Chief Information Officer
Office of Information Services
Centers for Medicare & Medicaid Services

CMS Policy for
Section 508 Compliance

March 28, 2008

Document Number: CMS-OA-POL-ACC01-02

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NATURE OF CHANGES

This is a revision to the June 27, 2006 issuance of the *CMS Policy for Section 508 Compliance*. Modifications to the policy can be found in the following sections:

1. The format of the policy document has been modified to comply with the *HHS OCIO Policy for Information Technology (IT) Policy Development* issued November 28, 2006.
2. The cover page has been modified to reflect issuance of the revised policy by the Chief Information Officer located in the Office of Information Services, who is the CMS Administrator's designated CMS Section 508 Official.
3. Section 1, Purpose, has been modified to add a statement that this version of the policy supersedes the previous version dated June 27, 2006. This change is in accordance with *HHS OCIO Policy for Information Technology (IT) Policy Development* issued November 28, 2006.
4. Section 3, Scope, has been modified to add a statement that this policy does not supersede any other applicable law or higher level agency directive, or existing labor management agreement in effect as of the effective date of this policy. This change is in accordance with *HHS OCIO Policy for Information Technology (IT) Policy Development* issued November 28, 2006.
5. Section 4.B.1, Section 508 Mandatory Requirements, has been modified to clarify applicability of Section 508 requirements to electronic communications, and to reference established CMS procedures for granting Section 508 exceptions. A new paragraph has also been added to address requirements for accessibility of emails.
6. Section 4.B.2, Market Research to Determine Commercial Availability, has been modified to ensure that market research information is appropriately reflected in solicitations and contracts/agreements, and maintained in the contract or purchase documentation files, for all EIT procurements (i.e., also includes credit card purchases). The requirement to provide market research results to the CMS Section 508 Coordinator for review prior to the procurement of the EIT product or service has also been removed.
7. Section 4.B.3, Section 508 Production Evaluation & Remediation, has been modified to update CMS' requirements regarding evaluation and remediation of EIT products for Section 508 compliance for approved operation in a production environment.
8. Section 4.C, Section 508 Exceptions, has been modified to reference established CMS procedures for granting and documenting Section 508 exceptions.
9. Section 5, Roles and Responsibilities, has been significantly modified to update and further clarify the responsibilities of the CMS Section 508 Coordinator; Office of Information Services (OIS); Office of Acquisition and Grants Management (OAGM); All CMS Employees, CMS Project Owners/Managers and Other EIT Requestors; and CMS Business Partners, Vendors, System Developers, & System Maintainers in the implementation of this policy. New roles and responsibilities for CMS Business Component Leadership, CMS

Section 508 Clearance Officers, and Office of Beneficiary Information Services (OBIS) have also been added within Section 5.

10. Section 6, Applicable Laws/Guidance, has been modified to add a reference to the CMS Administrator's Electronic and Information Technology (EIT) Accessibility Policy Statement issued March 25, 2008.
11. Section 8, Effective Date/Implementation, has been modified to reflect the role of the CMS Section 508 Official in the effective issuance of the revised policy, as delegated by the CMS Administrator.
12. Section 9, Approved, has been modified to reflect issuance of this revised policy by the CMS Section 508 Official.
13. Section 10, Attachments, has been modified to add a reference to the *CMS Section 508 Product Assessment* form.
14. Glossary has been modified to enhance the definition of Code of Federal Regulations (CFR), to add new definitions for Broadcast Emails and CMS Section 508 Product Assessment, and to modify the definition of Voluntary Product Accessibility Template (VPAT).

1. PURPOSE

This document establishes the policy by which the Centers for Medicare & Medicaid Services (CMS) will ensure compliance with 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.

This policy supersedes the previous version that was signed by the CMS Administrator on June 27, 2006.

2. BACKGROUND

In 1986, Congress added Section 508 to the Rehabilitation Act of 1973. Section 508 established non-binding guidelines for information technology (IT) accessibility. On August 7, 1998, the President signed into law the Workforce Investment Act of 1998, which included amendments to the Rehabilitation Act. These amendments significantly expanded and strengthened the IT accessibility requirements in Section 508 and made them binding on Federal agencies.

