

Signed in Washington, DC this 31st day of December, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03-417 Filed 1-8-03; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-7608]

#### Arkansas Metal Castings, Inc., Ft. Smith, Arkansas; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2331), an investigation was initiated on October 8, 2002, in response to a petition which was filed by a company official on behalf of workers at Arkansas Metal Castings, Inc., Ft. Smith, Arkansas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 20th day of December, 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03-410 Filed 1-8-03; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-7657]

#### Hitachi High Technologies America, Inc., San Jose, California; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182) concerning transitional adjustment assistance, hereinafter called NAFTA-TAA and in accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on September 27, 2002 in response to a petition filed by a company official on behalf of Hitachi

High Technologies America, Inc., San Jose, California.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC this 20th day of December, 2002.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03-409 Filed 1-8-03; 8:45 am]

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## DEPARTMENT OF LABOR

### Employment and Training Administration

[NAFTA-05245]

#### Eagle Picher Industries, Construction Equipment Division, Now Known as Noble Construction Equipment, Inc., Lubbock, Texas; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on January 23, 2002, applicable to workers of Eagle Picher Industries, Construction Equipment Division, Lubbock, Texas. The notice was published in the **Federal Register** on February 5, 2002 (67 FR 5294).

At the request of the State agency, the Department reviewed the revised determination for workers of the subject firm.

Information provided by the State and the company shows that Noble International purchased Eagle Picher Industries, Construction Equipment Division in December 2001 and is now known as Noble Construction Equipment, Inc.

Information also shows that workers separated from employment at the subject firm, had their wages reported under a separate unemployment insurance (UI) tax account for Noble Construction Equipment, Inc.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Eagle Picher Industries, Construction Equipment Division, now known as Noble Construction Equipment, Inc. who were adversely affected by the shift

in the production of construction equipment to Mexico.

The amended notice applicable to NAFTA-05245 is hereby issued as follows:

All workers of Eagle Picher Industries, Construction Equipment Division, now known as Noble Construction Equipment, Inc., Lubbock, Texas, who became totally or partially separated from employment on or after August 22, 2000, through January 23, 2004, are eligible to apply for NAFTA-TAA under section 250 of the Trade Act of 1974.

Signed in Washington, DC, this 16th day of December 2002.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 03-411 Filed 1-8-03; 8:45 am]

**BILLING CODE 4510-30-P**

## LEGAL SERVICES CORPORATION

### Limited English Proficiency Guidance—Request for Comments

**AGENCY:** Legal Services Corporation.

**ACTION:** Limited English Proficiency Guidance—request for comments.

**SUMMARY:** As part of their obligation to refrain from national origin discrimination, LSC grantees must ensure they are providing proper service to persons with limited English proficiency (LEP). LSC is considering whether guidance (formal or informal) from LSC on LEP compliance would assist grantees, or, alternately whether there is some other form of information sharing that LSC can facilitate among grantees to help ensure all grantees are in compliance with LEP related requirements. According, LSC is requesting public comment on this matter.

**DATES:** Written comments must be received on or before March 10, 2003.

**ADDRESSES:** Written comments may be submitted by mail, fax or email to Mattie C. Condray at the addresses listed below.

**FOR FURTHER INFORMATION CONTACT:** Mattie C. Condray, Senior Assistant General Counsel, Office of Legal Affairs, Legal Services Corporation, 750 First Street, NE, Washington, DC 20002-4250; 202-336-8817 (phone); 202-336-8952 (fax); [mcondray@lsc.gov](mailto:mcondray@lsc.gov).

**SUPPLEMENTARY INFORMATION:** The Legal Services Corporation (LSC) is a private, non-profit corporation created by Congress and funded through annual appropriations from Congress. LSC's mission is to promote equal access to the system of justice and improve opportunities for low-income people

throughout the United States by making grants for the provision of high-quality civil legal assistance to those who would be otherwise unable to afford legal counsel.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, *et seq.*, prohibits the recipients of Federal assistance from, *inter alia*, discriminating on the basis of national origin. As part of a government-wide effort, the Justice Department has recently issued guidance regarding national origin discrimination affecting persons of limited English proficiency (LEP). The DOJ guidance notes that “[i]n 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 \* \* \* against national origin discrimination.” 67 FR 41455, at 41457. The DOJ guidance is intended to provide assistance to DOJ grant recipients and to serve as a model to other Federal agencies, which are required by Executive Order 13166 to issue their own guidance on LEP.<sup>1</sup> LSC is not subject to the executive order (because LSC is not a department, agency or instrumentality of the Federal Government) and is not, therefore, required to issue guidance on this subject. However, to the extent that the Federal effort is intended to improve access to Federally funded services for LEP persons and help ensure compliance with Title VI, it is appropriate to consider whether our grantees could benefit from similar guidance from LSC.

At the outset, a question has been raised with LSC regarding whether our grantees are, in fact, even subject to the requirements of Title VI of the Civil Rights Act. The argument in this case is that LSC grantees should not be

considered recipients of Federal financial assistance, and, therefore, not subject to Title VI. There is no single answer to the question of the “Federal” nature of LSC funds; LSC funds are considered “Federal” funds for some purposes and “non-Federal” for others.<sup>2</sup> This has been the case for the entire history of the Corporation and the differing answers are justified by reference to the laws governing the particular use of the funds in question.

