

**LOSS CONTROL IN CONSTRUCTION SEMINAR*****SAFETY IN A BILINGUAL CONSTRUCTION ENVIRONMENT***

Presented by

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**Tim Carter**  
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Mr. Carter is one of the presenters for Monday's "Loss Control in Construction" seminar. He is the Director of Safety and Health for the Global Construction group at Fluor Corporation. He is based in Aliso Viejo, California. Mr. Carter has worked with Fluor for 17 years and has worked in the safety and health field for the past 25 years. As the director of Safety for Global Construction he is directly associated with a vast number of construction projects worldwide. His efforts are combined with a group of well-seasoned safety and health professionals who provide a variety of direct project support services for Fluor's field safety professionals and project management teams.

Mr. Carter's background in occupational safety and health began in the mining industry and later expanded into construction. He has been involved with several operations and projects that are among some of the most challenging and unique in the world. From 1978 through 1983, Mr. Carter was directly involved in several mining and construction projects associated with the oil shale industry in western Colorado. For the following 10 years he continued to work with various construction projects throughout the United States in the private and government sectors. In 1993, Mr. Carter was given the regional management responsibility of the Americas, overseeing the regional and field safety teams in Fluor's safety and health organization. During this time he concentrated a significant amount of his time and support efforts in South America on numerous construction projects in Brazil, Peru, Chile, and Argentina. Most of these construction projects were associated with major mining operations in the Andes at elevations in excess of 14,000 feet above sea level.

Mr. Carter is a member of the American Society of Safety Engineers. This year will be his fifth year to speak at the IRMI Construction Risk Conference.

# ***SAFETY IN A BILINGUAL CONSTRUCTION ENVIRONMENT***

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***Tim Carter***  
***Fluor Global Construction***  
***Fluor***

- I. The Multilingual/Multicultural Workforce in the U.S.**
  - A. Today
  - B. By the Year 2010
- II. “English Only”—Necessary or Discriminatory?**
- III. The Supreme Court on English Only Policies**
- IV. The EEOC on English Only Rules**
- V. OSHA—Protection of Immigrant Workers**
- VI. Can a Bilingual Construction Site be a Safe Site?**
- VII. The Importance of Good Communication in the Safety Process**
- VIII. Critical Work Activities—The Need For Clear Understanding**
- IX. When is “English Only” the Right Solution or Choice?**
- X. What Some Contractors Are Doing**
- XI. What Some Owners Are Doing**

# ***Notes***

This file is set up for duplexed printing. Therefore, there are pages that are intentionally left blank. If you print this file, we suggest that you set your printer to duplex.

# ***SAFETY IN A BILINGUAL CONSTRUCTION ENVIRONMENT***

## **Bilingual Safety Management Languages in the World Today**

- **More than 2700 languages**
- **More than 7000 different dialects**

## **Bilingual Safety Management Languages in the World Today**

- **The most difficult language to learn is Basque - it is not related to any other language on earth**
- **All international air-traffic control is conducted in English**
- **Somalia is the only country where only one language is spoken**
- **More than 1000 languages are spoken on the continent of Africa**

## **Bilingual Safety Management Languages in the World Today**

### **Top 10**

■ Chinese - Mandarin	885 million
■ Spanish	332 million
■ English	322 million
■ Bengali	189 million
■ Hindi	182 million
■ Portuguese	170 million
■ Russian	170 million
■ Japanese	125 million
■ German	98 million
■ Chinese - Wu	77 million

## **Bilingual Safety Management Languages in the United States - Today**

Over 215 million Americans speak “English only”  
(82% of the population)

Nearly 47 million Americans speak a language other  
than English (18% of the population)

■ Spanish	28 million
■ French	2.1 million
■ Chinese	2 million
■ German	1.4 million
■ Italian	1 million

*Source: U.S. Census Bureau, Census 2000*

## **Bilingual Safety Management Spanish in the United States - Today**

**Over 28 million speak Spanish in the U.S.  
How well do they speak English?**

- **Very Well**            **14.3 million**
- **Well**                    **5.8 million**
- **Not Well**            **5.1 million**
- **Not At All**            **2.8 million**