Section 508, as amended, specifically requires that, when Federal agencies develop, procure, maintain, or use electronic and information technology (EIT), (1) individuals with disabilities who are Federal employees have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and (2) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities (FAR 39.201 and 36 CFR 1194.1). For a detailed definition of EIT, see the Scope section below.

Inaccessible technology interferes with an individual's ability to obtain and use information quickly and easily. Section 508 was enacted to eliminate barriers in IT, to make available new opportunities for people with disabilities, and to encourage development of technologies that will help achieve these goals. Under Section 508, Federal agencies must give Federal employees and members of the public with disabilities access to EIT and information that is comparable to the access available to individuals without disabilities.

The first regulation implementing Section 508 was issued by the Architectural and Transportation Barriers Compliance Board (the "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 necessary for compliance with Section 508.

The second rule issued to implement Section 508 amended the Federal Acquisition Regulations (FAR) to ensure that agency acquisitions of EIT comply with the Access Board's standards. This regulation became enforceable on June 25, 2001.

Other Federal regulations and statutes (e.g., Section 501 and Section 504 of the Rehabilitation Act, as amended) also require equal access to information for individuals with disabilities. Section 501 prohibits discrimination on the basis of disability in Federal employment and requires Federal agencies to establish affirmative action plans for the hiring, placement, and advancement of people with disabilities in Federal employment. Section 504 forbids excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services. It defines the rights of individuals with disabilities to participate in, and have access to, program benefits and services. As a result, Federal agencies must provide, upon request, information and data to individuals with disabilities through an alternate method of access.

Violations of Section 508 can have significant ramifications to the Agency. If CMS does not provide equal access to EIT, an individual with a disability can file an administrative complaint or a civil lawsuit.

Every two years, Federal agencies must report to the Department of Justice (DOJ) and the General Services Administration (GSA) on their compliance with the requirements of the law and on any actions on individual complaints. A report compiled from all Federal agencies is then sent to the White House.

3. SCOPE

This policy applies to all EIT products and services developed, procured, maintained, or used by CMS on or after June 21, 2001.

Within the FAR 2.101, EIT has the same meaning as "information technology," except EIT also includes any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term EIT, includes, but is not limited to, telecommunication products (such as telephones), information kiosks and transaction machines, worldwide websites, multimedia, and office equipment (such as copiers and fax machines).

According to OMB Circular A-130, "information technology" is equipment or interconnected systems that are used in the automatic acquisitions, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

To further clarify the FAR definition, EIT includes any product used to acquire, store, manipulate, or transmit information. This includes software applications and operating systems; web-based intranet and internet information and applications such as distance learning;

telephones and other telecommunications products; information kiosks and transaction machines; video equipment and multimedia products that may be distributed on videotapes, CDs, DVDs, or the World Wide Web; office products such as photocopiers and fax machines; calculators; and computer hardware.

According to the Access Board, EIT 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. Examples of non-EIT include 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.

This policy is to be implemented by all CMS employees, contractors, and partners performing CMS business. This policy does not apply to a CMS contractor's own internal workplace EIT, but does apply to any final EIT product produced by the contractor for CMS.

This policy does not supersede any other applicable law or higher level agency directive, or existing labor management agreement in effect as of the effective date of this policy.

4. POLICY

CMS shall implement and maintain 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 CMS information and services.

4.A. Section 508 Awareness

All CMS employees shall be properly trained regarding the requirements of Section 508. At a minimum, all current and new CMS employees must complete basic Section 508 training on an annual basis to ensure that all CMS employees have a general awareness and understanding of the Section 508 requirements and their implications. In addition, all CMS managers and other CMS 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 CMS and/or HHS.

4.B. Section 508 Compliance

Every CMS employee has a collective responsibility for compliance with the mandates of Section 508 to make the Agency's information accessible through EIT to individuals with disabilities. This means that CMS employees must take proactive actions 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. CMS employees must also take

proactive actions to ensure that acquired or developed EIT products and services provide comparable access.

4.B.1. 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 CMS Section 508 Official as an approved exception. See Section 4.C below for the various types of exceptions that may be considered.

