

SECTION 508 INFORMATION ACCESS REQUIREMENTS

I. PURPOSE

This Directive provides policy and guidelines for the Agricultural Marketing Service (AMS) to ensure compliance with Section 508 of the Rehabilitation Act of 1973, as amended.

II. REPLACEMENT HIGHLIGHTS

This Directive replaces AMS Directive 3130.2, Section 508 Information Access Requirements, dated January 25, 2002. Section VII through Section XII have been rewritten and should be read in their entirety.

III. BACKGROUND

A. In 1998, Congress amended the Rehabilitation Act, and strengthened provisions covering access to information in the Federal Government for people with disabilities.

B. Section 508, as amended, requires that when Federal agencies develop, procure, maintain, or use electronic and information technology (EIT), they shall ensure that EIT is accessible to Federal employees with disabilities and members of the public with disabilities, unless an undue burden would be imposed on the Agency.

C. The final standards for information access were established by the Architectural and Transportation Barriers Compliance Board (Access Board) and were effective on June 21, 2001. Amendments to the Federal Acquisition Regulations affecting technology purchases took effect June 25, 2001, except for micro-purchases (less than \$2,500) that take effect October 1, 2004. Essentially, all technology equipment purchased and all information provided to the public by the Federal Government through the use of technology should be accessible in accordance with the Access Board standards.

IV. AUTHORITIES

A. The 29 USC 794d, Rehabilitation Act of 1973, as amended and Regulations 36 CFR, Part 1194.

B. The Americans with Disabilities Act of 1990, as amended and Public Law 101-336.

V. DEFINITIONS

A. 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.

B. Electronic and Information Technology (EIT): Includes information technology and any equipment or interconnected system or subsystem equipment that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to, telecommunications products (e.g., telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment (e.g., copiers and fax machines). The term does not include any equipment that contains embedded information technology and used as an integral part of the product (e.g., thermostats), but whose principal function is not for acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data or information.

C. Undue Burden: A significant difficulty or expense. In determining whether an action would result in an undue burden, an Agency shall consider all resources available to the program or component for which the product is being developed, procured, maintained, or used.

VI. POLICY

It is the policy of AMS to comply with Section 508 of the Rehabilitation Act, as amended and adhere to the procedures set forth in this directive. The standards cover various means for disseminating information and provide criteria used to determine what makes these products accessible to people with disabilities.

VII. RESPONSIBILITIES

AMS shall ensure that technologies are Section 508 compliant in the following ways:

A. Deputy Administrators and Staff Directors: It is the overall responsibility of the program Deputy Administrators and Staff Directors to ensure that all electronic and information technology systems developed in-house and/or procured on or after June 25, 2001, are Section 508 compliant. Each administrator or director shall assign a Program Section 508 Representative that will be responsible for assisting Requiring Officials to identify which standards apply to the procurement and if an exception applies for Section 508 compliance.

B. The Information Technology Group (ITG): The ITG Policy, Planning, and Analysis Branch is responsible for disseminating information, providing Agency-level policy, and coordinating 508 activities.

C. AMS Requiring Official: The Requiring Official (e.g., staff member responsible for the investment) of the program must evaluate each product or system to determine if it is compliant with the Access Board standards as set forth in Attachment 1 – Checklist of Standards. The Requiring Official must also make a determination to see if the product is or is not Section 508 compliant as outlined in Attachments 2-4. The Requiring Officials have the following responsibilities:

1. Draft specifications;
2. Identify applicable technical provisions of the Access Board's standards in their requirements documents;
3. Conduct market research to identify what products, if any, are available to meet those provisions or determine whether an exception applies;
4. Determine, if products are compliant, if compliance would permeate an undue burden on the Agency, if compliant products are unavailable, or whether compliance is not required by exception and document determinations; and
5. Determine that the requirements meet specifications after the product is received.

See Section VIII. for additional responsibilities of the Requiring Official.

D. Program Section 508 Representatives: Program Section 508 Representatives shall recommend appropriate policies and controls to their administrators or directors for internal use by the programs. This entails:

1. Meeting with AMS Section 508 Coordinator for up-to-date requirements on ensuring compliance with Section 508 standards;
2. Participating in Section 508 training sessions offered periodically to representatives;
3. Assisting all Requiring Officials in determining compliance with Section 508 standards;
4. Providing signed verification on Section 508 determination documents (Attachments 1-4), and;
5. Responding to all audits to ensure program compliance with Section 508 standards.

VIII. SPECIFICATIONS, DETERMINATIONS, AND DOCUMENTATION

The Requiring Official purchasing EIT equipment or services must provide written explanations for any applicable determinations, written market research analyses, and a copy of the Checklist of Standards. All required documentation must be submitted with the procurement request for inclusion in the Contracting Officer's file. The Chief Information Officer will review the purchase and supporting documentation to determine if they meet Agency requirements for compliance with Section 508 regulations.

