

STATEWIDE LANGUAGE SURVEY AND IMPLEMENTATION PLAN



2010-2011



**Prepared for the
Governor and the
Legislature**

**By the
State Personnel Board**

**2010-2011
STATEWIDE LANGUAGE SURVEY
AND IMPLEMENTATION PLAN**



STATE PERSONNEL BOARD

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May 2012

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I. INTRODUCTION

A. Executive Summary

This report to the Governor and the Legislature has been prepared by the State Personnel Board (SPB) pursuant to Government Code section 7299.6. The data presented is vital to executives in each State agency, department, board, and commission (agency) in planning the delivery of services to the limited-English proficient population of California. The number of Californians age five and over who speak a language other than English increased from 12.4 million in 2000 to 16 million in 2010.¹ Approximately 43% of Californians speak a language other than English in the home.

During 2010 and 2011, SPB improved its processes to reflect findings and recommendations of an audit by the California State Auditor.² Additional data was collected, and the results are displayed in summary form in this report.

This report summarizes the 2010 Statewide Language Survey results and subsequent 2011 Implementation Plans that document how each agency provides services to its limited-English proficient clients and addresses identified unmet bilingual needs. Overall, SPB found that:

- The vast majority of agencies have resources in place to meet the information needs of their limited-English proficient public;
- Many agency documents have been translated into the State's most prevalent non-English languages; and
- Agencies would benefit from resource sharing to comply with the provisions of the Act.

Following are highlights of some of the language survey and implementation plan findings:

- A total of 70 agencies participated in the language survey (Exhibit A). This is an increase of 13 agencies (23%) from the 57 agencies that participated in the 2008 Language Survey. Sixty-six (66) agencies applied for and were granted an exemption from participating in the language survey (Exhibit B). By comparison, this is an increase of 5 agencies (8%) from the 61 agencies that were granted an exemption from the 2008 Language Survey. These agencies provide little or no services to California's limited-English proficient population.
- A total of 59 agencies participated in the implementation plan (Exhibit C). This is an increase of 7 agencies (14%) from the 52 agencies that participated in the 2009 Implementation Plan. Seventy-six (76) agencies applied for and were granted an exemption from participating in the implementation plan (Exhibit D). By comparison this is an increase of 44 agencies (238%) from the 32 agencies that were granted an exemption from the 2009 Implementation Plan. This increase is due to SPB's diligence in following up with all agencies on their requirement to participate or be granted an exemption.

¹ U.S. Census Bureau. (2010), *2010 American Community Survey*.

² California State Auditor, *Dymally-Alatorre Bilingual Services Act: State Agencies Do Not Fully Comply With the Act, and Local Governments Could Do More to Address Their Clients' Needs*, November 2010; Report 2010-106.

- A total of 5,927,037 public contacts were recorded during a 10-day survey period. This represents a decrease of 576,647 public contacts (9%) over those reported in the 2008-2009 Language Survey and Implementation Plan. There are 8,347 certified bilingual positions allocated within the 70 reporting agencies. This represents a 1,002 position increase (14%) from the 2008 Language Survey.
- The number of non-English languages identified during the language survey period was 96. This is two fewer than reported in the 2008 Language Survey.
- All agencies whose survey results revealed bilingual staffing deficiencies conducted a detailed analysis of survey findings to determine true or actual staffing deficiencies (Exhibit F).

B. Background

The 1973 Dymally-Alatorre Bilingual Services Act (Act) requires that every agency, as defined in section 11000 of the Government Code, that is directly involved in providing public services employ bilingual employees or have established bilingual resources when a substantial portion of its clients are limited-English proficient. In 1977, the Act was amended to require that materials explaining services in English be translated into non-English languages spoken by a substantial number of the limited-English proficient serviced population. "Substantial" is defined as 5% of the population served of any local office or facility of an agency. This set the standard for determining the number of bilingual contacts required to establish bilingual positions. In 2002, the Act was amended to require agencies to document procedures for identifying language needs as well as plans to address deficiencies and complaints in providing service to agencies' limited-English proficient clients.

The Act defines public contact position as "a position determined by the agency to be one which emphasizes the ability to meet, contact and deal with the public in the performance of the agency's functions."

SPB is required to inform agencies of their responsibilities under the Act and provide technical assistance. Agencies are required to conduct a biennial language survey of each of their local offices that serve the general public, and report to SPB the number of bilingual employees in public contact positions including the language in which they are certified, number of bilingual staffing needs, number and percentage of limited-English proficient clients served by the agency, and a list of written materials that are required to be translated or otherwise made accessible.

