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Chapter 8: Section 508 Program and Responsibilities

Originating Office: Office of the Chief Information Officer

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8.1 **Purpose.** The purpose of this chapter is to provide Department of the Interior (DOI) policy and responsibilities for implementing Section 508 of the Rehabilitation Act of 1973, as amended (Section 508). This policy ensures that Federal employees and members of the public with disabilities have access to Information and Communication Technology (ICT), also known as Electronic and Information Technology (EIT), comparable to that of individuals without disabilities.

8.2 **Scope.** This policy applies to all ICT developed, procured, maintained, or used by DOI bureaus/offices.

8.3 **Authorities.**

A. Section 508 of the Rehabilitation Act of 1973, as amended, codified at 29 U.S.C. § 794d. Section 508 requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, Federal employees with disabilities have access to and use of information and data that is comparable to the access and use by Federal employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency. Section 508 also requires that individuals with disabilities, who are members of the public seeking information or services from a Federal agency, have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

B. Section 504 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794. This provision of law addresses non-discrimination under Federal grants and programs and defines the term “program or activity” to embrace all DOI operations.

C. The E-Government Act of 2002, Pub. Law No. 107-347, 116 Stat. 2899. This provision of law provides that all actions taken by Federal departments and agencies are to be in compliance with Section 508.

D. The Clinger-Cohen Act of 1996, Pub. Law No. 104-106, 110 Stat. 186. This provision of law addresses information technology reform and the responsibility for acquisition of information technology.

E. The Architectural and Transportation Barriers Compliance Board Electronic and Information Technology Accessibility Standards (also known as the “Section 508 Accessibility Standards”), codified at 36 C.F.R. Part 1194. This rule implements Section 508.

F. The Final Federal Acquisition Regulation (FAR) Rule for Implementing Section 508 of the Rehabilitation Act, affecting 48 C.F.R. Parts 2, 7, 10, 11, 12, and 39, published at 66 Fed. Reg. 20894 (Apr. 25, 2001).

G. Non-discrimination in Federally-Assisted Programs of the Department of the Interior, codified at 43 C.F.R. Part 17.

H. Section 8 of the Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources, which provides that agencies shall acquire information technology in a manner that considers the need for accommodations of accessibility for individuals with disabilities to the extent that needs for such access exist.

8.4 **Definitions.** Unless otherwise specified below, all of the following terms have the meaning given to them in Section 508 Accessibility Standards, 36 C.F.R. Part 1194.

A. Alternate Formats. Alternate formats usable by people with disabilities may include, but are not limited to, Braille, American Standard Code for Information Interchange (ASCII) text, large print, recorded audio, and electronic formats.

B. Alternate Methods. Different or alternate means of providing information, including product documentation, to people with disabilities. Alternate methods may include, but are not limited to, voice, fax, relay service, teletypewriter (TTY), Internet posting, captioning, text-to-speech synthesis, and audio description.

C. 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.

D. Commercial Non-Availability. Refers to circumstances where no commercial items are available that meet the applicable Section 508 Accessibility Standards (directly or through equivalent facilitation) in time to satisfy the agency’s delivery requirements.

E. Electronic and Information Technology (EIT). Information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. For example, EIT includes, but is not limited to, products and services such as software applications, operating systems, web-based Internet and Intranet information systems, telecommunications products, electronic documents, videos

and multimedia products, self-contained closed products, desktops and portable computers, and EIT support services.

F. Equivalent Facilitation. The use of designs or technologies as alternatives to those prescribed in the Section 508 Accessibility Standards, provided they result in substantially equivalent or greater access to and use of a product for people with disabilities.

G. Fundamental Alteration. A change in the fundamental characteristic or purpose of the product or service, not merely a cosmetic or aesthetic change.

H. Government Product/Service Accessibility Template (GPAT). The GPAT is a solicitation documentation tool to assist Federal contracting and procurement officials in fulfilling the market research requirements associated with Section 508 Accessibility Standards. The GPAT is intended as a form to be included with government solicitations, to be filled out by solicitation respondents as a part of their proposal to indicate how their proposed solution addresses the applicable Section 508 Accessibility Standards.

I. Information and Communication Technology (ICT).

(1) The ICT includes information technology and other equipment, systems, technologies, or processes, for which the principal function is the creation, manipulation, storage, display, receipt, or transmission of electronic data and information, as well as any associated content. Examples of ICT include:

- (a) Computers and peripheral equipment
- (b) Software
- (c) Telecommunications equipment
- (d) Information kiosks and transaction machines
- (e) Websites
- (f) Videos or multimedia products
- (g) Computer tablets
- (h) Mobile devices
- (i) Office equipment such as copiers and fax machines
- (j) Electronic documents
- (k) Customer premises equipment such as telephones, routers, and Internet access gateways

(1) ICT support services such as help desks, call centers, and training services

(2) The ICT does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, heating, ventilation, and air conditioning (HVAC) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not ICT.

