

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

DEPARTMENTAL REGULATION		Number: 4030-001
SUBJECT: Section 508 Program	DATE: September 8, 2014	
	OPI: Office Of the Chief Information Officer	

1. PURPOSE

The purpose of this regulation is to provide guidance to the United States Department of Agriculture (USDA) agencies and staff offices regarding the implementation of Section 508 of the Rehabilitation Act of 1973(29 U.S.C. § 794 (d)), as amended by the Workforce Investment Act of 1998 (P.L. 105-220, August 7, 1998). In keeping with its mission, USDA is committed to making its web sites and all of its electronic and information technology (EIT) (or ICT-Information and Communications Technology, another commonly used term worldwide) accessible to the widest possible audience, especially individuals with disabilities.

2. SPECIAL INSTRUCTIONS/CANCELLATION

DR 4030-001 dated July 23, 2003, is hereby superseded by this Departmental Regulation.

3. BACKGROUND

In 1986, Congress added Section 508 to the Rehabilitation Act of 1973. Section 508 established non-binding guidelines for EIT accessibility.

On August 7, 1998, the President signed into law the Workforce Investment Act of 1998, which included the amendments to the Rehabilitation Act. These amendments significantly expanded and strengthened the EIT accessibility requirements in Section 508 and made them binding on Federal agencies.

Section 508, as amended, requires that when Federal agencies procure, develop, maintain, or use EIT, they ensure that Federal employees and members of the public with disabilities have access to and use of information and data that is comparable to the access to and use of the information and data that is available to individuals without disabilities. Accessible technology improves an individual's ability to obtain and use information quickly and easily. Section 508 was enacted to eliminate barriers in EIT, to make available new opportunities for people with disabilities, and to encourage

development of technologies that will help achieve these goals.

The first regulation implementing Section 508 was issued by the Architectural and Transportation Barriers Compliance Board (“Access Board”), an independent Federal agency, whose primary mission is to promote accessibility for individuals with disabilities. This regulation is referred to as the Access Board’s “EIT Accessibility Standards,” which became enforceable on June 21, 2001. The Access Board’s standards set forth a definition of EIT and the technical and functional provisions and performance criteria for compliance with Section 508. The Access Board’s standards became part of the Federal Acquisition Regulation (FAR) on April 25, 2001.

4. POLICY

USDA is committed to making its web sites and all of its electronic and information technology (EIT) accessible to the widest possible audience, including individuals with disabilities. Compliance with these standards is mandatory for federal agencies pursuant to Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d). This regulation sets forth USDA’s policy and responsibilities in implementing and maintaining an EIT accessibility program that provides (1) disabled and non-disabled employees with equivalent access to EIT, and (2) disabled and non-disabled members of the public with equivalent access to and use of USDA information and services.

All EIT systems or products that provide direct services to the public or Federal employees shall be accessible to people with disabilities, unless a formal request for an exception from an established Section 508 standard is granted as an approved exception to established USDA procedures.

- a. Each USDA Agency and Staff Office will establish a Section 508 program in accordance with this regulation and Section 508 of the Rehabilitation Act.
- b. Each USDA Agency and Staff Office will establish IT procurement guidance for Section 508 compliant solicitations for electronic & information technology (EIT) in accordance with this regulation and FAR Part 39.

5. AUTHORITY

This regulation is published in accordance with the authority vested in the Secretary of Agriculture under 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; 42 U.S.C. 2473(c); 29 U.S.C. § 794d; 44 U.S.C. Chapter 35; 36 CFR part 1194; 7 CFR 2.90 (viii); and delegated to the Chief Information Officer (7 CFR 2.89).

6. ABBREVIATIONS

U.S.C. United States Code

EIT	Electronic and Information Technology
ICT	Information and Communication Technology
CFR	Code of Federal Regulations
CIO	Chief Information Officer
DR	Departmental Regulation
OCIO	Office of the Chief Information Officer
FAR	Federal Acquisition Regulation
IT	Information Technology

