

appropriate federal, state, local, foreign, or tribal, law enforcement authority or other appropriate agency charged with the responsibility of investigating or prosecuting such a violation or enforcing or implementing such law.

D. In an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding, or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator holds the records to be relevant to the proceeding.

E. To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion on such matters as settlement, plea bargaining, or in informal discovery proceedings.

F. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

G. To a former employee of the Department for purposes of: responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

H. To the White House (the President, Vice President, their staffs, and other entities of the Executive Office of the President (EOP)), and, during Presidential transitions, to the President Elect and Vice-President Elect and their designated transition team staff, for coordination of activities that relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President, President Elect, Vice-President, or Vice-President Elect.

I. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Records are stored in electronic form and on paper.

**RETRIEVABILITY:**

Information is retrieved by name of individual.

**SAFEGUARDS:**

Information in these systems is safeguarded in accordance with applicable rules and policies, including the Department's automated systems security and access policies. In general, records and technical equipment are maintained in buildings with restricted access. The required use of password protection identification features and other system protection methods also restrict access. Access is limited to those who have an official need for access to perform their official duties.

**RETENTION AND DISPOSAL:**

Records about individuals who are not current Department employees are retained until no longer needed, pending approval by the National Archives and Records Administration (SF 115); other records are retained and disposed of in accordance with General Records Schedule 1, item 6.

**SYSTEM MANAGER AND ADDRESS:**

Deputy Assistant Attorney General, Policy, Management and Planning, MAIN Justice Building, 950 Pennsylvania Ave., NW., Washington, DC 20530

**NOTIFICATION PROCEDURES:**

Address inquiries to System Manager named above.

**RECORD ACCESS PROCEDURES:**

Requests for access must be in writing and should be addressed to the System Manager named above. The envelope and letter should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and dated and either notarized or submitted under penalty of perjury.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should direct their request according to the Records Access procedures and to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

**RECORD SOURCE CATEGORIES:**

Sources of information contained in these systems include employees and other individuals covered by this system, and the Federal Government.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 04-583 Filed 1-9-04; 8:45 am]

BILLING CODE 4410-FB-P

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

**Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons**

**AGENCY:** National Archives and Records Administration.

**ACTION:** Notice of guidance.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons.

**DATES:** Comments must be submitted on or before 60 days from the date of publication. NARA will review all comments and will determine what modifications, if any, to this policy guidance are necessary.

**ADDRESSES:** Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. They may be faxed to 301-837-0319. Electronic comments may be submitted through Regulations.gov. You may also comment via email to [comments@nara.gov](mailto:comments@nara.gov).

**FOR FURTHER INFORMATION CONTACT:**

Diane Dimkoff at telephone number 301-837-1659. Arrangements to receive the policy in an alternative format may be made by contacting the named individual.

**SUPPLEMENTARY INFORMATION:** NARA's mission statement is to ensure, for the citizen and the public servant, for the President and for the Congress and the Courts, ready access to essential evidence. The National Historical Publications and Records Commission (NHPRC) supports a wide range of activities to preserve, publish, and encourage the use of documentary sources, created in every medium ranging from quill pen to computer, relating to the history of the United States. Each year, the Commission receives an appropriation from Congress to support its grant program. Its administrative staff at the National Archives Building in Washington, DC, implements its policies and

recommendations, advises the Commission on proposals, and provides advice and assistance to potential applicants and grantees.

Under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* (Title VI) and regulations implementing Title VI, recipients of federal financial assistance from NARA ("recipients") have a responsibility to ensure meaningful access by persons with limited English proficiency (LEP) to their programs and activities. See, *e.g.*, 28 CFR 401–415. Executive Order 13166, reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that extends assistance subject to the requirements of Title VI to publish, after review and approval by the Department of Justice (DOJ), guidance for its recipients clarifying that obligation. The Executive Order also directs that all such guidance be consistent with the compliance standards and framework set forth by DOJ.

On March 14, 2002, the Office of Management and Budget (OMB) issued a Report To Congress titled "Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency." Among other things, the Report recommended the adoption of uniform guidance across all federal agencies, with flexibility to permit tailoring to each agency's specific recipients. Consistent with this OMB recommendation, DOJ published LEP Guidance for DOJ recipients which was drafted and organized to also function as a model for similar guidance by other Federal grant agencies. See 67 FR 41455 (June 18, 2002). This NARA guidance is based upon and incorporates the legal analysis and compliance standards of the model June 18, 2002, DOJ LEP Guidance for Recipients, but it has been tailored to NARA recipients, which include historical societies and archives, universities, colleges, and libraries.