J. Information Technology (IT). Any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term information technology includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

K. Section 508 Accessibility Standards. The final accessibility standards for electronic and information technology covered by Section 508 of the Rehabilitation Act of 1998 and published by the Architectural and Transportation Barrier Board at 65 Fed. Reg. 80500 (December 21, 2000), later codified at 36 C.F.R. Part 1194.

L. Self-Contained, Closed Products. 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.

M. 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.

N. TTY. An abbreviation for teletypewriter. Machinery or equipment that employs interactive text based communications through the transmission of coded signals across the telephone network. The TTYs may include, for example, devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers with special modems. The TTYs are also called text telephones.

O. Undue burden. Undue burden means significant difficulty or expense. In determining whether an action would result in an undue burden, a bureau/office shall consider all resources available to the program or component for which the product is being developed, procured, maintained, or used. See further detail as to what constitutes "undue burden" in Section 8.8 A.

8.5 Policy. Section 508 requires DOI to ensure that any ICT it develops, procures, uses, or maintains is accessible to both Federal employees and members of the public with disabilities. In accordance with Section 508, Federal employees and members of the public with disabilities shall have access to and use of information and data that is comparable to other Federal employees and individuals without disabilities. All DOI bureaus/offices must ensure that ICT products and services that are developed, procured, maintained, or used by DOI are accessible to individuals with disabilities and comply with the Section 508 Accessibility Standards. Note, however, that as described in paragraph 8.8, the Section 508 Accessibility Standards anticipate that there may be instances when the procurement of certain technology may constitute an undue burden. In such instances, the information and data shall be provided by an alternate method or format within a reasonable time period after use of the product or service begins.

8.6 Provision of Assistive Technology.

A. All DOI bureaus/offices must provide employees with disabilities assistive technology, i.e., any accessibility-related software, hardware, or peripheral devices, as an accommodation to be able to use certain technology. Assistive technology is commonly used to increase, maintain, or improve functional capabilities of individuals with disabilities. For example, in order to use a word-processing program that does not already include an accessibility function, a person who is blind may need add-on software that reads text aloud. Other examples of assistive technology include magnifying software, refreshable braille displays, speech recognition software, text telephones (TTY/TDD), and video relay services.

B. The Computer/Electronic Accommodations Program (CAP) at the Department of Defense (DOD) was established to eliminate employment barriers for people with disabilities. The CAP helps eliminate those barriers by providing assistive technology and services at no cost to DOD and partner organizations. The DOI, through a Memorandum of Agreement, is a partner with CAP. The DOI employees with disabilities are able to benefit from the full range of CAP services.

8.7 Responsibilities.

A. Chief Information Officer (CIO). The CIO is responsible for managing and overseeing DOI's Section 508 program and designating the Departmental Section 508 Coordinator.

B. Departmental Section 508 Coordinator. The Departmental Section 508 Coordinator is responsible for the following:

(1) Managing DOI's Section 508 program to include developing and maintaining agency policies and guidebooks, and identifying and disseminating best practices.

(2) Assembling a Section 508 IT Accessibility Team to assist in the implementation of Section 508 policy, procedures, and accessibility design standards.

(3) Consulting and/or participating with appropriate DOI officials regarding DOI's capital planning and/or business case development and IT governance to ensure appropriate consideration of Section 508 requirements across the IT and acquisition lifecycles.

(4) Coordinating the integration of Section 508 accessibility needs into DOI's budget, strategic, and IT capital plans.

(5) Developing and implementing standardized processes for testing and evaluating ICT products, services, and websites to ensure they (as well as any updates or upgrades) meet the Section 508 Accessibility Standards.

(6) Establishing, prior to deployment, accessible IT systems that will perform as intended.

(7) Coordinating and providing education and training to key personnel within DOI and its bureaus/offices, identifying available resources, and staying abreast of procurement changes to the Federal Acquisition Regulation (FAR) that will affect the purchase of any new ICT.

(8) Ensuring that Section 508 compliance is effectively incorporated in all procurement processes, including solicitation requirements, contract language, remediation, testing, acceptance, and remedies for non-compliance, and in ICT development and maintenance processes.