7. REFERENCES

- a. 29 U.S.C. 794d (Rehabilitation Act as amended)
- b. “Electronic and Information Technology (EIT) Accessibility Standards” 36 CFR 1194
- c. “Final Rule Amending the Federal Acquisitions Regulations (FAR), Electronic and Information Technology Accessibility” (48 CFR Chapter 1, Parts 2, 7, 10, 11, 12, and 39)
- d. Workforce Investment Act of 1998
- e. Americans with Disabilities Act of 1990 (P.L. 101-336)
- f. 21st Century Communications and Video Accessibility Act of 2010
- g. Section 255 of the Telecommunications Act of 1996
- h. Section 505 (a) (2) of the Rehabilitation Act
- i. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended.
- j. Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. § 791), as amended.
- k. Federal Sector Equal Employment Opportunity (29 CFR 1614)
- l. Telecommunications Accessibility Enhancement Act of 1988 (P.L. 100-542).
- m. Telecommunications for the Disabled Act of 1992 (P.L. 97-410).
- n. Hearing Aid Compatibility Act of 1988 (P.L. 100-394).
- o. OMB Circular A-130, Management of Federal Information Resources, November 30, 2000

8. RESPONSIBILITIES

a. Secretary of Agriculture

As the head of the Department, the Secretary of Agriculture is vested with the authority to provide guidance to USDA regarding implementation of Section 508 of the Rehabilitation Act, as well as ongoing consultative assistance regarding information technology accessibility, and reviewing progress made toward achieving information technology accessibility for USDA employees and individuals with disabilities. (40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c))

The USDA Secretary is responsible for the following activities:

- (1) Ensuring USDA compliance with Section 508, as amended
- (2) Designating a senior-level manager as the USDA Section 508 Official
- (3) Ensuring submission of reports and survey data related to EIT to appropriate government and other oversight organizations

b. Office of the Chief Information Officer (OCIO)

The Secretary of Agriculture has delegated to the CIO, through the Assistant Secretary for Administration, oversight responsibilities for the Department- wide Section 508 program. The USDA Chief Information Officer (CIO) is the USDA Section 508 Official, and has primary responsibility for policy management, coordination and oversight of the design, acquisition, maintenance, use and dissemination of information technology (IT). The CIO further monitors the impact, need, and performance of the 508 IT programs and activities, and assures that the information management of these activities is consistent with Section 508 (7 CFR 2.89). This responsibility includes the following:

- (1) Oversight and enforcement of Section 508 within the USDA infrastructure
- (2) Developing and implementing of the departmental policy to enforce the Section 508 program
- (3) Educating USDA employees and regional coordinators on Section 508 policy and procedures
- (4) Partnering with other USDA offices to ensure that EIT is accessible to persons with disabilities
- (5) Advising the Office of the Secretary and other Senior USDA officials on matters pertaining to the implementation of Section 508

- (6) Developing and implementing departmental policy to ensure Section 508 requirements are integrated with the capital planning and investment control process
- (7) Providing Section 508 technical advice and guidance
- (8) Contributing Section 508 information in response to the Department of Justice (DOJ) annual survey
- (9) Monitoring and reporting compliance by USDA agencies and staff offices with Section 508 regarding operational activities
- (10) Identifying current needs for agency access to accessible, assistive, and adaptive technology (hardware/software), and EIT deficiencies impacting the performance of persons with disabilities in both current and prospective EIT systems
- (11) Establishing a 508 testing protocol which supports assessment, testing, and reporting of Section 508 violations and processes for remediation
- (12) Recommending Section 508 compliant software for testing agency and staff office documents and web sites
- (13) Providing Section 508 online and classroom training and technical support to agency employees on Section 508

c. Executive Level Section 508 Members

The Executive Level Section 508 members ensure senior executive leadership and systematic accountability for the accomplishment of Section 508 requirements in the Department.

The work of the members will support the Secretary's goal to make USDA a model employer as well as the Administration's goal of government transparency. The members' responsibilities include the following:

- (1) Report to the Assistant Secretary for Administration and make recommendations concerning the implementation and enforcement of Section 508 requirements department wide in accordance with the Rehabilitation Act of 1973 (29 U.S.C. § 794 (d)), as amended by the workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.
- (2) Support the implementation of Section 508 in the development, acquisition, maintenance, use, and management of EIT technology products and services within the Department.
- (3) Establish Section 508 strategic priorities for USDA.