It has been determined that the guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553. It has also been determined that this guidance is not subject to the requirements of Executive Order 12866. The text of the complete proposed guidance document appears below.

Dated: January 6, 2004.

**John W. Carlin,**

*Archivist of the United States.*

### **I. Introduction**

Most individuals living in the United States read, write, speak and understand English. There are many individuals, however, for whom English is not their primary language. For instance, based on the 2000 census, over 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or "LEP."

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.* and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance. Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities.

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin discrimination. The purpose of this policy guidance is to clarify the responsibilities of recipients of federal financial assistance from the National Archives and Records Administration (NARA), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons pursuant to Title VI of the Civil Rights Act of 1964 and implementing regulations. The policy guidance reiterates the longstanding position that, in order to avoid discrimination against LEP persons on the grounds of national origin, recipients must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide. See, *e.g.*, 28 CFR 401–415.

This policy guidance is modeled on and incorporates the legal analysis and compliance standards and framework set out in Section I through Section VIII of Department of Justice (DOJ) Policy Guidance titled "Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination

Affecting Limited English Proficient Persons," published at 67 FR 41455, 41457–41465 (June 18, 2002) (DOJ Recipient LEP Guidance). To the extent additional clarification is desired on the obligation under Title VI to ensure meaningful access by LEP persons and how recipients can satisfy that obligation, a recipient should consult the more detailed discussion of the applicable compliance standards and relevant factors set out in DOJ Recipient LEP Guidance. The June 18, 2002 DOJ Guidance may be viewed and downloaded at <http://www.lep.gov>.

In addition, NARA recipients also receiving federal financial assistance from other federal agencies, such as the Department of Education or the Institute of Museum and Library Services, should review those agencies' guidance documents at <http://www.lep.gov> for a more focused explanation of how they can comply with their Title VI and regulatory obligations in the context of similar federally assisted programs or activities.

Agency regulations promulgated pursuant to Section 602 of Title VI universally forbid recipients from "utiliz[ing] criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program as respects individuals of a particular race, color, or national origin." See, *e.g.*, 28 CFR 42.104(b)(2) (DOJ), 29 CFR 15.3(b)(2) (Department of Agriculture), 34 CFR 100.3(b)(2) (Department of Education), 45 CFR 80.3(b)(2) (Department of Health and Human Services), and 45 CFR 1110.3(b)(2) (National Endowment for the Arts and Humanities). NARA regulations implementing Title VI will be consistent with this long-standing federal policy prohibiting the use of criteria or methods of administration which have the effect of discriminating on the basis of race, color, or national origin.

Many commentators have noted that some have interpreted the case of *Alexander v. Sandoval*, 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and activities. NARA and the DOJ have taken the position that this is not the case, and will continue to do so. Accordingly, we will strive to ensure that federally assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

## II. Purpose and Application

This policy guidance provides a legal framework to assist recipients in developing appropriate and reasonable language assistance measures designed to address the needs of LEP individuals. As noted above, Title VI and its implementing regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Thus, a recipient entity's policies or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have an adverse effect on the ability of national origin minorities to meaningfully access programs and services. Recipient entities have considerable flexibility in determining how to comply with their legal obligation in the LEP setting and are not required to use the suggested methods and options that follow. However, recipient entities must establish and implement policies and procedures for providing language assistance sufficient to fulfill their Title VI responsibilities and provide LEP persons with meaningful access to services.

## III. Policy Guidance

### 1. Who Is Covered?

All entities that receive Federal financial assistance from NARA, either directly or indirectly, through a grant, cooperative agreement, contract or subcontract, are covered by this policy guidance. Title VI applies to all Federal financial assistance, which includes but is not limited to awards and loans of Federal funds, awards or donations of Federal property, details of Federal personnel, or any agreement, arrangement or other contract that has as one of its purposes the provision of assistance.

NARA recipients include, but are not limited to: State, county, and local historical societies and archives; universities; colleges; and libraries.

Title VI prohibits discrimination in any program or activity that receives Federal financial assistance. In most cases, when a recipient receives Federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the Federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the Federal assistance were used only by one part.