In this instance, the most closely analogous law is Section 504 of the Rehabilitation Act of 1973, which prohibits against discrimination on the basis of handicap by recipients of Federal financial assistance. In adopting its regulations at 45 CFR Part 1624 implementing Section 504, the Corporation stated that its decision to adopt the regulations was based, in part, on the fact that Section 504 applied directly to LSC recipients as recipients of “Federal financial assistance.” 44 FR 55175 (Sept. 25, 1979). Unfortunately, the preamble to the regulation does not provide an analysis of how that conclusion was reached. Based on the discussion in the preamble, however, it does not appear that the conclusion that LSC grantees are recipients of Federal financial assistance for the purpose of Section 504 was challenged by any of the commenters and in the 23 years since the Part 1624 regulations were adopted no one has raised that issue with LSC.

LSC does not discern a meaningful difference between Section 504 and Title VI in this instance. Both are anti-discrimination laws applicable to recipients of Federal financial assistance. To the extent that LSC and its grantees have understood LSC funds to be Federal funds for the purpose of Section 504, LSC believes that LSC funds must also be considered Federal funds for the purpose of Title VI. However, the Corporation specifically invites comment on this issue.

Even if it were to be determined that Title VI is not directly applicable to LSC’s grantees, it would remain appropriate at this time to consider LEP guidance. Each LSC grantee signs a grant assurance under which it promises not to discriminate on the basis of, among other things, national origin. Although the text of the grant assurance does not mention Title VI specifically, it is clear that the language of the grant assurance is based on the non-

discrimination provisions of Federal civil rights laws, such as the Civil Rights Act, the Rehabilitation Act and the Americans with Disabilities Act. Thus, there is a contractual obligation on the part of each grantee to ensure it is not engaging in national origin discrimination, requiring it to properly serve LEP persons.

Moreover, LSC believes there are sound programmatic reasons to consider this issue at this time. A considerable portion of the LSC grantee client base has always been comprised of LEP persons; many of our grantees have extensive experience in providing services to LEP persons simply out of necessity. Due to changing demographics, and state planning efforts resulting in reconfigured service areas, however, many grantees are grappling with issues relating to serving LEP persons for the first time. It is, therefore, meant to consider whether guidance from LSC would assist these grantees, or, alternately whether there is some other form of information sharing that LSC can facilitate among grantees to help ensure that the knowledge and best practices of the grantees who have been leaders on this issue is available to all grantees and that all grantees are meeting their obligations in this regard.

LSC has identified several possible approaches it could take to this issue: LSC could issue regulations, as it did with Section 504; LSC could issue its own guidance (based on the DOJ guidance or otherwise); LSC could choose to refrain from issuing guidance, but could endorse the DOJ guidance; LSC could, either instead of or in conjunction with issuing guidance and/or endorsing the DOJ guidance, choose to engage in other activities to collect and distribute information of a best practices nature, illustrating what grantees with experience in dealing with LEP persons have been doing as an aid to other grantees needing assistance in this area; or LSC could choose to do nothing at all. Each of these approaches has advantages and disadvantages. Before determining a course of action, LSC, with this notice, is looking to the field for information on which option (or another course of action not identified above) would be most appropriate and helpful for grantees. LSC invites comment on the issues discussed below and on any other relevant consideration regarding service to LEP persons.

### Issuing Regulations

LSC could issue its own regulations on the matter. Doing so would be analogous to LSC’s action in issuing its Part 1624 regulations. LSC was not

<sup>1</sup> Under the DOJ Guidance, recipients are encouraged to undertake an individualized assessment that balances the following four factors: (1) The number of proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee/recipient; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the grantee/recipient and costs. The guidance recommends that recipients consider adopting LEP plans or policies based on the results of their assessment. The guidance identifies the following elements which may be helpful in designing an LEP policy or plan: (1) identifying LEP persons who need language assistance; (2) identifying ways in which language assistance will be provided; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating LEP policy. The guidance also identifies a variety of language assistance services which recipients may consider using, including oral interpretation services, bilingual staff, telephone interpreter lines, written language services and community volunteers.

<sup>2</sup> For example, LEP funds are considered non-Federal funds for the purpose of matching Title III funds under the Older Americans Act, but they are considered Federal funds for the purpose of a federal prosecution for theft or embezzlement under Title 18 of the U.S. Code.

obligated to issue regulations implementing Section 504, but chose to do so because of the importance of the subject matter. Justifying the decision to issue 504 implementing regulations, the Corporation said (in the preamble to the rule) that “discriminatory practices by legal services programs interfere directly with the ability of those programs to provide high quality legal assistance in an efficient and effective manner.” 44 FR 55175. The same rationale could be said to be applicable in this situation as well.