- (4) Propose implementation and enforcement policy.
- (5) Review all Section 508 exception requests, and ensure an appropriate response is provided for each.
- (6) Ensure a record is properly maintained for each approved and denied USDA Section 508 exception, including “commercial non-availability” and “undue burden” exceptions and complaints.
- (7) Submit quarterly reports on approved and denied Section 508 exception requests, other reports on Section 508 activities, and EIT-related survey data to the Secretary and other appropriate government and oversight organizations in accordance with established procedures
- (8) Ensure that information about USDA Section 508 activities and issues is shared with agencies, staff offices, and appropriate government and oversight organizations.
- (9) Assist agencies to integrate Section 508 into their IT capital budget and strategic plans.
- (10) Encourage Section 508 education and training for key personnel within the department.
- (11) Provide opportunity for suggestions and feedback from USDA internal and external customers, including persons with disabilities.
 - (a) Mission Area and Staff Office
 1. Coordinate and report on agency and Departmental Management (DM) efforts to comply with Section 508, and
 2. Work closely with agency legal, technical and specialty experts in the mission area and DA to ensure implementation of Section 508.
 - (b) Office of the Chief Financial Officer
 1. Advise on the financial and internal control aspects of implementing and enforcing Section 508 requirements.
 - (c) TARGET Center

1. Manage a Section 508 clearing house and knowledge center.
2. Serve as a testing resource and audit function prior to the release of electronic applications and Web-based content.
3. Provide email and telephone technical support to customers referred from agency IT help desks (level 1 support) for all Section 508 inquiries.
4. Track Section 508 interactions within the TARGET Center database and provide an accessible online knowledge base addressing frequent support concerns.
5. Produce a report evaluating the EIT Technology and documenting areas of nonconformance within the EIT. These reports will be shared with members of the Executive Level Section 508 Team.
6. Provide information on integrating adaptive equipment and software with new and existing technology, including best practices.
7. Provide and update information on Web page standards and testing for web accessibility.

(d) Office Of Procurement And Property Management (OPPM)

1. Provide advice on the Federal Acquisition Regulation (FAR) 1102(f) and 39.2 as it relates to Section 508
2. Use the Buy Accessible Wizard as a resource to locate Section 508-compliant products and services and vendor voluntary product accessible templates for the contract file.
3. Include Section 508 language for acquisitions and apply due diligence as part of the market research requirements.
4. Apply working knowledge of Section 508 and how it applies to procuring EIT.
5. Ensure contracts contain relevant Section 508 language to ensure vendors' electronic documents and IT deliverables conform to Section 508 and accessibility requirements.
6. Ensure all electronic documents pertaining to the procurement are Section 508 accessible.
7. Issue any necessary USDA-wide procurement and property guidance as necessary for USDA specific needs.

8. Review and advise USDA activities using acquisition systems independent of the FAR.

(e) Office of The General Counsel

1. Provide legal advice and services necessary for USDA implementation of Section 508 requirements.

(f) Section 508 Assistive Technology Community Responsibility

1. Provide guidance to the Section 508 Steering Committee members and that ensures employee and citizen access to equitable and comparable USDA information resources

(g) Agency and Staff Office Heads

Senior leadership within the USDA agencies and staff offices is responsible for the following activities:

1. Designate a Section 508 coordinator to implement, maintain, and oversee the Section 508 Program.
2. Ensure that agencies and staff offices within USDA implement and adhere to all Section 508 standards, regulations, policies, plans, processes, and procedures for all relevant work activities.
3. Ensure that all USDA employees complete the appropriate Section 508 training as required.
4. Update the Section 508 coordinator's designation letter annually.
5. Ensure that all electronic and information technology is accessible to individuals with disabilities.
6. Designate a Section 508 clearance officer to implement, maintain, and oversee the Section 508 Program based on workload and size of agency and staff office.
7. Update the Section 508 clearance officer designation letter annually.
8. Ensure that all electronic and information technology is accessible to individuals with disabilities.

(h) USDA Section 508 Officer

The USDA Section 508 officer is responsible for the following activities:

1. Providing support and coordination between USDA and the Section 508 Program in collaboration with the Office of Disability;
2. Assisting in the establishment of a strong and diverse Section 508 program foundation across USDA;
3. Educating USDA employees on the importance of Section 508 as it applies to creating accessible content and documents; maintaining Section 508 compliant web sites; testing and remediation practices; acquisition language and market research; and Section 508 agency best practices with this USDA policy;
4. Establishing, maintaining, and ensuring compliance with this USDA policy; USDA standards and guidance for Section 508 compliance; USDA procedures in determining Section 508 compliance of all EIT developed, procured, maintained, and used by USDA and its business partners; USDA procedures for conducting market research for all EIT procurements; USDA procedures for granting and documenting all Section 508 exception requests; USDA procedures for semi- annually reviewing approved exceptions and recertifying waivers if appropriate;
5. Disseminating information on USDA Section 508 policies, standards, procedures and guidance;
6. Disseminating information on available assistive technologies for use by employees with disabilities;
7. Ensuring that only Section 508 compliant EIT, or granted a documented exception, operates in the USDA production environment;
8. Coordinating the identification and remediation of all non-compliant EIT operating in a production environment.
9. Updating of the Section 508 policy and handbook in accordance with USDA policy.