Finally, some recipients operate in jurisdictions in which English has been declared the official language. Nonetheless, these recipients continue

to be subject to federal non-discrimination requirements, including those applicable to the provision of federally assisted services to persons with limited English proficiency.

### 2. Basic Requirement: All Recipients Must Take Reasonable Steps To Provide Meaningful Access to LEP Persons

Title VI and Title VI regulations require that recipients take reasonable steps to ensure meaningful access to the information, programs, and services they provide. Recipients of federal assistance have considerable flexibility in determining precisely how to fulfill this obligation.

It is also important to emphasize that libraries, archives, and historical societies are generally in the business of maintaining, sharing, and disseminating vast amounts of information and items, most of which are created or generated by third parties. In large measure, the common service provided by these recipients is access to information, whether maintained on-site or elsewhere, not the generation of the sources information itself. This distinction is critical in properly applying Title VI to libraries, historical societies, and similar programs. For example, in the context of library services, recipients initially should focus on their procedures or services that directly impact access in three areas. First, applications for library or membership cards, instructions on card usage, and dissemination of information on where and how source material is maintained and indexed, should be available in appropriate languages other than English. Second, recipients should, consistent with the four factor analysis, determine what reasonable steps could be taken to enhance the value of their collections or services to LEP persons, including, for example, accessing language-appropriate books through inter-library loans, direct acquisitions, and/or on-line materials. Third, to the extent a recipient provides services beyond access to books, art, or cultural collections to include the generation of information about those collections, research aids, or community educational outreach such as reading or discovery programs, these additional or enhanced services should be separately evaluated under the four-factor analysis. A similar distinction can be employed with respect to a historical society's exhibits versus procedures for meaningful access to those exhibits.

What constitute reasonable steps to ensure meaningful access in the context of federally-assisted programs and activities will be contingent upon a balancing of four factors: (1) The

number and proportion of eligible LEP constituents; (2) the frequency of LEP individuals' contact with the program; (3) the nature and importance of the program; and (4) the resources available, including costs. Each of these factors is summarized below. In addition, recipients should consult Section V of the June 18, 2002 DOJ LEP Guidance for Recipients, 67 FR 41459–41460 or <http://www.lep.gov>, for additional detail on the nature, scope, and application of these factors.

### (1) Number or Proportion of LEP Individuals

The appropriateness of any action will depend on the size and proportion of the LEP population that the recipient serves and the prevalence of particular languages. Programs that serve a few or even one LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access. The first factor in determining the reasonableness of a recipient's efforts in the number or proportion of people who will be effectively excluded from meaningful access to the benefits or services if efforts are not made to remove language barriers. The steps that are reasonable for a recipient who serves one LEP person a year may be different than those expected from a recipient that serves several LEP persons each day.

### (2) Frequency of Contact With the Program

Frequency of contact between the program or activity and LEP individuals is another factor to be weighed. If LEP individuals must access the recipient's program or activity on a daily basis, a recipient has greater duties than if such contact is unpredictable and infrequent. For instance, a NHPRC-supported project to arrange and describe a collection consisting primarily of documents originally created in the Spanish language could provide finding aids that are linguistically accessible for LEP Spanish-speakers. Recipients should take into account local or regional conditions when determining frequency of contact with the program, and should have the flexibility to tailor their services to those needs.

### (3) Nature and Importance of the Program

The importance of the recipient's program to beneficiaries will affect the determination of what reasonable steps are required. More affirmative steps must be taken in programs where the denial or delay of access may have serious, or even life or death implications than in programs that are

not crucial to one's day-to-day existence, economic livelihood, safety, or education. For example, the obligations, of a federally assisted school or hospital differ from those of a federally assisted library or historical society. This factor implies that the obligation to provide translation services will be highest in programs providing education, job training, medical/health services, social welfare services, and similar services. As a general matter, it is less likely that libraries, archives, and historical societies receiving assistance from NARA will provide services having a similar immediate and direct impact on a person's life or livelihood. Thus, in large measure, it is the first factor (number or proportion of LEP individuals) that will have the greatest impact in determining the initial need for language assistance services.

In assessing the effect on individuals of failure to provide language services, recipients must consider the importance of the benefit to individuals both immediately and in the long-term. Another aspect of this factor is the nature of the program itself. Some content (such as pictures) may be extremely accessible regardless of language. In these instances, little translation might be required.