*Source: U.S. Census Bureau, Census 2000*

## **Bilingual Safety Management The Workforce in 2010**

**Hispanics will probably be 47% of the workforce in  
construction**

*Source: ENR*

## **Bilingual Safety Management**

### **Hispanic Population Increases During the 90's**

- North Carolina 394%
- Arkansas 337%
- Georgia 300%
- Tennessee 278%
- Nevada 217%

*Source: BLS*

## **Bilingual Safety Management**

### **Re-Settling Immigrants - Top 10 Cities**

- Atlanta
- Charlotte
- Greensboro - Winston - Salem
- Louisville
- Memphis
- Minneapolis - St. Paul
- Nashville
- Portland - Vancouver
- Seattle
- Washington D.C.

*Source: BLS*

## **Bilingual Safety Management**

### **The Issues**

- The Spanish speaking population is growing
- The Hispanic workforce is growing (62% 1994-1999)
- The death rate of Hispanic workers is increasing (102% increase between 1994 and 1999)
- The death rate for blacks/whites fell 20% during the same period

*Source: BLS*

## **Bilingual Safety Management**

### **There Is A Safety Issue!**

- Hispanic deaths are 20% higher than blacks/whites
- The Hispanic fatality rate in construction is 5.2/100,000
- 12% of serious injuries occur during the first day

**WHY?**

## **Bilingual Safety Management**

### **Why Is Safety An Issue?**

- **Communication skills**
- **Little or no safety training**
- **High exposure to high hazard work (trenching)**
- **Safety has never been a priority or requirement**
- **Many have minimal or no skills**
- **Safety questions can go unasked / unanswered**

## **Bilingual Safety Management**

### **The Concerns and Position of OSHA**

*July 2000*

**OSHA Fines Sub-Contractor \$120,000 Following Fatal Accident (Decatur, GA)**

**Victim: Carpenter, Hispanic origin**

**Cause of Death: Fall (21ft.)**

**Citations: 2 willful - \$98,000**

**5 serious - \$21,350**

## **Bilingual Safety Management The Concerns and Position of OSHA**

*July 2000*

**OSHA Fines Sub-Contractor \$120,000 Following Fatal Accident (Decatur, GA)**

**Raymond Finney, Atlanta - East area director, OSHA**

**“OSHA will hold employers responsible for training every employee at every job site regardless of their understanding of the English language.”**

## **Bilingual Safety Management The Concerns and Position of OSHA**

*July 2000*

**OSHA Fines Sub-Contractor \$120,000 Following Fatal Accident (Decatur, GA)**

**Raymond Finney, Atlanta - East area director, OSHA**

**“This is particularly important in a metro area like Atlanta where the construction industry draws large numbers of Hispanic and other non-English speaking workers.”**

## **Bilingual Safety Management The Concerns and Position of OSHA**

*July 2000*

**OSHA Fines Sub-Contractor \$120,000 Following Fatal  
Accident (Decatur, GA)**

**Raymond Finney, Atlanta - East area director, OSHA**

**“If ignorance of job hazards and proper work practices  
is even partly to blame for high injury rates and  
fatalities, training will provide a solution.”**

*Source: OSHA Regional News Release*

## **Bilingual Safety Management The Concerns and Position of OSHA**

*February 2002*

**John L. Henshaw**

**Assistant Secretary of Labor for Occupational Safety and Health**

**“The fatality rate among Hispanic or Latino workers  
troubles Secretary Chao deeply ...”**

## **Bilingual Safety Management The Concerns and Position of OSHA**

*February 2002*

**John L. Henshaw**

Assistant Secretary of Labor for Occupational Safety and Health

“Secretary Chao has directed DOL agencies to make unprecedented efforts to ensure that including workplace and mining health and safety training information ... reach immigrant and non-English speaking workers”

## **Bilingual Safety Management The Concerns and Position of OSHA**

*February 2002*

**John L. Henshaw**

Assistant Secretary of Labor for Occupational Safety and Health

“... from 1992 to 2000, the overall injury/illness incidence rate dropped by 31%.”

