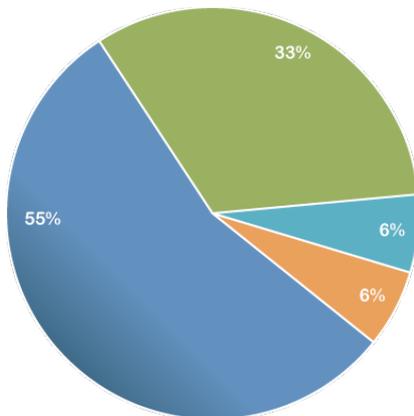
FY 2010 District-wide compliance results

- 0% of agencies received a rating of “exceptional compliance”
- 15% of agencies received a rating of “above average compliance”
- 79% of agencies received a rating of “average compliance”
- 6% of agencies received a rating of “below average compliance”
- 0% of agencies received a rating of “non-compliance”



Legislative Requirement: Provision of Oral Language Services

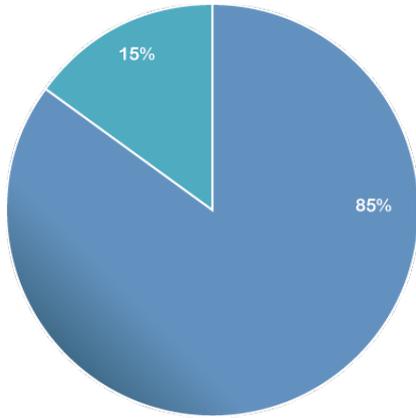
- 88% of agencies received a rating of “exceptional compliance”
- 0% of agencies received a rating of “above average compliance”
- 6% of agencies received a rating of “average compliance”
- 0% of agencies received a rating of “below average compliance”
- 3% of agencies received a rating of “non-compliance”
- 3% of agencies were “not rated” on this requirement



Legislative Requirement: Provision of Written Language Service

- 55% of agencies received a rating of “exceptional compliance”
- 0% of agencies received a rating of “above average compliance”
- 33% of agencies received a rating of “average compliance”
- 0% of agencies received a rating of “below average compliance”
- 6% of agencies received a rating of “non-compliance”
- 6% of agencies were “not rated” on this requirement

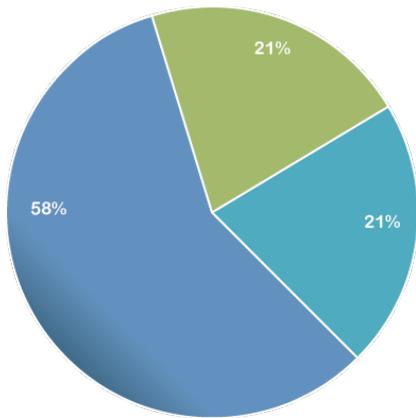




Legislative Requirement: Provision of Outreach to LEP/NEP Community

- 85% of agencies received a rating of “exceptional compliance”
- 0% of agencies received a rating of “above average compliance”
- 0% of agencies received a rating of “average compliance”
- 0% of agencies received a rating of “below average compliance”
- 15% of agencies received a rating of “non-compliance”

- Exceptional Compliance
- Above Average Compliance
- Average Compliance
- Below Average Compliance
- Non-Compliance



Legislative Requirement: Provision of Training of Agency Staff

- 58% of agencies received a rating of “exceptional compliance”
- 0% of agencies received a rating of “above average compliance”
- 21% of agencies received a rating of “average compliance”
- 0% of agencies received a rating of “below average compliance”
- 21% of agencies received a rating of “non-compliance”

- Exceptional Compliance
- Above Average Compliance
- Average Compliance
- Below Average Compliance
- Non-Compliance

Summary of Comparative Results

FY 2010 statistical results demonstrate that the Program is progressing. With regard to agency full compliance with legislative/programmatic requirements, there was a three (3%) percent increase in the provision of oral language services, thirty seven (37%) percent increase in outreach provided to LEP/NEP communities, and six (6%) percent increase in staff training, as compared to FY 2009 (see chart #1 below). This increase in agency adherence to legislative/programmatic requirements is supported by the results of agency public accommodations testing.

The scores of sixty three (63%) percent of telephone tests and forty eight (48%) percent of face-to-face tests increased from the previous year. Furthermore, the average score in telephone tests increased while the face-to-face test average stayed the same (see chart #2 below). The median score of both telephone and face-to-face tests increased in FY 2010 (see chart #2).