#### (4) Resources Available

NARA is aware that its recipients may experience difficulties with resource allocation. Many of the organizations' overall budgets, and awards involved are quite small. The resources available to a recipient of federal assistance may have an impact on the nature of the steps that recipient must take to ensure meaningful access. For example, a small recipient with limited resources may not have to take the same steps as a larger recipient to provide LEP assistance in programs that have a limited number of eligible LEP individuals, where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not providing an important service or benefit from, for instance, a health, education, economic, or safety perspective. Translation and interpretation costs are appropriately included as program costs in award budget requests.

This four-factor analysis necessarily implicates the "mix" of LEP services required. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. Even those award recipients who serve very few LEP persons on an infrequent basis should use a balancing analysis to determine whether the

importance of the services(s) provided and minimal costs make language assistance measures reasonable even in the case of limited and infrequent interactions with LEP persons. Recipients have substantial flexibility in determining the appropriate mix.

#### IV. Strategies for Ensuring Meaningful Access

Many NARA recipients, such as libraries, have a long history of interacting with people with varying language backgrounds and capabilities within the communities where they are located. NARA's goal is to continue to encourage these efforts and share practices so that other libraries, archives, and historical societies can benefit from these experiences.

The following are examples of language assistance strategies that are potentially useful for all recipients. These strategies incorporate a variety of options and methods for providing meaningful access to LEP beneficiaries and provide examples of how recipients should take each of the four factors discussed above into account when developing an LEP strategy. Not every option is necessary or appropriate for every recipient with respect to all of its programs and activities. Indeed, a language assistance plan need not be intricate; it may be as simple as being prepared to use a commercially available "language line" to obtain immediate interpreting services and/or having bilingual staff members available who are fluent in the most common non-English languages spoken in the area. Recipients should exercise the flexibility afforded under this Guidance to select those language assistance measures which have the greatest potential to address, at appropriate levels and in reasonable manners, the specific language needs of the LEP populations they serve.

Finally, the examples below are not intended to suggest that if services to LEP populations aren't legally required under Title VI and Title VI regulations, they should not be undertaken. Part of the way in which libraries and historical societies build communities is by cutting across barriers like language. A small investment in outreach to a linguistically diverse community may well result in a rich cultural exchange that benefits not only the LEP population, but also the recipient and the community as a whole.

#### Examples

—Identification of the languages that are likely to be encountered in, and the number of LEP persons that are likely to be affected by, the program. This information

may be gathered through review of census and constituent data as well as data from school systems and community agencies and organizations;

- Posting signs in public areas in several languages, informing the public of its right to free interpreter services and inviting members of the public to identify themselves as persons needing language assistance;
- Use of "I speak" cards for public-contact personnel so that the public can easily identify staff language abilities;
- Employment of staff, bilingual in appropriate languages, in public contact positions;
- Contracts with interpreting services that can provide competent interpreters in a wide variety of languages in a timely manner;
- Formal arrangements with community groups for competent and timely interpreter services by community volunteers;
- An arrangement with a telephone language interpreter line for on-demand service;
- Translations of application forms, instructional, informational and other key documents into appropriate non-English languages and provide oral interpreter assistance with documents for those persons whose language does not exist in written form;
- Procedures for effective telephone communication between staff and LEP persons, including instructions for English-speaking employees to obtain assistance from bilingual staff or interpreters when initiating or receiving calls to or from LEP persons;
- Notice to and training of all staff, particularly public contact staff, with respect to the recipient's Title VI obligation to provide language assistance to LEP persons, and on the language assistance policies and the procedures to be followed in securing such assistance in a timely manner;
- Insertion of notices, in appropriate languages, about access to free interpreters and other language assistance, in brochures, pamphlets, manuals, and other materials disseminated to the public and to staff; and
- Notice to and consultation with community organizations that represent LEP language groups, regarding problems and solutions, including standards and procedures for using their members as interpreters.

In identifying language assistance measures, recipients should avoid relying on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities. However, where LEP persons so desire, they should be permitted to use, at their own expense, an interpreter of their own choosing (whether a professional interpreter, family member, or friend) in place of or as a supplement to the free language services expressly offered by the recipient. But where a

balancing of the four factors indicate that recipient-provided language assistance is warranted, the recipient should take care to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that a competent interpreter could be provided by the recipient at no cost.

The use of family and friends as interpreters may be an appropriate option where proper application of the four factors would lead to a conclusion that recipient-provided language assistance is not necessary. An example of this might be a bookstore or cafeteria associated with a library or archive. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for technical accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or other informal ad hoc interpreters may be appropriate.