“However, the BLS report on fatalities for the year 2000 shows [for Hispanic and Latino workers] an 11.6% increase from the previous year.”

## **Bilingual Safety Management The Concerns and Position of OSHA**

*February 2002*

**John L. Henshaw**

Assistant Secretary of Labor for Occupational Safety and Health

“Recognizing that non-English speaking workers -- the largest group of which are Hispanic or Latino -- may require special efforts to protect them, the Agency began addressing the issue a few years ago by translating many publications into Spanish.”

## **Bilingual Safety Management OSHA Initiatives**

- **Hispanic workers Task Force**
- **800 number - Spanish**
- **National clearinghouse for training programs - Spanish**
- **Spanish-language website**
- **Compiled a list of fluent Spanish speaking employees in Federal OSHA**
- **January 2001 - Awarded \$4.8 million in grants - safety and health training programs**

## **Bilingual Safety Management Solutions?**

- **Require “English Only”?**
- **Bilingual supervision?**
- **Bilingual training programs?**
- **Bilingual signs, posters, publications?**

## **Bilingual Safety Management Solutions?**

- **Assign non-English speakers to non-hazardous tasks?**
- **Provide/encourage English language classes?**
- **Provide/encourage Spanish language classes?**
- **English language ability - condition of employment?**

## **Bilingual Safety Management**

### **Is “English” the Solution?**

- **Nearly two dozen states have passed laws declaring English as the official state language**
- **Federal appeals courts have upheld “English Only” rules in the workplace**
- **Some employers adopt “English Only” to enhance efficiency and/or safety**

## **Bilingual Safety Management**

### **Court Rulings on English-only Issues**

- ***U.S. Supreme Court, October 1994* - English-only rule upheld**
- ***Arizona Supreme Court, April 1998* - Voter approved English-only measure ruled unconstitutional**
- ***U.S. Supreme Court, April 2001* - Individuals cannot sue states for certain English-only policies**
- ***Alaska Superior Court, March 2002* - English-only law violates free speech**
- ***Oklahoma Supreme Court, April 2002* - Petition to make English the official state language unconstitutional**

## **Bilingual Safety Management**

### **California - Speak-English-Only-Rule**

**January 1, 2002 - Businesses prohibited from enacting workplace policies that require employees to speak only English or prohibit the use of other languages on the worksite. The law provides business necessity exceptions:**

- **Necessary for safe and efficient business operation**
- **Effectively fulfills the business purpose it was created to serve if no alternative practice accomplishes the same business purpose with less discrimination**

## **Bilingual Safety Management**

### **The EEOC - Speak-English-Only-Rule**

- **May violate Title VII (Civil Rights Act of 1964) unless necessity can be proven**
- **Employer must prove it is a business necessity**
- **Employees must be told when they must speak English**
- **Employees must be made aware of the consequences for violating the rule**

**Bilingual Safety Management**  
**The EEOC - \$192,500 English-Only Settlement**

**Employees fired for speaking Spanish on the job**

*September 1, 2000*

**EEOC Chairwoman, Ida L. Castro**

**“It is imperative for employers to be aware that blanket English-only policies, those requiring workers to speak English at all times with no exceptions, may be unlawful if they are not clearly justified by business necessity.”**

**Bilingual Safety Management**  
**The EEOC - \$192,500 English-Only Settlement**

**Employees fired for speaking Spanish on the job**

*September 1, 2000*

**Supervisory Trial Attorney, José J. Behar**

**“While English-only rules may be justified for certain safety sensitive positions, there is no legitimate rationale for prohibiting employees from speaking their native language during lunch time, on breaks, or in casual conversation to friends and co-workers.”**

## **Bilingual Safety Management**

### **The EEOC - English-only Charges**

**Between 1996 and 1999 the number of charge filings alleging English-only violations has tripled from 77 to 253 charges**