(9) Reviewing GPATs and new purchase requests to determine compliance of the associated ICT with applicable Section 508 standards.

(10) Coordinating and responding to Section 508 reporting requirements.

(11) Reviewing and evaluating ICT requests for approval to ensure compliance with Section 508 requirements, ensuring a remediation or alternative accessibility plan is developed and implemented for any noncompliant technology, and monitoring remediation or alternative accessibility.

(12) Ensuring all DOI requests for exercising the exceptions to the Section 508 Accessibility Standards are evaluated and approved/disapproved.

(13) Maintaining records of Section 508 exceptions approved for ICT products and services; remediation or alternative accessibility plans for any non-compliant products; and Section 508 complaints filed by individuals with disabilities, and remedial actions to resolve those complaints.

(14) Ensuring that electronic documents, multimedia, databases, software, applications, forms, and other ICT that are made available to employees or members of the public comply with the Section 508 Accessibility Standards.

(15) Ensuring that ICT product support documentation and support services provided to end users comply with the Section 508 Accessibility Standards.

(16) Consulting with bureau/office Section 508 Coordinators, web managers, procurement officials, and IT managers on implementation requirements, tools, and resources available for testing and validating compliance, and reviewing procurement solicitations to ensure the appropriate requirements are incorporated.

(17) Partnering with other Section 508 Coordinators throughout the Federal Government to assist in meeting Section 508 goals and objectives.

C. Heads of Bureaus/Offices. Heads of bureaus/offices are responsible for the following:

(1) Designating a bureau/office Section 508 Coordinator to support DOI's Section 508 program.

(2) Maintaining an active and continuing Section 508 program for their organizations.

(3) Ensuring bureau/office policies and procedures are established in accordance with Federal regulations and Departmental policy.

(4) Coordinating and reviewing bureau/office Section 508 budgets.

D. Bureau/Office Section 508 Coordinators. Bureau/Office Section 508 Coordinators are responsible for the following:

(1) Ensuring policy and procedures are in place in accordance with the applicable Section 508 laws, regulations, accessibility design standards, and Departmental policy.

(2) Assembling a Section 508 IT Accessibility Team within their organization to assist in the implementation of Section 508 policy, procedures, and accessibility design standards.

(3) Coordinating the integration of Section 508 accessibility needs into bureau/office budget, strategic, and IT capital plans.

(4) Implementing standardized processes for testing and evaluating ICT products, services, and websites to ensure they (as well as any updates or upgrades) meet the Section 508 Accessibility Standards.

(5) Establishing, prior to deployment, that accessible IT systems that will perform as intended.

(6) Coordinating and providing education and training to key personnel within their bureau/office, identifying available resources, and staying abreast of procurement changes to the FAR that will affect the purchase of any new ICT.

(7) Ensuring Section 508 compliance is effectively incorporated in bureau/office procurement processes, including solicitation requirements, contract language, remediation, testing, acceptance, and remedies for noncompliance, and in ICT development and maintenance processes.

(8) Reviewing Government Product/Service Accessibility Templates (GPATs) and new purchase requests to determine compliance of the associated ICT with applicable Section 508 standards.

(9) Responding to Section 508 reporting requirements from the Department.

(10) Reviewing and evaluating ICT requests for approval to ensure compliance with Section 508 requirements; ensuring a remediation or alternative accessibility plan is developed and implemented for any noncompliant technology; and monitoring remediation or alternative accessibility.

(11) Maintaining bureau/office records of Section 508 exceptions approved/disapproved by the Department for ICT products and services, remediation, or alternative accessibility plans for any non-compliant products; Section 508 complaints filed by individuals with disabilities and remedial actions to resolve those complaints.

(12) Ensuring electronic documents, multimedia, databases, software, applications, forms, and other ICT that are made available to employees or members of the public comply with the Section 508 Accessibility Standards.

(13) Ensuring that ICT product support documentation and support services provided to end users comply with the Section 508 Accessibility Standards.

(14) Consulting with bureau/office web managers, procurement officials, and IT managers on implementation requirements, tools, and resources available for testing and validating compliance; reviewing ICT procurement solicitations to ensure standards are incorporated.

(15) Providing technical assistance and guidance to bureau/office staff on Section 508 requirements and responsibilities.

E. Web Developers. Web designers and developers who create websites for the agency are responsible for ensuring that Intranet and Internet web content, including links to web applications and non-HTML files, fully conform to the Section 508 Accessibility Standards.