As noted throughout this guidance, NARA award recipients have a great deal of flexibility in addressing the needs of their constituents with limited English skills. That flexibility does not diminish, and should not be used to minimize, the obligation that those needs be addressed. NARA recipients should apply the four factors outlined above to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons. By balancing the number or proportion of people with limited English skills served, the frequency of their contact with the program, the importance and nature of the program, and the resources available, NARA awardees' Title VI obligations in many cases will be satisfied by making available oral language assistance or commissioning translations on an as-requested and as-needed basis. There are many circumstances where, after an application and balancing of the four factors noted above, Title VI would not require translation. For example, Title VI does not require a library to translate its collections, but it does require the implementation of appropriate language assistance measures to permit an otherwise eligible LEP person to apply for a library card and potentially to access appropriate-language materials through inter-library loans or other reasonable methods. NARA views this policy guidance as providing sufficient flexibility to allow NARA to continue to

fund language-dependent programs in both English and other languages without requiring translation that would be inconsistent with the nature of the program. Recipients should consult Section VI of the June 18, 2002 DOJ LEP Guidance for Recipients, 67 FR at 41461–41464 or <http://www.lep.gov>, for additional clarification on the standards applicable to assessing interpreter and translator competence, and for determining when translations of documents vital to accessing program benefits should be undertaken.

The key to ensuring meaningful access for people with limited English skills is effective communication. A recipient can ensure effective communication by developing and implementing a comprehensive language assistance program that includes policies and procedures for identifying and assessing the language needs of its LEP constituents. Such a program should also provide for a range of oral language assistance options, notice to LEP persons of the right to language assistance, periodic training of staff, monitoring of the program and, in certain circumstances, the translation of written materials.

Each recipient should, based on its own volume and frequency of contact with LEP clients and its own available resources, adopt a procedure for the resolution of complaints regarding the provision of language assistance and for notifying the public of their right to and how to file a complaint under Title VI. State recipients, who will frequently serve large numbers of LEP individuals, may consider appointing a senior level employee to coordinate the language assistance program and to ensure that there is regular monitoring of the program.

## V. Compliance and Enforcement

Executive Order 13166 requires that each federal department or agency extending federal financial assistance subject to Title VI issue separate guidance implementing uniform Title VI compliance standards with respect to LEP persons. Where recipients of federal financial assistance from NARA also receive assistance from one or more other federal departments or agencies, there is no obligation to conduct and document separate but identical analyses and language assistance plans for NARA. NARA, in discharging its compliance and enforcement obligations under Title VI, looks to analyses performed and plans developed in response to similar detailed LEP guidance issued by other federal agencies. Recipients may rely upon guidance issued by those agencies.

The Title VI enforcement structure focuses on voluntary compliance. NARA will investigate (or contact its State recipient of funds to investigate, if appropriate) whenever it receives a complaint, report or other information that alleges or indicates possible noncompliance with Title VI. If the investigation results in a finding of compliance, NARA will inform the recipient in writing of this determination, including the basis for the determination. If the investigation results in a finding of noncompliance, NARA must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance, and must attempt to secure voluntary compliance through informal means. If the matter cannot be resolved informally, NARA will secure compliance through (a) the suspension of termination of Federal assistance after the recipient has been given an opportunity for an administrative hearing, (b) referral to the DOJ for injunctive relief or other enforcement proceedings, or (c) any other means authorized by federal, state, or local law.

NARA will seek voluntary compliance in resolving cases and does not seek the termination of funds until it has engaged in voluntary compliance efforts and has determined that compliance cannot be secured voluntarily. NARA will engage in voluntary compliance efforts and will provide technical assistance to recipients at all stages of its investigation. During these efforts to secure voluntary compliance, NARA will propose reasonable timetables for achieving compliance and will consult with and assist recipients in exploring cost-effective ways of coming into compliance.

In determining a recipient's compliance with Title VI, NARA's primary concern is to ensure that the recipient's policies and procedures overcome barriers resulting from language differences that would deny LEP persons a meaningful opportunity to participate in and access programs, services, and benefits. A recipient's appropriate use of the methods and options discussed in this policy guidance will be reviewed by NARA as evidence of a recipient's willingness to comply voluntarily with its Title VI obligations. If implementation of one or more of these options would be so financially burdensome as to defeat the legitimate objectives of a recipient/covered entity's program, or if there are equally effective alternatives for ensuring that LEP persons have

meaningful access to programs and services (such as timely effective oral interpretation of vital documents), NARA will not find the recipient/covered entity in noncompliance.