## **Bilingual Safety Management**

### **“English-only” Is Not THE Solution**

#### **Alternatives:**

- **Group workers according to language skill**
- **Mix bilingual workers with the non-English speaking**
- **Require supervisors to be bilingual**
- **Include language skill requirement in JSA process**
- **Let risk and communication barriers define the language strategy**

## **Bilingual Safety Management**

### **“English-only” Is Not THE Solution**

- **English-only work environments can have communication barriers**
- **Significant communication barriers can exist between as few as two people who speak the same language**
- **A bilingual work environment can be a safe work environment if the communication process works**

## **Bilingual Safety Management**

### **“English-only” May Be Necessary**

- **When there are no better / safer options**
- **When it enhances safety communications**
- **When it doesn’t exclude, or create a communication burden for, anyone involved in the task or process**

## **Bilingual Safety Management Potential “English-only” Liability**

**To minimize potential liability when adopting an English-only rule :**

- **Narrowly tailor English-only rules to actual business needs**
- **Be consistent and fair. Do not let the rule create a hostile environment**
- **Do not adopt the rule until you are able to state, and justify a significant business reason (i.e. safety)**
- **Clearly communicate the rule to the employees**

## **Bilingual Safety Management The Importance of Good Communication**

**In Any Language!**

- **A fundamental component of an effective safety process**
- **Communicating hazards**
- **Orientation, Training, Instruction**
- **Safe work assignment**
- **Emergency procedures, preparedness, and response**
- **Effective supervision**
- **Being able to listen and hear**

## **Bilingual Safety Management**

### **The Importance of Good Communication**

- **Disciplinary measures**
- **Permit compliance**
- **Reporting unsafe conditions**
- **Challenging unsafe behaviors**
- **Investigating incidents / accidents**
- **Positive recognition**

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

- **Assessing the language mix**
- **Training**
- **Supervision**
- **High hazard tasks**
- **Visibility items**
- **Programs and procedures**

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

#### **Assessing the language mix**

- How many languages are/will be spoken?
- Approximate language mix (%)
- Is the mix concentrated within a craft, area, contractor, or is it site wide?
- How will the language mix vary over time (project time line)?

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

#### **Training**

- What will it take to assure the same level of delivery?
- What will it take to assure the same level of comprehension?
- Use videos
- Conduct practical training (i.e. scaffolding, permitting, special PPE instruction, etc.)

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

#### **Training**

- **Utilize handouts with illustrations when practical or necessary**
- **Do not condense, abbreviate or limit training sessions that are not conducted in English**
- **Conduct “Tool-Box” meetings in a manner that facilitates safety communication and safety training**

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

#### **Supervision**

- **MUST HAVE effective communication skills**
- **MUST HAVE effective language skills**
- **Task planning must consider language needs or restrictions**
- **Must be able to give safe work-task instructions EFFECTIVELY!**

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

#### **High Hazard Tasks**

- **Is language an issue?**
- **Process Safety**
- **Lock-out / Tag-out**
- **Hot work**
- **Permit controlled activity**

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

#### **Visibility Items**

- **Posters, banners, signs, tags, signals, etc.**
- **Do they need to be bilingual in selected areas or site-wide?**
- **Look at strategic and effective placement of such items**

## **Bilingual Safety Management**

### **Managing Safety in a Bilingual Environment**

#### **Programs and Procedures**

- **What should be available in “dual language”?**
- **Information availability (i.e. MSDS)**
- **Will they work as intended and as needed for everyone?**
- **Is there adequate information available and accessible for everyone?**

## **Bilingual Safety Management**

### **What Some Contractors Are Doing**

- **Hiring bilingual supervisors and foremen**
- **Developing bilingual employees to become supervisors and foremen**
- **Conducting training in more than one language**
- **Require/encourage supervision to learn a second language**

## **Bilingual Safety Management What Some Contractors Are Doing**

- **Provide English classes for those who do not speak the language**
- **Embrace the “English-only” position**
- **Ignore the issue**

## **Bilingual Safety Management What Some Owners Are Requiring / Doing**

- **Require bilingual communication programs**
- **Require bilingual safety training**
- **Require bilingual field supervision**
- **Imposing “English-only” requirements**
- **Ignoring the issue**