CMS 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 CMS' 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 websites, as well as all files and content posted on intranets and public-facing Web sites, etc.) acquired, created, or used by CMS are accessible to persons with disabilities.

All emails --internal or external -- their attachments, graphics and/or audio and video they may have links to must 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 CMS procedures (see Attachment section below). 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 such that products offering equivalent facilitation are considered along with those that strictly meet the technical provisions in the Access Board's standards.

4.B.2. Market Research to Determine Commercial Availability

Technical specifications and minimum requirements for EIT must be developed considering the results of market research and CMS 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 CMS procedures (see Attachment section below) for each EIT acquisition to determine the availability of products and

services that meet the applicable technical provisions. CMS 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:

- It is for sale in the commercial marketplace.
- It will be on the market in time to satisfy the solicitation.
- 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 CMS 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.

4.B.3. Section 508 Production Evaluation & Remediation

All newly developed or procured EIT and pre-existing EIT being maintained and used by CMS shall be assessed for compliance in accordance with established CMS procedures (see Attachment section below).

A *CMS Section 508 Product Assessment* shall be completed by the vendor or developer and provided to the CMS Section 508 Coordinator prior to production release of any new EIT product developed or procured by CMS. A completed *CMS Section 508 Product Assessment* shall also be provided to the CMS Section 508 Coordinator for all pre-existing (legacy) EIT that is operating in a production environment and being maintained and used by CMS for which no previous record of a Section 508 compliancy determination by CMS 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 CMS procedures (see Attachment section below) 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 CMS Section 508 Coordinator within 45 days of the non-compliance determination.

4.C. 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 exemption from an established Section 508 standard is granted as an approved exception in accordance with established CMS procedures (see Attachment section below). All CMS-approved exceptions shall also be reviewed by the Department of Health and Human Services (HHS) Office on Disability.

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.

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

a. is a micro-purchase made prior to April 1, 2005 (FAR 39.204(a));
b. is for a national security system (FAR 39.204(b) and 36 CFR 1194.3(a));
c. is acquired by a contractor incidental to a contract (FAR 39.204(c) and 36 CFR 1194.3(b));
d. is 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));
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 CMS and HHS 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. CMS is required by statute to document the basis for an undue burden exception, which must be formally approved by the Department of HHS. 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 CMS and HHS.

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

- a compliant product or service (if it is a commercial item) is not available, or
- meeting the applicable provisions would require CMS 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, CMS still has obligations under Section 501and Section 504 of the Rehabilitation Act. These sections require, among other things, that CMS 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, CMS 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 CMS procedures (see Attachment section below). 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 HHS and DOJ.

4.D. Section 508 Complaints

Any individual may file a complaint alleging that CMS 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 CMS' information and data through its EIT shall be made and processed in an orderly and prompt manner in accordance with established CMS procedures (see Attachment section below).

In addition to the formal complaint process, CMS 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, CMS 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's requirements and defenses. CMS shall also elicit, record, and analyze informal troubleshooting suggestions from people with disabilities who use the Agency's EIT.

5. ROLES AND RESPONSIBILITIES

The following entities have responsibilities related to the implementation of this policy:

5.A. CMS Administrator

The CMS Administrator is responsible for the following activities:

- Ensuring CMS compliance with Section 508, as amended;
- Designating a senior-level manager as the CMS Section 508 Official; and
- Ensuring submission of reports and survey data related to EIT to appropriate government and other oversight organizations.

5.B. CMS Section 508 Official

The CMS Section 508 Official is responsible for the following activities:

- Leading CMS' Section 508 Program;
- Appointing a CMS Section 508 Coordinator;
- Facilitating CMS' implementation and adherence to Federal, HHS, and CMS Section 508 standards, regulations, policies, plans, processes, and procedures;
- Reviewing Section 508 exception requests, including but not limited to "commercial non-availability" and "undue burden", and ensuring an appropriate response is provided for each;
- Ensuring a record is properly maintained for each approved and denied CMS Section 508 exception, including "commercial non-availability" and "undue burden" exceptions, and Section 508 complaints;
- Submitting quarterly reports on approved and denied Section 508 exception requests, other reports on Section 508 activities, and EIT-related survey data to HHS and/or other appropriate government and oversight organizations in accordance with established procedures;
- Ensuring that information about CMS Section 508 activities is shared within CMS, the Office of the Secretary of HHS, and among interested internal partners; and
- Facilitating efficient communication of Section 508 issues within CMS and with HHS.