[FR Doc. 04-545 Filed 1-9-04; 8:45 am]

BILLING CODE 7515-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8838-MLA-2, ASLBP No. 04-819-04-MLA]

### United States Army, Jefferson Proving Ground Site; Notice of Reconstitution

Pursuant to the authority contained in 10 CFR 2.722 and 2.1209, Administrative Judge Paul B. Abramson is hereby appointed as a Special Assistant to aid Presiding Officer Administrative Judge Alan S. Rosenthal in the above-captioned 10 CFR Part 2, Subpart L proceeding.

All correspondence, documents, and other material shall be filed with the Special Assistant in accordance with 10 CFR 2.1203. The address of the Special Assistant is: Administrative Judge Paul B. Abramson, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Issued at Rockville, Maryland, this 5th day of January 2004.

**G. Paul Bollwerk, III,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 04-549 Filed 1-9-04; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** [69 FR 387, January 5, 2004]

**STATUS:** Closed Meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**ANNOUNCEMENT OF ADDITIONAL MEETING:** Additional Meeting.

A Closed Meeting will be held on Thursday, January 8, 2004 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meeting. Certain staff members who have an interest in the matter may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or

more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), and (10) and 17 CFR 200.402(a)(5), (7), and (10), permit consideration of the scheduled matters at the Closed Meeting.

Commissioner Goldschmid, as duty officer, voted to consider the items listed for the closed meeting in a closed session and determined that no earlier notice thereof was possible.

The subject matter of the Closed Meeting to be held on Tuesday, January 6, 2004 will be: Formal order of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: January 8, 2004.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 04-676 Filed 1-8-04; 12:11 pm]

BILLING CODE 8010-01-M

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 12, 2004:

Closed Meetings will be held on Tuesday, January 13, 2004 at 2 p.m. and Thursday, January 15, 2004 at 2 p.m., and an Open Meeting will be held on Wednesday, January 14, 2004 at 10 a.m. in Room 1C30, the William O. Douglas Room.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (3), (5), (6), (7), (9B), and (10) and 17 CFR 200.402(a) (3), (5), (6), (7), (9ii), and (10), permit consideration of the scheduled matters at the Closed Meetings.

Commissioner Goldschmid, as duty officer, voted to consider the items listed for the closed meetings in closed sessions and that no earlier notice thereof was possible.

The subject matter of the Closed Meeting scheduled for Tuesday, January 13, 2004 will be:

Formal orders of investigation; Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions; and  
Adjudicatory matter.

The subject matter of the Open Meeting scheduled for Wednesday, January 14, 2004 will be:

1. The Commission will consider whether to propose new rule 204A-1 under the Investment Advisers Act of 1940 ("Advisers Act"). The proposed rule would require investment advisers to adopt codes of ethics that would set forth standards of conduct for advisory personnel, safeguard material nonpublic information about client transactions, and address conflicts that arise from personal trading by advisory personnel. The Commission will also consider whether to propose related amendments to Advisers Act rule 204-2, Advisers Act Form ADV, and rule 17j-1 under the Investment Company Act of 1940.

For further information, please contact Robert Tuleya at (202) 942-0719.

2. The Commission will consider whether to propose amendments to rules 0-1, 10f-3, 12b-1, 15a-4, 17a-7, 17a-8, 17d-1, 17e-1, 17g-1, 18f-3, and 23c-3, to require investment companies that rely on certain exemptive rules to adopt certain governance practices. The Commission also will consider whether to propose an amendment to rule 31a-2, the investment company recordkeeping rule, to require that investment companies retain copies of written materials that the directors consider when approving investment advisory contracts.

For further information, please contact Catherine E. Marshall at (202) 942-0719.

3. The Commission will consider whether to propose new rules 15c2-2 and 15c2-3 under the Securities Exchange Act of 1934, and amendments to the confirmation requirements of rule 10b-10 under that Act, to require improved disclosure to investors about costs and conflicts of interest arising from the distribution of open-end investment company shares, unit investment trust interests and municipal fund securities. The proposed new rules and rule amendments would require brokers, dealers and municipal securities dealers to provide investors with specific information about distribution-related costs and conflicts prior to purchase transactions involving those securities, and as part of transaction confirmations. The amendments would also expand confirmation disclosure of call