- (i) Agency and Staff Offices Section 508 Coordinator

USDA Section 508 coordinators are responsible for:

1. Providing Section 508 Program support and coordination between the Agency and the business component clearance officer;
2. Providing technical assistance on Section 508 issues within the agency
3. Reviewing new purchase requests originating within the USDA business component to ensure USDA compliance with Federal Section 508 requirements;
4. Reviewing all USDA Section 508 exception requests originating within the USDA business component and to determine the appropriate action(s) to be taken;
5. Supporting USDA Section 508 clearance officers in reviewing completed Voluntary Product Accessibility Templates (VPATs) and/or USDA Section 508 Product Assessments within the business component and collaborate with the Section 508 officer to make a determination as to the compliance of the associated EIT with applicable Section 508 accessibility standards;
6. Supporting USDA Section 508 Clearance Officer in reviewing electronic communications acquired or created by the USDA business component for Section 508 compliance in accordance with applicable Section 508 accessibility standards before the communications are released;
7. Ensuring the development and completion of remediation plans for EIT identified as being non-compliant with Section 508 and the responsibility of the USDA business component;
8. Developing required reports and/or coordinating/completing required surveys regarding Section 508 activities within the agency, and submitting the results to the USDA Section 508 officer for review;
9. Providing business component input to the USDA Section 508 coordinator for completion of the biennial DOJ Section 508 survey;
10. Representing USDA at Federal meetings, conferences, and training sessions on Section 508 as needed or appropriate.

(j) Section 508 Clearance Officers

The USDA Section 508 clearance officer for each USDA business component is responsible for the following activities:

1. Assist and provide continuous support to the Section 508 Coordinator ;
2. Completing all required Section 508 training;

3. Providing technical assistance on Section 508 issues within the business component;
4. Reviewing new purchase requests originating within the USDA business component to ensure USDA compliance with Federal Section 508 requirements.
5. Reviewing all USDA Section 508 exception requests originating within the USDA business component and collaborating with the USDA Section 508 coordinator to determine the appropriate action(s) to be taken;
6. Reviewing completed VPATs and/or USDA Section 508 product assessments within the business component for Section 508 compliance of the associated EIT;
7. Reviewing electronic communications acquired or created by the USDA business component for Section 508 compliance prior to release;
8. Ensuring the development and completion of remediation plans for EIT identified as being non-compliant with Section 508;
9. Developing required reports, coordinating, completing required surveys of Section 508 activities within the USDA business component, and submitting the results to the USDA Section 508 Coordinator for review;
10. Providing business component input to the USDA Section 508 coordinator for completion of the biennial DOJ Section 508 survey;
11. Representing USDA at Federal Section 508 meetings, conferences, and training sessions as needed or appropriate.

(k) Office Of Civil Rights

1. Provide guidance to agencies to ensure compliance with Section 508 requirements.
2. Conduct employment and program compliance reviews to ensure that an agency's program activities and services comply with the Rehabilitation Act of 1973, as amended, and Title 1 of the Americans with Disabilities Act of 1990.
3. Provide either independently, or in conjunction with departmental procurement and Information technology staffs training on the

requirements to ensure compliance with Section 508.

4. Develop, maintain, and implement procedures for accepting and handling employment-related complaints filed by Federal employees and applicants for employment at USDA alleging a failure to comply with Section 508, which are consistent with the procedures set forth in 29 CFR 1614.
5. Maintain a system to record and track all Section 508 complaints received by USDA.
6. Provide reports and survey data on the number and status of Section 508 complaints received by USDA to the appropriate government and other oversight organizations.
7. Ensure that Section 508 employment discrimination complaints are forwarded to the Office of the Secretary for Administration upon request and for reporting to Office of the Secretary (OSEC).
8. Ensure non-employment-related complaints from USDA employees, applicants for employment, or members of the public alleging a failure to comply with Section 508 are forwarded to the Office of the Assistant Secretary for Civil Rights (ASCR) for reporting and record keeping.
9. Evaluate the effectiveness of USDA procedures for accepting and handling Section 508 complaints for possible improvements.