The Act specifically exempts from its provisions the State Compensation Insurance Fund (SCIF). In addition, SPB has authority to grant exemptions³ to agencies from participating in the language survey and implementation plan. To qualify, an agency must either certify that: its primary mission does not include responsibility for furnishing information or rendering services to the public, or it has consistently received such limited public contact with the non-English speaking public that it has not been required to employ bilingual staff⁴ and it employs fewer than the equivalent of 25 full-time employees in public contact positions. Exemption from

³ Government Code section 7299.5.

⁴ Government Code section 7292.

participating in the language survey and implementation plan does not relieve an agency from compliance with the Act and providing services to its limited-English proficient contacts.

C. Improvement Activities

In 2010, the Bureau of State Audits released its report of the Dymally-Alatorre Bilingual Services Act. As a result of the findings, SPB implemented several improvements to the language survey and implementation plan processes and procedures:

- The Department of Finance's Uniform Codes Manual was used to create a comprehensive agency listing, and procedures were developed to ensure that all agencies were properly notified of the Act's requirements.
- A system was developed to track agencies participating in the language survey and implementation plan processes. Accurate exemption language was incorporated into the forms for the language survey and implementation plan, as specified in the Act. In addition, a tracking mechanism and review process was instituted for each exemption approval to reduce the risk of error.
- Forms were revised to capture all of the information required by the Act. In addition, procedures were developed to assess the adequacy of agencies' language surveys and implementation plans, which includes evaluating the status of agencies' corrective action plans for addressing deficiencies in bilingual staffing and written materials. If SPB determines that agencies' corrective action plans do not adequately address deficiencies, it will require such agencies to revise their plans accordingly. In addition, deficient agencies will be required to submit six-month⁵ progress reports.
- Additional fields were incorporated in SPB's tracking system to capture the date a complaint was resolved and how it was resolved.

II. LANGUAGE SURVEY

This section provides an overview of the process used by SPB to gather the language survey data and of findings based on the compiled results.

A. Procedures

Each agency must complete and submit a language survey every even numbered-year by October 1 unless they petition and are granted an exemption from SPB. The following provides an overview of the process.

- SPB Trains Agency Coordinators: SPB develops and provides training to agencies via webinar and classroom training on the automated language survey online system used to report survey results. Each agency trains its public contact employees, and then administers the survey during a 10-day period.

⁵ Government Code section 7299.4

- Agencies Compile and Analyze Findings, and Submit the Results: Language survey coordinators compile their results, analyze the data to determine whether or not the bilingual staffing deficiencies reflect actual needs for additional bilingual staffing, and submit the results to SPB through the automated language survey online system.
- SPB Evaluates Submissions: SPB reviews all results to gain insight into the statewide level of service provided to California's limited-English proficient population and to assist agencies with identified deficiencies in bilingual staffing and/or written document translations to address in their implementation plan.

B. Findings

The major findings of the 2010 Language Survey are as follows:

1. Public Contacts

A total of 5,927,037 public contacts were reported from 70 agencies. Of these contacts, 796,371 or 13% were from persons who were identified as limited-English proficient. While the total number of public contacts decreased in 2010 from the previous reporting period, the percentage of English to non-English contacts changed only slightly (Table 1). Spanish continues to be the dominant non-English language with 645,273 or 11% of the contacts. The other languages with a predominant number of contacts include:

- Vietnamese: 28,339 (0.5% of all public contacts)
- Cantonese: 21,651 (0.4%)
- Mandarin: 18,494 (0.3%)
- Tagalog: 12,430 (0.2%)
- Korean: 11,550 (0.2%)

Table 1 - Public Contact Statistics

Description	2008		2010	
	No.	%	No.	%
English Contacts	5,604,875	86%	5,130,666	87%
Non-English Contacts	898,809	14%	796,371	13%
Total Public Contacts	6,503,684		5,927,037	

2. Public Contact Positions

The Act defines a public contact position as “a position that emphasizes the ability to meet, contact and deal with the public in the performance of the agency’s functions.” There were a total of 61,698 public contact employees reported from the 70 participating agencies (Table 2). Of these positions, 8,347 or 14% were certified as bilingual in a non-English language. A bilingual person is a person who is proficient in both the English language and the non-English language to be used. The Act also requires the employment of “qualified bilingual persons” in public contact positions. “Qualified” or “proficient” is defined as someone who is certified as proficient in the non-English language by passing a bilingual oral fluency examination administered by either SPB or other approved testing authority.