The three (3%) percent decrease in full compliance with written language services suggests that more attention needs to be placed in this area of compliance and service provision.

The agency's overall compliance score (language access tests + legislative/programmatic requirements) increased by one-eighth percent (.08%) as compared to FY 2009 (see chart #3).²¹

In FY 2009 OHR began to require that agencies report on cost incurred when providing interpretation and translation services. Gathering this data will allow for better assessment of the funding needed to meet language access needs in each agency and in the District government as a whole. In FY 2010 there was an increase in the overall funding from the previous year (see chart #4 below).

In FY 2010 District agency's reported 204,555 LEP/NEP encounters, a three hundred and seventy seven percent (377%) increase from FY 2008 and a nineteen percent (19%) increase from FY 2009 (see bar chart #5 below).²² While there is still much room for improvement in the area of data collection, these statistics indicate that data collection as a whole is improving. The data also demonstrates a significant increase in the "Other" LEP/NEP language encounters. In FY 2010, 13,960 "Other" LEP/NEP language encounters were reported, an increase of over one thousand percent (1000%) from the previous two (2) years (see bar chart #5).²³ This blaring statistic calls for an assessment of the major foreign languages spoken in the District to see if more languages need to be added on, or taken off, from the existing list of six (6). This fiscal year there was a thirty percent (30%) decrease in the number of Vietnamese LEP/NEP encounters and a twenty two percent (22%) decrease in the number of Korean LEP/NEP encounters, as compared to FY 2009 (see bar chart #5).²⁴ This decrease in LEP/NEP encounters may account for the decrease in District LEP/NEP population reported by the aforementioned Brookings Institute study.²⁵

Chart 1. Legislative and Programmatic Requirements for FY 2008, 2009, and 2010

Agency Requirements	FY08	FY09	FY10	Comparison
Oral language services	32% full compliance	85% full compliance	88% full compliance	<i>Increase</i>
Written Language services	44% full compliance	58% full compliance	55% full compliance	<i>Decrease</i>
Outreach	28% full compliance	48% full compliance	85% full compliance	<i>Increase</i>
Training	4% full compliance	52% full compliance	58% full compliance	<i>Increase</i>

²¹ The FY 2010 overall score was 1.38 and the FY 2009 score was 1.30. While the District overall score in FY 2008 was 1.60, an above average compliance rating, the test results garnered from OUC's efforts were not factored in as substantially as those obtained by OHR in fiscal year 2009 and 2010 and, therefore, a comparison with that unit of analysis is inadequate.

²² There were 42,873 LEP/NEP encounters in FY 2008 and 171,172 in FY 2009.

²³ There were 1657 "Other" LEP/NEP encounters reported in FY 2009 and 1204 in FY 2008.

²⁴ The number of Vietnamese LEP/NEP encounters went from 7506 in FY 09 to 5277 in FY10 and the Korean LEP/NEP encounters went from 3554 in FY 2009 to 2771 in FY 2010.

²⁵ Audrey Singer, Language Needs and Abilities in the Nation's Capital, 2007: www.brookings.edu/metro.

Chart 2. Language Access Tests Score Average and Median for FY 2009 and FY 2010

	FY 2009		FY 2010		Comparison	
	Avg. Score	Mdn. Score	Avg. Score	Mdn. Score	Avg. Score	Mdn. Score
Telephone Tests	3.3	3.2	3.9	3.9	<i>Increase</i>	<i>Increase</i>
Face-to-Face Tests	4.5	4.5	4.5	4.6	<i>Equal</i>	<i>Increase</i>

Chart 3. District-Wide Compliance Score for FY 2008, FY 2009, and FY 2010

	FY 2008	FY 2009	FY 2010
Compliance Score	1.60*	1.30	1.38
Rating	Above Average Compliance	Average Compliance	Average Compliance

* Public accommodations testing were conducted by outside agency and results were not factored in to the degree they are now by OHR.