(l) Acquisition, Management and Procurement Officials (Contracting Officers)

The Procurement Officials (Contracting Officers) are responsible for:

1. Developing, updating, and incorporating standard Section 508 language in solicitations, contracts, blanket purchase agreements (BPAs), and task orders for all EIT procurements;
2. Enforcing contract compliance with all applicable Section 508 contract provisions;
3. Ensuring the results from market research and the documentation for approved exceptions, if applicable, are maintained in the contract files for all EIT procurements.

(m) Webmasters, Program Managers (PM) and Intranet and Internet Information Systems Developers

1. Software and web application developers shall ensure that Section 508 and accessibility requirements are built into the early phases of life-cycle development to avoid the time and cost of retrofitting.
2. Ensure content editors are creating accessible content and documents, maintaining Section 508 compliant web sites, testing and remediation practices.
3. Ensure web sites are developed with World Wide Web Consortium (W3C) and Web Content Accessibility Guidelines (WCAG) best practices and guidelines for creating accessible web sites.
4. Validate web site accessibility with electronic tools and human review.

(n) All USDA Employees

All USDA employees are responsible for the following activities:

1. Completing all required Section 508 training;
2. Properly applying Section 508 provisions to relevant work activities;
3. Adhering to the requirements of this USDA policy and its associated standards and procedures when developing, procuring, maintaining, or using EIT;
4. Ensuring all content, documents, applications, and files authored, owned, developed, maintained, and submitted for publication on USDA public-facing websites and the USDA intranet, or distributed via broadcast emails are Section 508 compliant.

(o) Requesting Officials (Purchase Requesters), Business Owner, and /or Project Managers

All USDA requesting officials (purchase requestors), Business Owners, and/or Project Managers are responsible for the following activities:

1. Adhering to the requirements of this USDA policy and its associated procedures;
2. Reviewing the Access Boards standards and determining which Section 508 Accessibility Standards (36 CFR Part 1194) apply to the specific EIT product or service being procured;
3. Conducting market research, in accordance with USDA procedures, to identify what products, if any, are available to meet the business

requirements and associated technical provisions of the Access Board's standards, and appropriately documenting the results;

4. Determining and documenting EIT exceptions for compliance with Section 508, as applicable, and forwarding for approval in accordance with USDA procedures;
5. Ensuring that all applicable technical provisions of the Access Boards standards are included in requirements documents, statements of work, and task orders;
6. Ensuring that all newly developed or acquired EIT has been appropriately deemed compliant with Section 508 or that a documented exception has been granted prior to its use in a production environment in accordance with USDA procedures;
7. Developing and implementing appropriate remediation plans for EIT operating in a production environment that is determined to be non-compliant with Section 508.

- (p) USDA Business Partners, Vendors, System Developers, and system Maintainers

USDA's business partners, vendors, system developers, and system maintainers are responsible for the following activities:

1. Providing complete and accurate VPATs or USDA Section 508 Product Assessments Templates for all EIT being developed, procured, maintained or used by USDA employees and the public who access USDA sites;
2. Providing clear documentation of the accessibility features and appropriate uses of their EIT products to maximize accessibility;
3. Properly applying Section 508 provisions to relevant work activities;
4. Adhering to the requirements of this USDA policy and its associated standards and procedures when developing, procuring, or maintaining EIT for USDA.

9. SECTION 508 AWARENESS

All USDA employees shall be properly trained regarding the requirements of Section 508. At a minimum, all current and new USDA employees must complete basic Section 508 training on an annual basis to ensure that all USDA employees have a general

awareness and understanding of the Section 508 requirements and their implications. In addition, all USDA managers and other USDA employees performing in roles, or changing to jobs that require performance in roles, that are pertinent to the Section 508 provisions must also complete specialized Section 508 training as prescribed by USDA.

