



# City of New York

OFFICE OF THE COMPTROLLER

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**COMPTROLLER**



## AUDITS & SPECIAL REPORTS

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Deputy Comptroller for Audit

Audit Report on the Compliance of the  
New York City Department of Probation  
with Executive Order 120 Regarding  
Limited English Proficiency

SZ15-110A

June 26, 2015

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
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NEW YORK, NY 10007

SCOTT M. STRINGER  
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June 26, 2015

To the Residents of the City of New York:

My office has audited the Department of Probation (DOP) to determine whether DOP is in compliance with Executive Order 120 (EO 120), which requires that City agencies that provide direct services to the public create a language access implementation plan for City residents with limited English proficiency ("LEP") in order to ensure meaningful language access to their services. With almost 46 percent of the City population limited in English language proficiency, interacting with City government can be a challenge for many New Yorkers. We audit City agencies such as this as a means of ensuring they are complying with applicable laws and regulations and providing residents access to important City services.

DOP helps build stronger and safer communities by working with and supervising people on probation, fostering positive change in their decision-making and behavior, and expanding opportunities for them to move out of the criminal and juvenile justice systems through meaningful education, employment, health services, family engagement, and civic participation.

This audit found that DOP generally complied with EO 120 and that it has made substantial progress in providing meaningful language access to the agency's services for LEP customers. Although DOP had a Language Access Policy and Implementation Plan that it created in 2009, the plan had not been updated since 2009. However, on June 3, 2015, during the course of the audit, and before the formal draft report was issued, DOP submitted an updated Language Access Policy and Implementation Plan. The updated plan (dated June 2015) is currently posted on DOP's website and complies with EO 120.

The report recommends that DOP continue to update its Language Access Policy and Implementation Plan to ensure that it adequately meets the language needs of the communities it serves by taking advantage of the studies available and posting all subsequent plans on its website.

The results of the audit have been discussed with DOP officials, and their comments have been considered in preparing this report. Their complete written response is attached to this report.

If you have any questions concerning this report, please e-mail my Audit Bureau at [audit@comptroller.nyc.gov](mailto:audit@comptroller.nyc.gov).

Sincerely,

Scott M. Stringer

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# THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER AUDITS & SPECIAL REPORTS

## Audit Report on the Compliance of the New York City Department of Probation with Executive Order 120 Regarding Limited English Proficiency

**SZ15-110A**

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### AUDIT REPORT

#### Background

With more than four million foreign-born residents from more than 200 different countries, New York is home to one of the most diverse populations in the world. New Yorkers come from every corner of the globe and speak over 200 different languages. Over 75 percent of all New Yorkers speak a language other than English at home, and almost 46 percent, or 1.8 million people, are limited in English proficiency. For these New Yorkers, interacting with City government can often be a challenge.

Local Law 73 was enacted in 2003 for the purpose of enhancing the ability of City residents with Limited English Proficiency (“LEP”) to interact with City government and, more specifically, to obtain needed social services. The law applies to four social service agencies: the Human Resources Administration; the Department of Homeless Services; the Administration for Children’s Services; and the Department of Health and Mental Hygiene. It requires that free language assistance services be provided for clients at job centers and food stamp offices, and when they seek to obtain other services from any of those four City agencies.

In July 2008, Mayor Bloomberg signed Executive Order 120 (“EO 120”), which requires all City agencies to provide opportunities for limited English speakers to communicate with City agencies and receive public services. EO 120 specifically requires City agencies providing direct public services to ensure meaningful access to those services to LEP persons. To accomplish this, EO 120 requires these agencies to develop and implement agency-specific language assistance plans for LEP persons.

Specifically, EO 120 requires each agency to:

- Designate a Language Assistance Coordinator within 45 days of the date of EO 120 to oversee the creation and execution of an agency-specific internal language access policy and implementation plan.
- Develop such a plan by January 1, 2009, using a four-factor analysis based on guidance issued by the U.S. Department of Justice including: the number or proportion of LEP persons in the eligible service population; the frequency with which LEP individuals come in contact with the agency; the importance of the benefit, service, information, or encounter to the LEP person; and the resources available to the agency and the costs of providing various types of language services.
- Provide services in languages based on at least the top six LEP languages spoken by the population of New York City, as those languages are determined by the Department of City Planning, based on United States Census data, and as those languages are relevant to services offered by each agency. The designated top six LEP languages spoken by the population in New York City are Spanish, Chinese, Russian, Korean, Italian, and Haitian Creole.
- Ensure that the language access policy and implementation plan includes: identification and translation of essential public documents; interpretive services, including telephone interpretation for the top six languages and others as appropriate; training of frontline workers on language access policies; posting of signage in conspicuous locations about the availability of free interpretation services; establishment of an appropriate monitoring and measurement system regarding the provision of agency language services.