Chart 4. Funding Spent on Written Translations and Interpretations (Telephonic and Live) for FY 2009 and 2010

Type of Service	Total Cost FY 2009:	Total Cost FY 2010:	Comparison
Live Interpretation	\$86,551.00	\$208,266.24	<i>Increase</i>
Telephonic Interpretation	\$539,977.07	\$529,363.40	<i>Decrease</i>
Written Translation	\$237,866.45	\$251,696.38	<i>Increase</i>
Total Cost:	\$864,394.52	\$989,326.02	<i>Increase</i>

Chart 5. Number of LEP/NEP Encounters Reported by District for FY 2008, 2009, and 2010

OHR Recommendations

FY 2010 statistical results demonstrate gradual improvements in agency compliance with the Act. The District government's overall compliance rating of average suggests there is room for improvement. After six (6) years of successfully building the program's infrastructure, more emphasis needs to be placed on improving quality of language access services. OHR submits the following recommendations reflecting that need:²⁶

1. Appropriate budgeting, designation, and tracking of funds for language access costs. OHR recommends that the Office of the City Administrator, in conjunction with all covered entities, work to ensure that the allocation of local appropriated dollars for language access activities for fiscal year 2012 (e.g., translations, interpretations, etc.) are maintained at the current level of funding. We strongly suggest that agencies with a large number of LEP/NEP customers, as represented in this report, do not compromise language access costs for FY 2011 and FY 2012. Additionally, we recommend that the language access-related budget is reflected within the appropriate Program Management activity index for all agencies. By doing so, we can maintain an accurate account of the overall language access budget for the District, and track expenditures accordingly during the course of the year.

2. Assessment of bilingual-preferred positions and implementation of linguistic proficiency of bilingual staff. Presently, the District does not have an accurate account of bilingual preferred positions, and the classified descriptions for those positions vary greatly in the need, type and scope of bilingual services provided by those employees. Moreover, the District does not have a standardized method in place to assess the linguistic proficiency of bilingual applicants and existing bilingual staff. The method of "self-identification" is currently in place to inform the agency of a potential second language spoken by an applicant. However, agencies do not have a standard or qualified method to assess the proficiency in the second language,²⁷ which can present a hindrance to services provided and possible liability issues to the agency. The D.C. Department of Human Resources (DCHR) should review the classification of bilingual preferred positions and establish a standard assessment, by regulation, that will be required for an applicant who is applying for a bilingual position or an existing employee who has self-identified as bilingual (if his/her language skills are being utilized in performing their duties).

3. Pay differential for bilingual hires and existing staff.²⁸ Certified bilingual employees should receive minimal compensation, i.e. a symbolic gesture, for their language expertise. Doing so will encourage them to use their language expertise for conducting interpretations and translations, thereby, reducing the cost of using the language line or contractors.

4. Develop a cultural competency curriculum that agencies can use to train their staff. Title 4 of the D.C. Municipal Regulations provides that in consultation with the Language Access Director and consultative agencies, the personnel authority shall create a linguistic and cultural competency training curriculum that will be made available through DCHR. D.C. Mun. Regs. Tit. 4, § 1211.

5. Examine the newly published census data and reassess the major foreign languages spoken by District residents. This assessment is overdue given that one has not been made since the Act was passed.

6. Require that all agency employees in public contact positions complete the online language access training module. This newly developed user-friendly training will be integrated into the existing menu of language access trainings in a way that does not add more training but enhances the existing requirements.

7. Build an online database for agencies to submit their BLAPs and quarterly reports as a strategy to increase the efficiency of agency planning and self-reporting. The online database will reduce government cost accrued from the printing of BLAPs and quarterly reports in PDF and MS word form. Operational efficiency will also increase because, for example, all the documents will be electronically stored in a central location where they can be easily accessed by employees. In addition, the database system includes a variety of tools to analyze data that before were not readily available to employees.

²⁶ Recommendations include those from FY 2009 that have not yet been implemented:

²⁷ MPD is the only District agency that has a formal language assessment process in place.

²⁸ MPD is the only District agency that provides a biweekly monetary stipend (\$50) for a second language skill dependent on the successful completion of their language assessment.

Appendix A

TABLE 1: Phased Implementation By Fiscal Year And Agency

Fiscal Year 2004	
1	Department of Health
2	Department of Human Services
3	Department of Employment Services
4	Metropolitan Police Department
4	D.C. Public Schools
6	Office of Planning
7	Fire and Emergency Medical Services
8	Office of Human Rights
Fiscal Year 2005	
9	Department of Housing and Community Development
10	Department of Mental Health
11	Department of Motor Vehicles
12	Child and Family Services Agency
13	Alcoholic Beverage Regulation Administration
14	Department of Consumer and Regulatory Affairs
Fiscal Year 2006	
15	Department of Parks and Recreation
16	Office on Aging
17	D.C. Public Library
18	Department of Human Resources
19	Office of Contracting and Procurement
20	Department of Corrections
21	Department of Public Works
22	Office of Tax and Revenue
Fiscal Year 2007	
23	Office of the People's Counsel
24	D.C. Housing Authority
25	Homeland Security and Emergency Management Agency
Fiscal Year 2008	
26	Department of Disability Services
27	Department of Youth Rehabilitation Services ²⁹
28	Department of Transportation
29	Office of Unified Communications
30	Department of the Environment
31	Office of the State Superintendent for Education
32	Department of Small and Local Business Development
33	Office of Zoning
34	Office of the Tenant Advocate
35	D.C. Lottery and Charitable Games Control Board