10. SECTION 508 COMPLIANCE

Each USDA employee is responsible for compliance with the mandates of Section 508 to make the Agency's EIT information accessible to individuals with disabilities. This means that USDA employees must take proactive steps to ensure that all EIT and all new or revised information made available on the Internet and/or the Intranet meet all applicable technical provisions from the Section 508 accessibility standards prescribed by the Access Board, unless an exception is otherwise granted.

USDA employees must also take proactive steps to ensure that acquired or developed EIT products and services provide comparable access to individuals with disabilities.

11. SECTION 508 MANDATORY REQUIREMENTS

The Access Board's technical provisions are mandatory requirements that must be met (directly or through equivalent facilitation) unless a formal request for an exemption from an established Section 508 standard is granted by the USDA Section 508 Official as an approved exception.

USDA shall ensure that all EIT developed, modified, and/or acquired after June 21, 2001 are consistent with the requirements of Section 508, as implemented in the Access Board's standards and the FAR which includes identifying applicable Section 508 provisions to interested contractors. As upgrades and changes are made to USDA EIT products and services, they must comply with the Access Board's EIT Accessibility Standards and the FAR Final Rule for EIT. This includes, but is not limited to, ensuring that all electronic communications (e.g., text, graphics, audio and video files broadcast emailed and on password-protected web sites, as well as all files and content posted on intranets and public-facing Web sites, etc.) acquired, created, or used by USDA are accessible to persons with disabilities.

All emails internal or external and their attachments, graphics and/or audio and video may have links to be accessible to recipients with disabilities. Broadcast emails must meet this standard by compliance with the applicable Section 508 standards and may not substitute individual accommodations for Section 508 compliance. Emails to known persons without disabilities or working draft disseminations should meet Section 508 standards as much as practicable. Alternative or accessible formats must be made available upon request.

All contracts and purchase agreements for the procurement of EIT shall include all

necessary provisions for Section 508 compliance unless formally granted an exception in accordance with established USDA procedures. Contracting officers and individual credit card purchasers shall acquire EIT that meets the applicable technical provisions to the maximum extent practicable. Solicitations for EIT shall also be drafted so that products offering equivalent facilitation are considered along with those that strictly meet the technical provisions in the Access Board's standards.

12. MARKET RESEARCH TO DETERMINE COMMERCIAL AVAILABILITY

Technical specifications and minimum requirements for EIT must be developed considering the results of market research and USDA needs. This information must be reflected appropriately in subsequent solicitations and contracts/agreements for all EIT procurements. The results from market research must also be maintained in the contract or purchase documentation files for all EIT procurements.

Market research shall be performed in accordance with established USDA procedures for each EIT acquisition to determine the availability of products and services that meet the applicable technical provisions. USDA shall use the standards established in 36 CFR Part 1194 and FAR 10.001(a)(3)(vii) to conduct its market research. In determining availability, consideration shall be given to information on vendor Web sites and the Government's Section 508 Web site.

An EIT item is commercially available if it meets any one of the following criteria:

- a. It is for sale in the commercial marketplace.
- b. It will be on the market in time to satisfy the solicitation.
- c. With minor modification, the item could be available in time to satisfy the solicitation.

Where no products in the commercial marketplace meet all of the technical provisions, the Access Board's standards require USDA to "procure the product that best meets the standards" (see 36 CFR 1194.2(b)). This may be the product that meets the most applicable technical provisions, but alternatively could be one that meets fewer technical provisions but which better addresses the accessibility needs of the intended end users.

13. SECTION 508 PRODUCTION EVALUATION & REMEDIATION

All newly developed or procured EIT and pre-existing EIT being maintained and used by USDA shall be assessed for compliance in accordance with established USDA procedures.

A USDA Section 508 Product Assessment shall be completed by the vendor or

developer and provided to the USDA Section 508 Coordinator prior to production release of any new EIT product developed or procured by USDA. A completed USDA Section 508 Product Assessment shall also be provided to the USDA Section 508 Coordinator for all pre-existing (legacy) EIT that is operating in a production environment and being maintained and used by USDA for which no previous record of a Section 508 compliancy determination by USDA exists.

Only EIT that has been appropriately reviewed and determined to be Section 508 compliant, or has been granted an exception, in accordance with established USDA procedures shall be placed into production. All EIT operating in a production environment that is determined to be non-compliant with Section 508 must have a remediation plan for achieving compliance or a request for an exception prepared and submitted to the Executive Section 508 Team within 45 days of the non-compliance determination.