EO 120 references the New York City Charter requirement that the Mayor's Office of Operations ("Operations") coordinate the provision of language services to the public and provide technical assistance to City agencies providing such services. The Mayor's Office of Immigrant Affairs ("MOIA") is responsible for promoting immigrants' access to City services by developing appropriate policies and outreach programs to educate immigrant and foreign language speakers about such services.

This audit focuses on whether the New York City Department of Probation ("DOP") has complied with EO 120. DOP helps build stronger and safer communities by working with and supervising people on probation, fostering positive change in their decision-making and behavior, and expanding opportunities for them to move out of the criminal and juvenile justice systems through meaningful education, employment, health services, family engagement, and civic participation. DOP has 18 borough locations: five locations in Manhattan; six in Brooklyn; four in the Bronx; and three in Queens.

## Objective

The objective of the audit was to determine whether DOP is in compliance with EO 120, which requires that City agencies that provide direct services to the public create a language access implementation plan in order to ensure meaningful language access to their services.

## Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

To achieve our audit objective, we reviewed DOP's Language Access Plan and other pertinent documents, interviewed key DOP personnel, and conducted site visits (between May 11 and May 21, 2015) at 12 DOP locations that provide public services. Please refer to the detailed scope and methodology at the end of this report for the specific procedures and tests that were conducted.

## Discussion of Audit Results

The matters covered in this report were discussed with officials from DOP and Operations during and at the conclusion of this audit. On June 16, 2015, we submitted a draft report to DOP with a request for written comments. We received a written response from DOP on June 18, 2015. In their written response, DOP officials generally agreed with the audit's finding and recommendation, stating: "DOP will continue to update its Language Access Policy and Implementation Plan annually to ensure that it adequately meets the language needs of the communities we serve by taking advantage of the studies available and posting all subsequent plans on its website."

The full text of DOP's response is included as an addendum to this report.

## **FINDING AND RECOMMENDATION**

We found that DOP generally complied with EO 120 and that it has made substantial progress in providing meaningful language access to the agency's services for LEP customers. Appendices I and II contain details of the specific items we tested and the results of our tests.

### **DOP Did Not Update Its Language Access Policy and Implementation Plan**

DOP had a Language Access Policy and Implementation Plan that it created in 2009. EO 120 requires that the Language Access Policy and Implementation Plan be updated to ensure that it conforms to the most recent data available from United States Census Bureau.

DOP's Language Access Policy and Implementation Plan had not been updated since 2009. However, on June 3, 2015, during the course of the audit, and before the formal draft report was issued, DOP submitted an updated Language Access Policy and Implementation Plan. The updated plan (dated June 2015) is currently posted on DOP's website and complies with EO 120.

### **Recommendation**

DOP should continue to update its Language Access Policy and Implementation Plan to ensure that it adequately meets the language needs of the communities it serves by taking advantage of the studies available and posting all subsequent plans on its website.

## DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, § 93, of the New York City Charter.

We reviewed DOP's Language Access Policy and Implementation Plan and other pertinent documents, interviewed key DOP personnel, and conducted site visits (between May 11 and May 21, 2015) at 12 DOP locations that provide public services.

To achieve our objectives, we performed the following:

- Reviewed EO 120 and Local Law 73;
- Reviewed and analyzed DOP's Language Access Policy and Implementation Plan;
- Created Compliance Checklists to assess DOP's compliance with EO 120;<sup>1</sup>
- Conducted interviews with DOP's designated Language Access Coordinator and other staff members;
- Reviewed and assessed whether DOP's language assistance plan was developed in accordance with EO 120, using the required four-factor analysis;
- Tested whether DOP provided public services in at least the top six LEP languages spoken by the New York City population;
- Obtained and reviewed documentation and assessed whether DOP identified and translated essential public documents provided to or completed by the public;
- Tested whether interpretation services, including the use of telephonic interpretation services, are available;
- Obtained training materials and/or written policies and procedures;
- Visited 12 DOP locations between May 11 and May 21, 2015, and observed whether signs indicating that free interpretation services were available and whether signs were displayed in conspicuous locations throughout the office;
- Assessed whether DOP established an appropriate monitoring and measurement system regarding the provision of agency language services; and
- Assessed whether DOP created appropriate public awareness strategies for the agency's service population.

In addition, we conducted various audit tests as noted in Appendix II.<sup>2</sup>

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<sup>1</sup> See Appendix I for the complete list.

<sup>2</sup> See Appendix II for further descriptions of the tests we conducted.