The majority of the certified bilingual positions are held by Spanish-speaking employees (7,090 or 84.9%) followed by employees certified in Vietnamese (275 or 3.3%), Cantonese (218 or 2.6%), Tagalog (183 or 2.2%), and Mandarin (154 or 1.8%). The remaining bilingual positions (467 or 5.6%) are held by employees that speak other non-English languages (Exhibit E). In 2010, certified bilingual public contact positions increased by 1,002 positions (14%) from the 7,345 positions reported in the 2008 Language Survey.

In addition to certified bilingual positions, many agencies use non-certified bilingual employees to provide services to limited-English proficient clients. Non-certified employees have not met the criteria or completed the process of becoming certified. There were 7,551 non-certified bilingual employees serving in public contact positions, a 38% increase from the 2008 Language Survey.

Table 2 - Public Contact Positions Statistics

Description	2008		2010	
	No.	%	No.	%
English-Only	39,313	75%	45,800	74%
Non-Certified Bilingual	5,475	11%	7,551	12%
Certified Bilingual	7,345	14%	8,347	14%
Total Public Contact Positions	52,133		61,698	

3. Bilingual Staffing Deficiencies

Of the 70 agencies that participated in the 2010 Language Survey, 54 agencies (77%) met the 5% threshold in a non-English language, and completed a supplemental questionnaire regarding deficiencies in bilingual staffing and written materials.

Forty-three (43) (80%) of these 54 agencies had one or more instances where the survey data indicated a bilingual staffing deficiency. The remaining 11 agencies (20%) had no staffing deficiencies. Each agency performed an analysis of its findings to determine its actual staffing deficiencies, resulting in a total of 212 actual staffing deficiencies among 28 agencies (Exhibit F) in 12 languages (Exhibit E). Factors cited by the agencies in the analyses included the use of certified bilingual staff, an interpreter service, and referral to non-certified bilingual staff in neighboring offices. A total of 42 agencies (60%) of the 70 agencies that submitted a language survey reported no actual deficiencies, and are meeting the requirements of the Act (Exhibit G).

In each case, the agency described its plan and timeline to correct the deficiency in the implementation plan they submitted the following year. Corrective action plans included, but were not limited to:

- Scheduling non-certified bilingual staff to take the bilingual oral fluency examination.
- Recruiting certified bilingual applicants to fill open public contact positions.

III. IMPLEMENTATION PLANS

This section summarizes the process used to gather implementation plans from agencies, and presents an overview of the findings contained in the plans.

A. Procedures

Unless specifically exempted by SPB, each agency must complete and submit an implementation plan to SPB no later than October 1 of odd-numbered years. Whereas the language survey collects information related to the languages spoken by public contacts by agency local offices, the implementation plan gathers information related to the services provided to limited-English proficient clients by the agency and how the agency addresses deficiencies in bilingual staffing and/or written materials translation identified in the language survey.

B. Findings

Fifty-nine (59) agencies submitted an implementation plan, including those that reported bilingual staffing deficiencies (28 agencies) and those that did not. Seventy-six (76) agencies were granted exemption from submitting an implementation plan (Exhibit D).

The major findings of agencies' 2011 Implementation Plan submissions are as follows:

1. Bilingual Staffing Deficiencies

Twenty-eight (28) agencies found actual deficiencies in local offices (Exhibit F). In the implementation plan, these agencies reported their progress in addressing these bilingual staffing deficiencies.

Eight of the 28 agencies (29%) indicated that they had successfully completed the action plan to correct the actual staffing deficiencies in all local offices/units that reported deficiencies. Fourteen agencies (50%) had corrected some bilingual staffing deficiencies, and six (21%) had not addressed any of the actual deficiencies (Exhibit H). SPB will require agency follow-up at six-month intervals to ensure the deficiencies are resolved.

2. Written Materials Deficiencies

All participating agencies that met the 5% threshold in one or more local offices or units in the language survey were required to list the written materials subject to translation under the Act.⁶ These written materials include, but are not limited to, applications, brochures, forms, letters, notices, questionnaires, website postings and other media.

Fifty-four (54) (77%) of the 70 agencies that conducted a language survey met the 5% threshold and identified 3,704 documents as being subject to translation by the Act. The agencies indicated whether or not the materials had been translated into the 5% threshold languages and their plans for translating the documents that had not been translated.

In the implementation plan, these agencies indicated whether or not they had fulfilled their translation plan, and if not, their intentions regarding correcting these outstanding written materials deficiencies. Seven agencies reported written materials deficiencies (Exhibit I). SPB will require agency follow-up at six-month intervals to ensure that deficiencies are resolved.