14. SECTION 508 EXCEPTIONS

All EIT systems or products that provide direct services to the public or to Federal employees shall be accessible to people with disabilities, unless a formal request for an exception from an established Section 508 standard is granted as an approved exception in accordance with established USDA procedures and the Executive Level Section 508 Team.

Exception determinations are required prior to contract award, except for indefinite delivery indefinite quantity (IDIQ) contracts. Exception determinations are not required prior to award of IDIQ contracts, except for requirements that are to be satisfied by initial award. Any task or delivery order issued for non-compliant items must meet an applicable exception.

USDA acquisitions of EIT are not required to meet the technical provisions of the Access Board's standards, if the acquisition is:

- a. a micro-purchase made prior to April 1, 2005 (FAR 39.204(a));
- b. for a national security system (FAR 39.204(b) and 36 CFR 1194.3(a));
- c. acquired by a contractor incidental to a contract (FAR 39.240 (c) and 36 CFR 1194.3 (b));
- d. located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment, sometimes referred to as “back office” equipment (FAR 39.204(d) and 36 CFR 1194.3(f)); or
- e. would require fundamental alteration in the nature of a product or its components (36 CFR 1194.3(e)); or

- f. would impose an undue burden on the Agency (FAR 39.204(e) and 36 CFR 1194.2).

In order to meet accessibility requirements, consideration can be given to the extent that compliance would require significant difficulty or expense. All USDA resources available to a program or component are to be considered in determining whether an action is an “undue burden.” Such determination shall be performed on a case-by-case basis. USDA is required by statute to document the basis for an undue burden exception, which must be formally approved by the Executive Level Section 508 Team. The exception documentation must contain a plan for providing individuals with disabilities with the information and data involved by an alternative means of access. Each approved undue burden exception will require annual review by USDA’s Executive Level Section 508 Team.

An exception to the Access Board’s technical provisions may also be granted if:

- a. a compliant product or service (if it is a commercial item) is not available, or
- b. meeting the applicable provisions would require USDA to alter its requirements to the point where the procured EIT would not meet the Agency’s needs.

In order for an acquisition to qualify for a “commercial non-availability” exception, a description of the extent and how market research was performed must be documented. Details of the subsequent findings to locate a commercially available item, which concluded in the determination that a compliant product or service was not available, also must be documented.

Even if an exception applies, USDA still has obligations under Section 501 and Section 504 of the Rehabilitation Act. These sections require, among other things, that USDA provide reasonable accommodation for employees with disabilities, and provide program access to members of the public with disabilities. If the undue burden or commercial non-availability exceptions apply, USDA is still required under both Section 508 and Section 504 to provide individuals with disabilities with alternate methods of access to and use of information and data.

All requests for a Section 508 exception shall be made and processed in accordance with established USDA procedures. If an exception is granted for an EIT product or service procurement, the appropriate exception documentation shall be maintained in the applicable contract or purchase documentation file.

All documented exceptions to Section 508, including non-availability determinations, shall be tracked for future reporting to the USDA and DOJ.

15. SECTION 508 COMPLAINTS

Any individual may file a complaint alleging that USDA does not comply with the law in providing access to and use of information and data through EIT that is comparable to the access to and use of information and data that is available to individuals who are not disabled.

All complaints regarding an individual's inability to obtain access to USDA information and data through its EIT shall be made and processed in an orderly and prompt manner in accordance with established USDA procedures.

In addition to the formal complaint process, USDA shall establish alternatives to increase communication from appropriate parties while procuring, developing, and deploying EIT. Full use of these methods is likely to decrease the need for formal dispute resolution. For example, in appropriate circumstances, USDA shall issue draft Requests for Proposals (RFPs) in anticipation of procurement actions in order to facilitate a dialogue with the vendor community and to solicit the input of advocacy groups and people with disabilities regarding the adequacy of the draft RFPs' treatment of Section 508 requirements and defenses. USDA shall also elicit, record, and analyze informal troubleshooting suggestions from people with disabilities who use the Agency's EIT.

-END-

Appendix A

Definitions

Alternate Methods

Different means of providing information to users of products, including product documentation such as voice, facsimile relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description (36 CFR § 1194.4).

