



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

FIGHTING FOR JUSTICE, CHANGING LIVES

SINCE 1966

July 10, 2017

Federal Housing Finance Agency (FHFA)
Office of Housing and Regulatory Policy
400 7th Street, S.W., 9th Floor
Washington, D.C. 20219

RE: Comments on the FHFA Improving Language Access in Mortgage Lending and Servicing Request for Input

Dear FHFA Representative:

California Rural Legal Assistance, Inc. (CRLA) submits the following comments on the FHFA Request for Input (RFI) to improve language access in mortgage and lending services. FHFA posed numerous questions in its RFI. CRLA responds to several questions below.

Question A5

CRLA advocates' experience is that servicers might have interpretation services available to borrowers with limited English proficiency (LEP) via telephone lines, but that most of the servicers offering interpretation services do not translate or make available translation services of important documents. The efficacy and competence of the interpretation services vary by servicer, and we have observed three common patterns detrimental to LEP borrowers: inconsistencies in information requested of LEP and non-LEP borrowers, substantial delays in obtaining interpretation services, and interpreters' inability to explain complex terms and concepts using plain language.

LEP borrowers using an interpretation telephone line might be directed to submit additional or different documents than a similarly situated non-LEP borrower using the English language line. A Spanish speaking borrower might be directed to gather two months of pay stubs to submit to the servicer, for example, when a non-LEP borrower is only directed to collect one pay stub. Inconsistencies of this nature can be remedied by consistent training and the use of a standard form by servicer employees and interpreters serving non-LEP and LEP borrowers. This also might be indicative of discrimination based on ability to speak English or national origin.

LEP borrowers experience long wait times and delays in access to telephone interpretation services. Borrowers have been instructed to call back at a later unspecified time because no interpreters are available. Telephone contact is usually the only method of communication between LEP borrowers and their servicers; LEP borrowers simply do not have access to servicers' in-person bilingual staff, if any exist. Additional competent bilingual staff and accessible interpreters, corresponding to the population of LEP borrowers assisted by the servicer would, in part, alleviate the delays which otherwise have an adverse effect on borrowers with loss mitigation and other deadlines.



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CRLA staff also have observed that LEP borrowers have difficulty understanding the terms and concepts used by servicers and, when asked to explain the terms or concepts, interpreters are unable to do so using plain language. This also can be the case using an English language line, however, many servicers have explanatory plain language materials or videos for non-LEP borrowers to consult which are unavailable to LEP borrowers. LEP borrowers often do not understand language used during loan origination and they do not recognize these terms as their loan progresses.

Servicers would benefit from fully bilingual staff, and consultation with a plain language expert and additional training for bilingual staff and interpreters so that LEP borrowers receive the same depth of explanation and understanding provided to non-LEP borrowers at origination and during the life of the loan.

Servicers also should use approved translations of high quality plain language explanatory materials or other forms of information. The California Court system has emphasized the importance of using plain language to assist people with access to services in its Self-Help materials through the Website Plain Language Project. Efforts like these will encourage learning and understanding among persons who need access to these important services. LEP borrowers will be less likely to be the victims of fraud and scams if they understand their rights and obligations.

Many LEP borrowers take advantage of the interpretation services offered but would greatly benefit from translation of documents. The lack of translated documents leads to LEP borrowers using the interpretation telephone line for interpretation and explanation of documents written in English. LEP borrowers often must pay a third party or rely on inadequate translation to understand important documents ranging from monthly statements to loan modification applications. Important documents should be provided in a LEP borrower's preferred language.

Servicers also should present borrowers with an opportunity to express their language preference early in the process and in an easily recognizable manner. Language preferences and notice of the availability of interpretation services often is found in fine or small print and buried among other boilerplate notices to the borrower, and are very difficult for LEP borrowers to recognize. Language preferences tend to be overlooked or are not communicated to new servicers when a borrower's loan is sold, and so existing servicers should be required to communicate this information to subsequent servicers in an easy-to-identify way. Loan transfer letters provide an opportunity for LEP borrowers to select their language preference.