F. Web Content Managers (or Equivalent). Web Content Managers, or those with equivalent jobs but without that title, are responsible for ensuring that all relevant policies and

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procedures are followed and ensuring that Intranet and Internet web content, including links to web applications and non-HTML files, fully conform to the Section 508 Accessibility Standards, and that websites can be accessed by automated Section 508 compliance evaluation tools.

G. Contracting Officers. Contracting officers are responsible for the following:

(1) Reviewing and complying with FAR 11.002(f) and 39.2 by ensuring the Section 508 Accessibility Standards are considered in acquisition planning documents and procurement requirements for ICT and that deliverables meet accessibility standards.

(2) Including appropriate Section 508 Accessibility Standards in requirements and acquisition planning documents and agreements.

H. Contracting Officer's Representatives and Requiring Officials. Contracting Officer's Representatives and requiring or program officials, i.e., those officials from the office seeking the procurement, are responsible for the following:

(1) Including appropriate Section 508 Accessibility Standards in acquisition planning and solicitation requirement documents.

(2) Ensuring vendors provide adequate testing and documentation demonstrating compliance with the Section 508 Accessibility Standards.

(3) Verifying that products or services delivered meet the accessibility terms and conditions included in the contract prior to accepting deliverables.

(4) Documenting the applicable ICT exceptions, results of market research, and the basis for selection of items, including a Section 508 alternatives analysis.

I. Information Technology Program and Project Managers. Consistent with the standards of the Federal Acquisition Certification for Program and Project Managers, and the Office of Personnel Management Competency Model for IT Program Management, IT program and project managers are responsible for ensuring Section 508 is considered throughout the acquisition and information technology lifecycles.

J. Purchase Card Holders. Purchase card holders are responsible for confirming the accessibility of products or services for their intended users prior to purchase.

K. Document Creators, Editors, or Disseminators. Any individual or office creating or modifying electronic documents for dissemination internally or externally is responsible for ensuring that the documents comply with the Section 508 Accessibility Standards.

L. Video and Multimedia Product Developers or Creators. Any individual or originating office creating videos and multimedia products for dissemination internally or externally is responsible for ensuring that the products comply with the Section 508 Accessibility Standards.

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M. Communications Staff. Staff responsible for communications, both internally and externally, must ensure that all official agency communications transmitted electronically comply with the Section 508 Accessibility Standards.

8.8 **Exceptions.** The Section 508 Accessibility Standards anticipates the need for exceptions to compliance with the standards, and expressly provides for such exceptions in the appropriate context. For purposes of this chapter, each of the first three exceptions listed below (undue burden, fundamental alteration, and non-commercial availability) must be documented in writing and submitted to the Departmental Section 508 Coordinator for approval.

A. Undue Burden.

(1) Neither this chapter nor the Section 508 Accessibility Standards require DOI bureaus/offices to endure an undue burden. An undue burden is a significant difficulty or expense. In determining whether selecting or developing an ICT that meets the Section 508 Accessibility Standards would impose an undue burden, bureaus/offices must consider all resources available to the program or component for which the ICT is being developed, procured, maintained, or used. The undue burden exception of the Section 508 Accessibility Standards requires a high threshold for avoiding compliance and requires something more than minor inconvenience or increased expense. Compliance with the Section 508 Accessibility Standards is not an undue burden merely because compliance would be more expensive than non-compliance.

(2) For each provision of the Section 508 Accessibility Standards that a program or component finds to be an undue burden, the requesting official must document in writing the basis for an undue burden decision. At a minimum, the significant difficulty or expense must be substantiated with the following documentation: (a) products or services required to meet the bureau/office needs and the estimated cost of acquiring the products or services, including all options; (b) significant difficulty or expense the program or component would incur in order to comply with a particular standard(s), and, if the expense is deemed prohibitive, explain the costs and how they were estimated; (c) market research conducted and subsequent findings to locate the product or service that meet the applicable provisions of the Section 508 Accessibility Standards; and (d) the plan for providing information to persons with disabilities regardless of current non-compliant products or services.

(3) When conformance to one or more requirements in the Section 508 Accessibility Standards imposes an undue burden, DOI bureaus/offices must provide individuals with disabilities access to and use of information and data by an alternative means that meets identified needs. Alternative means of access focuses on the provision of the information and data in an accessible manner, as opposed to the accessibility of the product itself.

B. Fundamental Alteration.

(1) Neither this chapter nor the Section 508 Accessibility Standards require a fundamental alteration in the nature of a product or its components. Fundamental alteration means a change in the fundamental characteristic or purpose of the product or service, not merely

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a cosmetic or aesthetic change. For instance, requiring large-screen displays for pocket-sized devices such as smartphones may fundamentally alter the product if portability is a paramount concern for the product, and would not be required. Generally, however, adding access should not change the basic purpose or characteristics of a product in a fundamental way.