The disadvantage of taking such an approach is that it would impose an additional regulatory burden on grantees and, given that LSC is not receiving significant complaints of discrimination by grantees related to service to LEP persons, it is does not appear to LSC that such an additional regulatory burden is warranted. Moreover, by issuing regulations, LSC would become obligated to monitor compliance with and enforce any such regulations adopted. Notwithstanding some expansion of its Office and Compliance and Enforcement staff, the Corporation nonetheless has limited resources and the OCE staff does not have the expertise in these matters as do EEOC and DOJ staff. In addition, as with claims of violation of Part 1624, LSC would be without statutory authority to direct a recipient to take any specific action to come into compliance, nor could LSC make any award to an aggrieved complainant; LSC would be limited to attempting to resolve problems informally and to punishing violations by considering suspension or termination of the grant. As such, LSC is not well suited to resolving such claims in the manner that most complainants would find helpful to them.

#### Issuing Non-Regulatory Guidance

The recent guidance issued by DOJ is not in the form of regulations, and LSC could follow suit with issuing its own non-regulatory guidance. Issuing non-binding guidance would avoid some of the disadvantages of issuing regulations, yet would still allow LSC provide assistance to its grantees as to what grantees can, at a minimum, be doing to ensure that they are in compliance with their obligations to refrain from national origin discrimination.

However, if LSC chooses to issue guidance, even taking care to make it clear that such guidance was in the nature of “best practices” and not mandatory standards, LSC could find itself obligated to investigate a claim that a grantee had discriminated against an LEP person (or persons). As noted

above, the Corporation has long taken the position that it is not suited to undertaking such investigations. On the other hand, LSC is obligated by Part 1618 of its regulations to investigate claims of violations of grant assurances. Thus, to the extent the grant assurances prohibit discrimination LSC already has a duty to investigate claims of national origin discrimination. In such a case, issuing guidance on LEP would not impose any additional risks or obligations on LSC or its grantees.

In addition, to the extent that many of LSC grantees receive grants from Federal agencies, such as DOJ, the Department of Housing and Urban Development and the Internal Revenue Service, these grantees will already be subject to the Federal guidance issuing from those agencies. Additional guidance from LSC would, at best, be duplicative and, therefore, unnecessary, and, at worst, be inconsistent, putting grantees in a difficult spot in complying with both sets of standards. LSC is specifically interested in learning how many grantees will already be subject to the DOJ (or other Federal agency) guidance as a result of receipt of DOJ (or other Federal) grants.

#### Refraining from Issuing Guidance

LSC could decline to issue its own guidance, but could commend the DOJ guidance to grantees. Such a message would make clear that the DOJ guidance is not directly applicable to them (unless they also receive grants from DOJ), but might be helpful to them in ensuring that they are complying with their obligations to LEP persons. This approach would remind our recipients of their contractual obligations under the grant assurances as well as any applicable Title VI obligations and provide them with some potentially useful guidance, without injecting LSC directly into the issue. Moreover, as noted above, to the extent that grantees receive grants from Federal agencies, they will already be subject to the Federal guidance issuing from those agencies. Additional guidance from LSC would, at best, be duplicative and, therefore, unnecessary, and, at worst, be inconsistent, putting grantees in a difficult spot in complying with both sets of standards.

The disadvantage of this approach is that, as the DOJ guidance is aimed at a somewhat different grantee population, the guidance might not be as helpful as it would be if LSC developed its own policy guidance document tailored to the legal services community. Further, there is the possibility that if LSC recommended the DOJ guidance to grantees that such an action would be

the functional equivalent to issuing its own guidance, with the attendant advantages and disadvantages outlines above.

#### Refraining from Taking Any Action

LSC could decline to take any action. As noted above, the Executive Order does not apply to LSC and LSC does not have direct responsibility for enforcing Title VI.<sup>3</sup> This approach is legally defensible and would avoid the potential disadvantages which might be generated by either developing LSC's own guidance or endorsing the DOJ guidance. On the other hand, although LSC is not bound to follow Federal initiatives such as this one, LSC often takes cues from them. As noted above, the rationale that led LSC to issue its regulations at Part 1624, would appear to be applicable also in this situation. Moreover, to the extent that LEP persons comprise a significant proportion of the legal services client community, it would appear that guidance in this area would be warranted and helpful to our grantees. LSC specifically invites comments on this issue.

#### Other Actions

Either in addition to, or in lieu of, any of the options above, LSC could collect and disseminate information on ideas and best practices from grantees who are already serving LEP persons. This would allow grantees to reap the benefits of others' experience to lead to an improvement of services throughout the country.

There are any number of ways this could be accomplished. LSC could gather and post information on its Legal Resource Initiative Web site, <http://www.lri.lsc.gov> and success stories could be published in Equal Justice Magazine. There are also resources external to LSC, such as the National LEP Advocacy Task Force, with which LSC could work to the benefit of grantees. LSC requests suggestions and ideas about the best ways for LSC to provide assistance in this area.

**Victor M. Fortuno,**

*General Counsel and Vice President for Legal Affairs.*

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<sup>3</sup> Leaving aside the LSC's responsibility to enforce its grant assurances which prohibit national origin discrimination.