## **Bilingual Safety Management**

### **Conclusions**

- **The issue is not going to shrink or go away**
- **The U.S. work force is growing in language diversity**
- **Learning a language other than English should be encouraged**
- **English-only requirements often avoid or confuse the true issue - it is a near-term fix at best**
- **Enhancing communication enhances safety**

## **Bilingual Safety Management**

### **Recommended Solutions, Strategies, and Practices**

1. **Identify those who cannot speak/understand English**
2. **Balance your supervision according to the language diversity of the workforce**
3. **Embrace a bilingual safety process**

### **Bilingual Safety Management Recommended Solutions, Strategies, and Practices**

- 4. Analyze the language needs / challenges that may be present - especially when it involves high-hazard work**
- 5. There are many training aids and programs available in languages other than English - seek them and use them**
- 6. Be careful with translations - sometimes the message can be lost or changed. Test the material first**

### **Bilingual Safety Management Recommended Solutions, Strategies, and Practices**

- 7. Avoid the English-only solution unless you are prepared to screen and test all you hire**
- 8. Be prepared for accusations of discrimination if English-only is your position of choice**
- 9. Don't put supervisors in charge of people they cannot effectively communicate with - interpreters can be a solution**

**Bilingual Safety Management  
Recommended Solutions, Strategies, and  
Practices**

- 10. Adopt safety program strategies that focus on effective communication**
- 11. Be flexible - one solution for one project may not be the solution for another**
- 12. Your bilingual challenge may not be Spanish - assess the language diversity of your workforce**

**Bilingual Safety Management  
Recommended Solutions, Strategies, and  
Practices**

- 13. Challenge yourself to learn another language - you are never too old to learn!**
- 14. Make the development of a second language skill a training goal / performance measurement / development objective**
- 15. Seek those who are bilingual and develop them to be supervisors / leads (near to mid-term), and future project managers (long-term)**

**Bilingual Safety Management  
Recommended Solutions, Strategies, and  
Practices**

- 16. When assessing safety performance in general, assess the communication capabilities, challenges, and needs - address the findings accordingly**
  
- 17. Do not discriminate in the name of safety - go with the solution that will result in the highest level of safety possible**

**Bilingual Safety Management  
Closing Thought ...**

**Effective communication will always have its challenges.**

**A bilingual work force may be one of those challenges ...**

**but it will never be the only one!**

## **Bilingual Safety Management Resource Links on the Internet**

[http://www.osha.gov/pls/oshaweb/owadisp.show\\_document?p\\_table=TESTIMONIES&p\\_id=326&p\\_text\\_version=FALSE](http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=TESTIMONIES&p_id=326&p_text_version=FALSE)

<http://www.osha.gov/media/oshnews/jan01/national-20010108.html>

<http://www.osha.gov/media/oshnews/feb02/national-20020221.html>

<http://www.osha.gov/media/oshnews/mar02/trade-20020305a.html>

<http://www.osha.gov/Publications/JSHQ/spring2002/oshahisp.htm>

[http://www.osha.gov/SLTC/spanish/hispanic\\_outreach.html](http://www.osha.gov/SLTC/spanish/hispanic_outreach.html)

<http://www.eeoc.gov/press/9-1-00.html>

<http://www.eeoc.gov/facts/fs-nator.html>

<http://www.aclu.org/library/pbp6.html>

[http://migration.ucdavis.edu/mn/archive\\_mn/oct\\_1994-10mn.html](http://migration.ucdavis.edu/mn/archive_mn/oct_1994-10mn.html)

<http://www.nilc.org/immspbs/la/langaccess006.htm>

<http://www.freedomforum.org/templates/document.asp?documentID=15965>

<http://www.freedomforum.org/templates/document.asp?documentID=15998>

<http://www.cnn.com/US/9804/29/briefs.on/english.only/>

<http://www.humnet.ucla.edu/humnet/linguistics/people/grads/macswan/update9.htm>