(2) The person requesting to exercise the “fundamental alteration” exception under 36 C.F.R. § 1194.3(e) shall document in writing the basis for determining that conformance to requirements in the Section 508 Accessibility Standards would result in a fundamental alteration in the nature of the ICT. The documentation shall include an explanation of why and to what extent compliance with applicable requirements would result in a fundamental alteration in the nature of the ICT.

(3) When conformance to one or more requirements imposes a fundamental alteration in the nature of the ICT, bureaus/offices must provide individuals with disabilities access to and use of the information and data by an alternative means that meets identified needs.

C. Commercial Non-Availability.

(1) Neither this chapter nor the Section 508 Accessibility Standards require the procurement of products that are not commercially available in time to meet bureau/office needs. See 36 C.F.R. § 1194.2(b) (“When procuring a product, each agency shall procure products which comply with the provisions in this part when such products are available in the commercial marketplace or when such products are developed in response to a Government solicitation”).

(2) Commercial non-availability determinations must be documented in writing and based on market research. The requesting official shall document in writing: (a) the non-availability of conforming ICT, including a description of market research performed and which provisions of the Section 508 Accessibility Standards cannot be met, and (b) the basis for determining that the ICT to be procured best meets the requirements in the Section 508 Accessibility Standards consistent with the agency’s business needs. The FAR sets forth the documentation requirements for a determination of commercial non-availability by Federal agencies subject to Section 508 requirements, see 66 Fed. Reg. 20894 (April 25, 2001).

(3) If products are commercially available that meet some but not all of the Section 508 Accessibility Standards, then bureaus/offices must use the product that best meets the Section 508 Accessibility Standards and their specified business needs.

(4) If products are available that meet some, but not all, applicable Section 508 Accessibility Standards, then bureaus/offices shall not claim a product as a whole is not commercially available.

(5) When ICT that fully conforms to the Section 508 Accessibility Standards is not commercially available, bureaus/offices must provide individuals with disabilities access to and use of the information and data by an alternative means that meets identified needs.

D. **General Exceptions.** In addition to the exceptions listed above, the Section 508 Accessibility Standards lists other general exceptions, as shown at 36 C.F.R. § 1194.3(a) - (d) and (f). The exceptions found at 36 C.F.R. § 1194.3(a) - (d) and (f) do not require approval by the Departmental Section 508 Coordinator. Of particular interest to bureaus/offices are the following exceptions:

(1) 36 C.F.R. § 1194.3(b). This part does not apply to electronic and information technology that is acquired by a contractor incidental to a contract.

(2) 36 C.F.R. § 1194.3(f). Products located in spaces frequented only by service personnel for maintenance, repair, or occasional monitoring of equipment are not required to comply with this part.

8.9 **Equivalent Facilitation.** The DOI bureaus/offices may use designs or technologies as alternatives to those prescribed in the Section 508 Accessibility Standards, provided they result in substantially equivalent or greater access to and use of a product for people with disabilities. Equivalent facilitation is not an exception or variance from the requirement to provide comparable access; instead, it is a recognition that technologies may be either developed or used in ways not envisioned by the technical provisions prescribed in the Section 508 Accessibility Standards yet result in the same or better functional access as would be provided by strictly meeting the provisions in the standards.

8.10 **Complaint Procedures.**

A. Individuals with disabilities may file a written complaint with the DOI Office of Civil Rights (OCR) if they believe that ICT products procured by bureaus/offices do not comply with the Section 508 Accessibility Standards and as a result they are denied access to and use of information or data comparable to that of non-disabled individuals.

B. Complaints must be submitted within 180 days of the incident that gave rise to the complaint in writing to DOI's OCR at the following address: U.S. Department of the Interior, Director, Office of Civil Rights, 1849 C Street N.W., Washington, DC 20240. The complaint should include sufficient details of the alleged failure to procure accessible technology in compliance with Section 508 that will enable the OCR to understand what occurred, where and when it occurred and the responsible DOI organization, if known.

C. The OCR will apply the complaint procedures outlined in 43 C.F.R. Part 17, Subpart E, which are established to implement Section 504 for resolving allegations of discrimination in a federally-conducted program or activity.

D. In accordance with 43 C.F.R. Part 17.339, an individual may file a civil action if DOI fails to make a finding within 180 days or issues a finding in favor of DOI.