3. Translated Materials Procedures

The Act requires that agencies describe their procedures for identifying written materials that need to be translated in order to meet the language needs of their substantial non-English-speaking public. All 59 agencies provided a description of their process for identifying written materials that need to be translated.

Following are examples of how three agencies meet this requirement of the Act.

The **Department of Justice** reported that the Equal Employment Rights and Resolution Office through the coordination of the bilingual services coordinator, provides leadership, assistance, and subject matter expertise on the Act to each program within the agency. Each program determines those materials that need to be translated based on their programmatic responsibilities and/or the biennial language survey results and whether those results indicate that 5% or more of the public served is limited-English proficient. When less than 5% of the public served are limited-English proficient, each local office determines which materials should be translated using a four-factor-analysis questionnaire, adapted from Title VI of the federal Civil Rights Act of 1964 and federal Executive Order 13166. The questionnaire is disseminated to the programs twice a year to help programs identify materials that need to be translated. Additionally, the agency plans to conduct a mini-survey regarding written materials concurrently with the next language survey.

⁶ Government Code section 7295.4.

The **California Department of Public Health** reported it relies on the language survey data to determine the language needs and identifies forms that require translation into these languages. The agency through contract translates these documents for distribution.

The **Department of Housing and Community Development** has each of its unit managers use the results of the language survey to identify their translation needs. These divisions make it a priority to have these documents translated into the languages that met the threshold.

4. Identifying Language and Staffing Needs

The Act requires that agencies have a procedure for identifying language needs at local offices. All 59 agencies described their procedures for identifying non-English language needs in their local offices.

Following are examples of how two agencies meet this requirement of the Act.

The **California Department of Corrections and Rehabilitation** relies on the language survey results to help identify the needs of the non-English speaking public. The language survey identifies languages that met the 5% threshold and what forms, if any, need translation. The agency also displays posters in all institution visiting halls and parole offices to identify languages spoken by limited-English proficient clients and the frequency with which limited-English proficient clients come in contact with the agency.

The **Department of Motor Vehicles** indicates its language survey coordinator monitors all certified bilingual staff movements, such as transfers and promotions, and takes any necessary action to ensure each reporting unit maintains the required level of certified bilingual staff to provide equal access to its limited-English proficient clients. In addition, the agency compares census data with its language survey results to see if trends are reflected in its customer language needs to identify its future language staffing needs.

The Act also requires that agencies have a procedure for assigning qualified bilingual staff to meet their limited-English proficient clients' needs.

- Fifty-seven (57) agencies (97%) described their procedures for assigning qualified bilingual staff to meet their local offices' needs.
- Two (2) agencies (3%) did not respond to the question. SPB is following up with those two agencies to obtain a response.

Following are examples of how two agencies meet this requirement of the Act.

The **Department of Developmental Services** uses survey results to ensure the language needs at local offices are met. Management backfills positions with certified bilingual staff as needed.

The **California Department of Insurance's** survey indicates the need for additional bilingual staff. The agency's bilingual services coordinator confers with the specific program area to resolve the deficiency. This may be accomplished by certifying bilingual staff in the office or recruiting/hiring additional bilingual staff. The staff also has the option to contact

the agency's Consumer Hotline for assistance in using the Telephone Interpreter Services or contacting a certified bilingual employee for assistance.

5. Recruiting Qualified Bilingual Staff

The Act requires that agencies have a procedure for recruiting qualified staff to assist with meeting the non-English language needs at local offices.

- Fifty-six (56) agencies (95%) described their procedures for recruiting qualified bilingual staff.
- Three (3) agencies (5%) did not respond to the question. SPB is following up with those three agencies to obtain a response.

Following are examples of how two agencies meet this requirement of the Act.

The **Department of Toxic Substances Control's** bilingual services coordinator works with the program/office that has the need along with the Human Resources Branch to ensure that recruitment of qualified bilingual staff is conducted for the position vacancy.

The **California Department of Public Health** identifies the need for additional bilingual positions through the language survey results. The agency uses recruitment events, external advertisement methods, SPB's online website and the bilingual oral fluency examination to fill bilingual positions.

6. Training Public Contact Staff

A majority of agencies provide training for their public contact staff to ensure they understand their responsibilities for providing an appropriate level of language access to limited-English proficient clients.

- Fifty-five (55) agencies (93%) provided a description of their training programs.
- Four (4) agencies (7%) do not provide training to their public contact staff in how to ensure that the needs of their limited-English proficient clients are met. SPB will require agency follow-up at six-month intervals to ensure that this deficiency is resolved.

Following are examples of how two agencies meet this requirement of the Act.