²⁹ The Office of Human Rights (OHR) rescinded the Department of Youth Rehabilitation Services' (DYRS) designation as a "covered entity with major public contact" on March 11, 2009 via letter to the Director in consideration of the Department's request to do so. DYRS is no longer required by local law to establish a language access plan and report on its activities on a quarterly basis to OHR.

TABLE 2: Comparative Language Access Testing Results

TABLE 2-A: Telephone Test Results

AGENCY		FY 2009 OVERALL SCORE (5.5 possible points)	FY 2010 OVERALL SCORE ³⁰ (5.5 possible points)
1	Office of Contracting and Procurement	5.5	5.3
2	Office of Unified Communications	4.0	5.3
3	Office on Aging	4.3	5.1
4	Homeland Security and Emergency Management Agency	4.3	4.9
5	Office of the Tenant Advocate	3.1	4.8
6	Office of Zoning	4.6	4.7
7	D.C. Lottery and Charitable Games Control Board	2.8	4.7
8	D.C. Public Library	3.0	4.6
9	Office of Planning	5.1	4.6
10	Department of Mental Health	2.5	4.5
11	Department of Human Resources	5.3	4.4
12	Fire and Emergency Medical Services	3.4	4.4
13	Office of People's Counsel	2.2	4.4
14	Department of Health	2.4	4.2
15	Department of Housing and Community Development	1.5	4.2
AVERAGE		3.3	3.9
MEDIAN		3.2	3.9
16	Office of Tax and Revenue	2.1	3.9
17	Department of Corrections	3.1	3.9
18	Department of Human Services	3.8	3.8
19	Department of Public Works	3.0	3.7
20	Department of Transportation	2.8	3.6
21	Alcoholic Beverage Regulation Administration	4.1	3.5
22	Department of Consumer and Regulatory Affairs	3.1	3.3
23	D.C. Housing Authority	2.4	3.1
24	Department of Disability Services	4.0	3.0
25	Child and Family Services Agency	4.1	2.8
26	Department of Parks and Recreation	2.2	2.7
27	Office of State Superintendent for Education	2.9	2.7
28	D.C. Public Schools	3.5	2.7
29	Metropolitan Police Department	2.4	2.6
30	Department of Small and Local Business Development	3.3	2.4
31	Department of Environment	2.7	2.2
32	Department of Employment Services	1.8	1.7

³⁰ Tester's overall experience was measured with a possible score of "1/poor", "2/average", or "3/good." OHR assigned points to various factors, such as whether or not Language Line Services displays (or similar signage) was available/accessible and if the employee assisted the Tester in his/her language. A total of 8 points were available. The overall scores reflected in this table are an average of the Tester's score and OHR's score.

TABLE 2: Comparative Language Access Testing Results

TABLE 2-B: Face-To-Face Test Results

AGENCY		FY 2009 OVERALL SCORE (6 possible points)	FY 2010 OVERALL SCORE ³¹ (6 possible points)
1	Alcoholic Beverage Regulation Administration	5.2	5.4
2	Department of Housing and Community Development	5.2	5.4
3	Office of People's Counsel	5.5	5.4
4	Office of Aging	5.5	5.1
5	Office of Zoning	5.2	5.0
6	Office of Tenant Advocacy	4.0	5.0
7	Office of Planning	4.4	5.0
8	Office of State Superintendent for Education	4.8	4.9
9	Department of Employment Services	3.8	4.8
10	D.C. Public Library	4.6	4.7
11	Department of Human Resources	5.3	4.7
12	Metropolitan Police Department	4.3	4.7
13	Office of Tax and Revenue	5.0	4.6
14	Department of Health	4.2	4.6
AVERAGE		4.5	4.5
MEDIAN		4.5	4.6
15	D.C Lottery and Charitable Games Control Board	5.0	4.5
16	Department of Motor Vehicles	4.1	4.5
17	Department of Consumer and Regulatory Affairs	4.5	4.3
18	Department of Transportation	3.7	4.3
19	Department of Parks and Recreation	4.0	4.2
20	Department of Environment	4.8	4.0
21	Department of Human Services	4.0	4.0
22	Department of Mental Health	4.9	3.9
23	Department of Small and Local Business Development	3.7	3.8
24	Department of Disability Services	4.8	3.6
25	D.C. Public Schools	4.1	3.6
26	Fire and Emergency Medical Services	4.8	3.5
27	D.C Housing Authority	4.5	2.9
28	Department of Mental Health	4.2	-
29	Child and Family Services Agency	4.6	-
30	Department of Corrections	3.8	-
31	Department of Public Works	3.2	-