Question B1

Rural LEP individuals face barriers in access to mortgage lending at origination and during the life of their loans. LEP individuals in rural areas lack access to a variety of in-person lending and servicing options as much marketing occurs on the internet.



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In-person contact and the availability of hard copy materials is important to LEP individuals in rural areas for the reasons described above regarding the difficulty in access to and understanding interpretation services provided via telephone. The nature of in-person contact and quality of materials is a critical component here, however, in order to avoid sub-par loans to which many LEP borrowers have been subjected.

Rural LEP individuals also might not have internet access, reliable or otherwise, and therefore rely on hard copy educational and explanatory materials to understand and consider their options. This also leads back, however, to the barriers they face locating good quality translated written materials. More effective practices are discussed in Question B2.

Question B2

There are many radio and television stations providing programming in languages other than English. The use of radio and television for commercials and public service announcements are effective and important tools to reach LEP borrowers. They must be carefully regulated and monitored, however, so that vulnerable borrowers are not subjected to wrongful lending or servicing practices.

Properly translated materials should be provided to existing agencies, community groups, or trusted organizations serving prospective and current LEP borrowers, including trusted community education and outreach groups, housing counselors, fair housing councils, City and County Recorder's Offices, courthouses, public libraries, and others. The availability of information and materials from trusted sources or existing sources from other services will increase knowledge and access to LEP individuals. Internet-based resources must be available, however, online-only resources tend to exclude rural LEP borrowers or LEP individuals interested in purchasing a home.

Section C

The measures advanced in Section C regarding short term actions should improve access to LEP individuals.

Measures 1 and 3 regarding translation of additional origination and servicing documents and creation of a centralized clearinghouse is an important and necessary step to improving access to LEP individuals. Clearinghouse information also should be available in hard copy.

Measure 5 regarding public education is important and addresses the frustrating lack of knowledge and understanding of complex and technical terms in origination and servicing experienced by LEP individuals. Reaching rural areas must be taken into consideration when planning education efforts; travel to rural areas working with existing agencies or organizations serving LEP individuals or borrowers, ensuring the information is being provided using plain language, and providing any materials or videos in hard copy in addition to the internet.



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Development of an interagency working group in Measure 8 might be beneficial and should include the development of best practices for servicers and reliance on regulatory and enforcement agencies such as the Consumer Finance Protection Bureau.

Section D

Collection of language borrower data could be done using a standard form across the industry. This practice may also allow language preferences to be communicated seamlessly among services in the event a borrower's loan is sold. The designation of a language preference must be effectively communicated to the borrower and be presented to the LEP individual in marketing materials and in loan origination in a place that is easy to recognize.

LEP borrowers struggling to make monthly payments who are unable to understand loss mitigation options, but would otherwise qualify for a modification or to refinance, face dire consequences as a result of inadequate language access and the inability to understand important mortgage information and options. Greater efforts should be undertaken to translate important documents, particularly loss mitigation documents, and increase public education and awareness about loan options, so that foreclosures among LEP individuals will decrease.

It also would be useful to track LEP borrower data and data regarding pre- and post- translation efforts to uncover any correlation to translation and interpretation efforts and a decrease in foreclosures among LEP borrowers.

Tracking data on LEP borrowers and regions also might inform appropriate languages in which to offer public education.

Data tracking regarding LEP borrower and different types of loans also might reveal reoccurring issues within the industry that have an adverse effect on LEP individuals. Remedies might be provided through investigation and consultation with an interagency working group.

FHFA is aware of course that in the event of the death of the borrower, any other persons on title who occupy the property may seek or be entitled to request loan assumption. It also might be beneficial if the borrower has an option to identify the language preferences of other title holders, persons with an applicable power of attorney, and/or other persons residing in the home who might assume the loan after the death of the borrower.

Thank you for your consideration of CRLA's comments in response to the FHFA Request for Input.

Sincerely,

CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

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