## LEP COMPLIANCE CHECKLIST

Question	Auditor's Assessment	Auditor's Comments
1. Does DOP provide direct public services?	Yes	DOP provides direct public services citywide.
2. Does DOP have a Language Access Policy and Implementation Plan, and when was it instituted?	Yes	DOP had a Language Access Plan dated July 2009. However, on June 3, 2015, DOP submitted an updated plan dated June 2015 that is currently posted on DOP's website.
3. Does DOP have a Language Access Coordinator?	Yes	DOP's Assistant to the Commissioner and Diversity and EEO Officer is the designated Language Access Coordinator.
4. Did the Language Access Coordinator oversee the creation of the Language Access Policy and Implementation Plan?	Yes	The Plan was created under DOP's previous Language Access Coordinator.
5. Did the Language Access Coordinator oversee the execution of the Language Access Policy and Implementation Plan?	Yes	DOP's language coordinator oversees the execution of the Language Access Plan.
6. Does the Language Access Coordinator monitor the Language Access Policy and Implementation Plan?	Yes	DOP's language coordinator monitors the progress of the Language Access Plan during regular meetings and reports to the Deputy Commissioner and the General Counsel.
7. Did DOP develop the plan using the four-factor analysis?	Yes	DOP's updated plan, dated June 2015, was developed using the four-factor analysis.
8. Does DOP provide services in languages based on at least the top six NYC LEP languages?	Yes	Pursuant to DOP's Language Access Plan, DOP provides services in the top six NYC LEP languages. In addition, pursuant to a DCAS citywide contract with Language Line Services, Inc., DOP has the ability to provide documentation translation and phone interpretation services in over 170 languages.
9. Does DOP identify and translate their "essential public documents?"	Yes	DOP's Language Access Plan identifies its essential documents for translation into the top six LEP languages. Translated documents are available on DOP's website.

LEP COMPLIANCE CHECKLIST

<p>10. Does DOP provide interpretation services (including telephonic interpretation) for the top six LEP languages and others as appropriate?</p>	<p>Yes</p>	<p>Pursuant to the citywide contract with the Language Line Services, Inc., DOP is able to provide interpretation services in over 170 languages, including the top six LEP languages.</p>
<p>11. Does DOP train its frontline workers and managers on language access policies and procedures?</p>	<p>Yes</p>	<p>During the site testing, the DOP employees interviewed were familiar with the Language Line policy and the procedures to be followed when conducting interpretation and translation services.</p>
<p>12. Are there any signs or postings in DOP regarding free available language assistance?</p>	<p>Yes</p>	<p>During site testing, we observed “Free Interpretation Services Available” signs posted in the agency’s public/common areas, office areas, and interview rooms.</p>
<p>13. Did DOP establish an appropriate monitoring and measurement system regarding the provision of agency language services?</p>	<p>Yes</p>	<p>DOP monitors the provision of agency language services by reviewing invoices from the vendors that provide translation and interpretation services. We reviewed the invoices and verified that the bills do identify each call, the duration, the language translated, and the cost of each.</p>
<p>14. Did DOP create public awareness strategies for language services?</p>	<p>Yes</p>	<p>DOP provides notification to the public of available services via signs at the public service centers and DOP’s website. The documents available include awareness strategies in the top six LEP languages.</p>

LEP TESTS CONDUCTED

Test	Criteria For Evaluation	Auditor's Assessment
1. Anonymous phone calls.	<ul style="list-style-type: none"> <li>Was a staff person able to respond to the call in the language of need, or else able to transfer the call to another staff person or a telephonic interpreter service?</li> </ul>	Yes. DOP's main public access line, which is 311, is able to provide telephonic interpreter services in the top six LEP languages.
2. Is the website accessible in languages other than English?	<ul style="list-style-type: none"> <li>Public information was available in languages other than English.</li> </ul>	Of the 34 languages listed on DOP's website, we sampled and successfully translated the top six languages spoken in New York City.
3. Make site visits to DOP's locations, meet with front line workers and evaluate in-person procedures for language accommodation.	<ul style="list-style-type: none"> <li>Frontline workers were able to provide language assistance services either directly or through a tool/procedure such as "I Speak" cards and placing a call to an interpreter to provide language assistance.</li> <li>Signage was posted notifying customers of their right to free language services.</li> </ul>	<p>DOP's frontline workers were familiar with the procedures for using the language assistance lines.</p> <p>There was signage posted notifying customers of their right to free language interpretation services.</p>
4. Translate "You Have a Right to Free Interpretation" posters.	<ul style="list-style-type: none"> <li>Did the poster state that free translation and interpretation services were available?</li> </ul>	Each of the languages on the poster was translated and accurately reflect that free translation and interpretation services were available.

Ana M. Bermúdez  
Commissioner

June 16, 2015

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Dear Ms. Landa,

This is in response to the Comptroller's draft audit report of the NYC Department of Probation's Compliance with Executive Order 120 Regarding Limited English Proficiency.

I am very pleased to learn that DOP generally complied with Executive Order 120 and that it has made substantial progress in providing meaningful language access to the agency's services for LEP customers.

DOP will continue to update its Language Access Policy and Implementation Plan annually to ensure that it adequately meets the language needs of the communities we serve by taking advantage of the studies available and posting all subsequent plans on its website.

Sincerely,



Ana M. Bermúdez