³¹ Tester's overall experience was measured with a possible score of "1/poor", "2/average", or "3/good." OHR assigned points to various factors, such as whether or not Language Line Services displays (or similar signage) was available/accessible and if the employee assisted the Tester in his/her language. A total of 8 points were available. The overall scores reflected in this table are an average of the Tester's score and OHR's score.

TABLE 3: Comparative Compliance Scores For The District

AGENCY		FY 2009 SCORE	FY 2009 RATING	FY 2010 SCORE	FY 2010 RATING ¹
1	Office of the People's Counsel	1.55	Average Compliance	1.60	Above Average Compliance
2	Homeland Security and Emergency Management Administration	1.22	Average Compliance	1.60	Above Average Compliance
3	Office of Zoning	1.63	Above Average Compliance	1.60	Above Average Compliance
4	Department of Corrections	1.33	Average Compliance	1.60	Above Average Compliance
5	D.C. Public Schools	1.46	Average Compliance	1.60	Above Average Compliance
6	Office of the State Superintendent for Education	1.04	Average Compliance	1.55	Average Compliance
7	Child and Family Services Agency	1.72	Above Average Compliance	1.55	Average Compliance
8	D.C. Lottery and Charitable Games Control Board	1.63	Above Average Compliance	1.55	Average Compliance
9	Office of Planning	1.46	Average Compliance	1.55	Average Compliance
10	Department of Human Resources	1.13	Average Compliance	1.54	Average Compliance
11	Department of Human Services	1.46	Average Compliance	1.51	Average Compliance
12	Department of Transportation	1.60	Above Average Compliance	1.51	Average Compliance
13	Office of Tenant Advocacy	1.36	Average Compliance	1.50	Average Compliance
14	Department of Environment	1.23	Average Compliance	1.46	Average Compliance
15	Department of Parks and Recreation	1.19	Average Compliance	1.46	Average Compliance
16	Department of Consumer Regulatory Affairs	1.23	Average Compliance	1.45	Average Compliance
17	D.C. Public Library	1.46	Average Compliance	1.45	Average Compliance
AVERAGE		1.30		1.38	
MEDIAN		1.32		1.45	
18	Office of Tax and Revenue	1.01	Average Compliance	1.41	Average Compliance
19	Department of Health	1.10	Average Compliance	1.41	Average Compliance
20	Department of Housing and Community Development	1.33	Average Compliance	1.41	Average Compliance
21	Department of Public Works	1.28	Average Compliance	1.40	Average Compliance
22	D.C. Housing Authority	0.83	Below Average Compliance	1.35	Average Compliance
23	Department of Employment Services	0.96	Below Average Compliance	1.35	Average Compliance
24	Metropolitan Police Department	1.37	Average Compliance	1.31	Average Compliance
25	Fire and Emergency Medical Services	1.33	Average Compliance	1.30	Average Compliance
26	Office of Aging	1.32	Average Compliance	1.28	Average Compliance
27	Office of Contracting and Procurement	1.13	Average Compliance	1.23	Average Compliance
28	Department of Motor Vehicles	1.21	Average Compliance	1.23	Average Compliance
29	Office of Unified Communications	1.55	Average Compliance	1.20	Average Compliance
30	Department of Small and Local Business Development	1.08	Average Compliance	1.17	Average Compliance
31	Alcoholic Beverage Regulation Administration	1.05	Average Compliance	1.14	Average Compliance
32	Department of Mental Health	1.46	Average Compliance	.75	Below Average Compliance
33	Department of Disability Services	1.05	Average Compliance	.63	Below Average Compliance

¹ As of FY10 The Office of Human Rights Language Access Program will rate agencies using the following nomenclature: Scores 0-.59 *Non-Compliance*, .6-.99 *Below Average Compliance*, 1-1.59 *Average Compliance*, 1.6-1.9 *Above Average Compliance*, and 2 *Exceptional Compliance*