The **California Department of Food and Agriculture's** Equal Employment Opportunity Office provides training every other month to staff in the bilingual program. The training includes the agency's commitment to effectively communicate with all its clients and the resources needed to provide services to limited-English proficient clients.

The **California Highway Patrol** provides a cultural diversity and non-discrimination course to its cadets. Additionally, the agency provides training in the Spanish language to all cadets. As a condition of employment and graduation requirements, cadets must demonstrate basic proficiency in communicating in Spanish. Further, the agency's dispatcher training includes detailed instructions on how to use the interpreter service when

receiving calls from limited-English proficient clients as well as examples on how the interpreter service should be used.

7. Language Access Complaint Process

When limited-English proficient clients' language needs are not being adequately met, it is important that they have an avenue to submit a complaint regarding language access. Agencies' implementation plans show that 92% of these agencies have procedures in place to capture language access complaints. In an effort to assist agencies in this area, SPB developed language access posters that feature a toll-free telephone number and verbiage informing the limited-English proficient public of their right to request services in their native language. Agencies were provided with the posters to display in prominent areas accessible to the public. SPB has a toll-free telephone number to receive calls from limited-English proficient contacts if they are unsuccessful in obtaining bilingual services at agencies. Upon receipt of a language access complaint, SPB directs the call to the respective agency's language survey coordinator for resolution, and tracks the resolution of the complaint to ensure the matter is resolved in a timely manner.

Of the fifty-nine (59) agencies that completed an implementation plan:

- Fifty-four (54) agencies (92%) provided a description of their complaint resolution process.
- Five (5) agencies (8%) do not have a complaint resolution process. SPB will require agency follow-up at six-month intervals to ensure this deficiency is resolved.

Following are examples of how two agencies meet this requirement of the Act.

The **Department of Fair Employment and Housing** displays a Notice of Interpreter Services in facility areas accessible to the public. The poster contains information that explains interpreter services that are available and it is translated into the four most prominent languages spoken by its limited-English proficient clients. The poster contains the name and telephone number of the District Administrator and the agency's bilingual services coordinator whom a member of the public may contact for reporting and resolving a complaint.

The **Department of Consumer Affairs** developed a form that allows the documentation of public comments and complaints. Consumers can send a comment, complaint, or suggestion about one of the Boards, Bureaus, Programs, or Divisions via an online or paper form. The agency's Non-Discrimination Policy and Complaint Procedures advise employees to report consumer complaints to their supervisor or the Equal Employment Opportunity Office and provide all relevant information in a manner that allows the agency the opportunity to resolve the complaint at the lowest level possible. In the event a complaint is filed, the Equal Employment Opportunity Office assists programs and consumers with resolving complaints of an alleged violation of the Act, by identifying resources and recommending resolutions.

8. Compliance with Other State or Federal Language Access Laws

In addition to the Act, 36 agencies (61%) reported that they are subject to other State or federal laws that affect their provision of services to limited-English proficient clients. The remaining 23 (39%) reported they are not required to comply with other State or federal laws.

9. Other Resources Utilized to Provide Language Services

Agencies were asked to include any other resources they employ in order to serve the needs of their limited-English proficient clients. Following are examples cited by three agencies:

The **Board of Equalization** has a list that contains the names of certified and non-certified employees that are available to all programs should they need assistance with providing services to their limited-English proficient clients.

The **California Housing Finance Agency** reports that it has a Spanish translator on contract to ensure timely delivery of Spanish-language materials. This is in addition to several Spanish certified employees in various divisions. The agency also has a dedicated customer line staffed by a bilingual operator, and it maintains a list of all certified bilingual staff on the agency Intranet website which indicates the language they are certified in, and their direct line.

The Department of **Boating and Waterways** has a Spanish website, and its requested brochures are translated. The agency has radio public service announcements and a video in Spanish, along with elementary teacher curricula available in Spanish that promote water and boating safety.

IV. CONCLUSIONS

California agencies are committed to providing bilingual services to their limited-English proficient clients. In the vast majority of agencies' local offices, there are resources in place to meet the needs of their limited-English proficient clients through certified bilingual employees, written translations, and interpreter and translation services. In addition, agencies use non-certified employees to meet the immediate need of providing service until employees obtain certification. Where deficiencies exist in staffing and/or written documents, and procedures, SPB will require agency follow-up at six-month intervals to ensure deficiencies are resolved.

However, to leverage resources, agencies would benefit from sharing information about various ways they provide bilingual services to their limited-English proficient clients. The State's largest agencies—with a corresponding high number of annual public contacts—have developed procedures to ensure the needs of their limited-English proficient populations are met. In contrast, some smaller agencies may have limited procedures and resources.