A. Purchase Specifications. It is mandatory that AMS programs use the required Checklist of Standards (Attachment 1) during their initial market research to determine if product specifications meet Access Board standards. Compliance involving Commercial-Off-The-Shelf

(COTS) equipment and software applications that require little customization shall be determined in advance of the purchase.

When procuring EIT investments, the following language should be included in the requirements. “The Contractor shall deliver solutions that comply with standards set forth in Section 508 of the Rehabilitation Act of 1973, as amended. See the attached checklist that applies to this procurement.”

B. Exception Purchases - There are some situations where technology that does not comply with Section 508 can be purchased. These exceptions are:

1. Undue Burden - Consistent with the language used in the Americans with Disabilities Act and other civil rights legislation, a Federal Agency does not have to comply with the accessibility standards if it would impose an undue burden to do so. In determining whether compliance with all or part of the applicable accessibility would be an undue burden, the Agency must consider the difficulty, expense, impact and resources available to its programs if the product is acquired. All undue burden determinations will be made in conjunction with Departmental level oversight of the Office of the Chief Information Officer (OCIO) and Office of General Counsel (OGC). The programs granted an undue burden waiver to purchase non-compliant technology must still provide disabled individuals with alternative access to EIT (Section X). Guidance for the content of an undue burden determination is provided in Attachment 2.

2. Technology Unavailable - When the market place cannot provide equipment that meets part or all of the standards established by the Access Board, Agencies might state that compliant technology is unavailable. In cases of partial compliance, programs must procure the most compliant equipment that is available. Guidance for the content of a technology unavailable determination is provided in Attachment 3.

3. Compliance Not Required - Certain uses of EIT and purchases under \$2,500 are not required to comply with Section 508 and they are:

a) Micro-Purchases. Open market procurements awarded at or below the micro-purchase threshold of \$2,500 do not have to be 508 compliant until October 1, 2004. This excludes items ordered off existing contracts, such as, GSA Federal Supply Schedules;

b) National Security. It is for a national security system;

c) Incidental to a Contract. Section 508 standards do not apply to EIT that are acquired by a contractor for a specific use under the contract; and

d) Maintenance, Repair and Occasional Monitoring. Products located in spaces frequented only by service personnel for the maintenance, repair, or occasional monitoring of equipment.

Requiring Officials shall complete the ‘Compliance Not Required Determination’ documentation (Attachment 4) if any of these exemptions apply.

IX. SECTION 508 REPORTING

Section 508 compliance reports are required by Congress starting three years after enactment and every two years thereafter. Programs shall be prepared to respond to Congressional requests for information about Section 508 compliance, including metrics that demonstrate the program's compliance.

X. PROVIDING ALTERNATIVE ACCESS TO INFORMATION

If a Federal Agency determines that it would pose an undue burden to comply with the standards, the Agency must provide information and data to individuals with disabilities through an alternative means of access that can be used by those individuals. This responsibility falls on the program responsible for the investment. Some examples of alternative means of access are:

A. Product Support Documentation - Product support documentation provided to end-users shall be made available in alternate formats upon request, at no additional charge.

B. Description of Accessibility and Compatibility Features - End-users shall have access to a description of the accessibility and compatibility features of products in alternate formats or alternate methods upon request, at no additional charge.

C. Communication - Support services for products shall accommodate the communication needs of end-users with disabilities.

D. Alternate Format - Alternate formats usable by people with disabilities may include, but are not limited to, Braille, ASCII text, large print type, recorded audios, and electronic formats.

E. Alternate Methods – Alternate methods are different means of providing EIT to people with disabilities. Alternate methods may include, but are not limited to, product documentation, voice, fax, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.

XI. ADMINISTRATIVE COMPLAINT PROCESS

A. By statute, the enforcement provisions of Section 508 apply only to EIT procured on or after June 25, 2001.

B. The law establishes an administrative process which enables any individual with a disability to file a complaint alleging that a Federal Department or Agency has not complied with the accessible technology standards. The complaint process provides injunctive relief and attorney's fees to the prevailing party; however, it does not include compensatory or punitive damages. Individuals may also file a civil action against an Agency. All programs must maintain documentation pertaining to Section 508 requests from the public or Federal employees with disabilities for special accommodations and access according to the General Records Schedule.

C. Due to the high visibility of web pages, the majority of complaints from the public may arise from the Agency's web site. Any complaints received directly by the program should be processed in-house as soon as possible.

D. Any complaints which can not be resolved by a program should be forwarded to the AMS Compliance and Analysis Office for mediation. At a minimum, documentation must include the name of the complainant, the nature of the complaint, the manner or median in which the complaint was received, and the time and date of receipt. Include a log of all remedies and solutions offered to the complainant.

XII. RESOURCES

For additional information and resource links on Section 508, go to www.section508.gov.

If you have any questions or concerns about Section 508 compliance, please contact the Policy, Planning, and Analysis Branch on (202) 720-0566.

/s/

A. J. Yates
Administrator

- Attachment 1: Checklist of Standards
- Attachment 2: Undue Burden Determination
- Attachment 3: Unavailability Determination
- Attachment 4: Compliance Not Required Determination