Assistive Technology

Any item, piece of equipment, or system whether acquired commercially, modified, or customized, that is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities. This may include screen readers, which allow persons who cannot see a visual display to either hear screen content or read the content in Braille, as well as screen magnification, voice recognition, etc.,

Broadcast Emails

1. Emails sent by a Federal official (i.e., Full-Time Equivalent (FTE), non-FTE, Senior Executive Service (SES), Appointee, Commission member, or person acting on their behalf) to any group or list comprised of persons, some of whom are not personally known to the sender
2. Emails sent as final documents, intended for distribution to other Federal officials or to members of the public seeking information and services.

USDA Section 508 Product Assessment

An agency-tailored version of the VPAT, which is a USDA mechanism for providing information regarding EIT product compliance with the Section 508 accessibility standards, and which serves as a starting point for evaluating the accessibility of EIT products and services developed, procured, maintained, or used by USDA.

Code of Federal Regulations (CFR)

The codification of the general and permanent rules published in the *Federal Register* by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation. Each volume of the CFR is updated once each calendar year and is issued on a quarterly basis. Each title is divided into chapters, which usually bear the name of the issuing agency. Each chapter is further subdivided into parts that cover specific regulatory areas. Large parts may be subdivided into subparts. All parts are organized in sections, and most citations in the CFR are provided at the section level.

Commercial Item

Any item that can be purchased off-the-shelf and used without making changes, except those designed within the equipment or software.

Reference FAR Subpart 2.101 for a more comprehensive definition.

Commercial Non availability

Refers to circumstances where no commercial items are available that meet the applicable

Access Board's technical provisions (directly or through equivalent facilitation) in time to satisfy the agency's delivery requirements. If products are available that meet some but not all applicable provisions, agencies cannot claim a product as a whole is not available just because it does not meet all of the applicable technical provisions. The requiring official must document commercial non-availability in writing (FAR.203(c) and 36 CFR 1194.2(b)).

Electronic and Information Technology (EIT)

See the Access Board regulation for a detailed definition.

Equivalent Facilitation

Allows the use of designs or technologies as alternatives to those prescribed in the Access Board's technical standards provided that they result in substantially equivalent or greater access to and use of a product for people with disabilities. This provision recognizes that future technologies may be developed, or existing technologies could be used in a particular way that could provide the same functional access in ways not envisioned by the technical standards.

Information Technology (IT)

See the Access Board regulation for a detailed definition. <http://www.access-board.gov/>

Market Research

A process used to collect, organize, maintain, analyze, and present data for the purpose of maximizing the capabilities, technology and competitive force of the marketplace to meet an organization's needs for supplies or services.

Micro-Purchase Exception

This is an exception for a one-time purchase made prior to April 1, 2005, that totals \$2,500 or less and made on the open market as opposed to under an existing contract. For example, a software package that costs \$1800 is not a micro-purchase if it is part of a \$3,000 purchase. Orders placed against the Federal Supply Schedule,

government-wide acquisition contracts (GWACs), multi agency contracts, or IDIQ contracts are not micro-purchases because they are not made on the open market. Currently all micro-purchases are required to go through the Section 508 process. After April 1, 2005, micro-purchases are no longer exempt or can request an exception. They must adhere to the Section 508 standards for compliance and accessibility.

Self-Contained Closed Products

These are EIT products that generally have embedded software and are commonly designed in such a fashion that a user cannot easily attach or install assistive technology. These products include, but are not limited to, information kiosks and information transaction machines, copiers, printers, calculators, fax machines, and other similar types of products.

Telecommunications

The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

TTY

TTY is an abbreviation for teletypewriter, which is machinery or equipment that employs interactive text-based communications through the transmission of coded signals across the telephone network. It may be also called text telephone.

Undue Burden

An undue burden is significant difficulty or expense that is incurred after consideration of all available resources to the component or program for which the EIT product or service is being developed, procured, maintained, or used.

An undue burden would cause an organization as a whole to stop functioning or providing a service (for example: Payroll for USDA would cause USDA as a whole to not be able to pay employees; instead of a single agency or staff office).

Voluntary Product Accessibility Template (VPAT)

VPAT is a standard means for providing a fair representation of an EIT product's accessibility that was developed by the Information Technology Industry (ITI) Council in partnership with the General Services Administration (USDA). Its purpose is to assist Federal contracting and procurement officials in fulfilling the market research requirements contained within the Section 508 implementation regulations. EIT suppliers are encouraged to routinely produce VPATs for their products, post them on their company web sites, and link them to USDA's "Buy Accessible" web site.