5.C. CMS Business Component Leadership

Senior leadership within the CMS business components is responsible for the following activities:

- Appointing a CMS Section 508 Clearance Officer for the CMS business component;
- Ensuring that staff within the CMS business component implement and adhere to Federal, HHS, and CMS Section 508 standards, regulations, policies, plans, processes, and procedures for all relevant work activities; and
- Ensuring that all employees within the CMS business component complete the appropriate Section 508 training as required.

5.D. CMS Section 508 Coordinator

The CMS Section 508 Coordinator is responsible for the following activities:

- Providing support and coordination between CMS and the Section 508 Program in the Office of Disability for the HHS Office of the Secretary;
- Reviewing all new purchase requests to ensure CMS' compliance with Federal requirements relative to Section 508;
- Supporting CMS Section 508 Clearance Officers in reviewing completed Voluntary Product Accessibility Templates (VPATs) and/or CMS Section 508 Product Assessments and making determinations as to the compliance of the associated EIT with applicable Section 508 accessibility standards;

- Reviewing and approving/certifying all CMS Section 508 exception requests and recommending to the CMS Section 508 Official the appropriate action(s) to be taken;
- Developing required reports and/or coordinating/completing required surveys on Section 508 exceptions and other Section 508 activities, and submitting the results to the CMS Section 508 Official for review;
- Providing information on CMS procedures and the steps being taken within CMS to implement Section 508;
- Providing technical assistance on Section 508 issues;
- Coordinating completion of the biennial DOJ Section 508 survey for CMS input into the HHS final report;
- Representing CMS at Federal meetings, conferences, and training sessions on Section 508; and
- Ensuring that adequate Section 508 training is available for all CMS current and future staff.

5.E. CMS Section 508 Clearance Officers

The CMS Section 508 Clearance Officer for each CMS business component is responsible for the following activities

- Completing all required Section 508 training;
- Providing technical assistance on Section 508 issues within the business component;
- Reviewing new purchase requests originating within the CMS business component to ensure CMS' compliance with Federal requirements relative to Section 508;
- Reviewing all CMS Section 508 exception requests originating within the CMS business component and collaborating with the CMS Section 508 Coordinator to determine the appropriate action(s) to be taken;
- Reviewing completed Voluntary Product Accessibility Templates (VPATs) and/or CMS Section 508 Product Assessments within the business component and making determinations as to the compliance of the associated EIT with applicable Section 508 accessibility standards;
- Reviewing electronic communications acquired or created by the CMS business component for Section 508 compliance in accordance with applicable Section 508 accessibility standards before the communications are released;
- Ensuring the development and completion of remediation plans for EIT identified as being non-compliant with Section 508 and the responsibility of the CMS business component;
- Developing required reports and/or coordinating/completing required surveys regarding Section 508 activities within the CMS business component, and submitting the results to the CMS Section 508 Coordinator for review;
- Providing business component input to the CMS Section 508 Coordinator for completion of the biennial DOJ Section 508 survey; and

- Representing CMS at Federal meetings, conferences, and training sessions on Section 508 as needed or appropriate;

5.F. Office of Information Services (OIS)

OIS is responsible for the following activities:

- Establishing, maintaining, and ensuring compliance with this CMS policy;
- Establishing and maintaining CMS standards and guidance for Section 508 compliance;
- Establishing, maintaining, and ensuring compliance with CMS procedures in determining Section 508 compliance of all EIT developed, procured, maintained, and used by CMS and its business partners;
- Establishing, maintaining, and ensuring compliance with CMS procedures for conducting market research for all EIT procurements;
- Establishing, maintaining, and ensuring compliance with CMS procedures for granting and documenting all Section 508 exception requests;
- Establishing, maintaining, and ensuring compliance with CMS procedures for semi-annually reviewing approved exceptions and recertifying waivers if appropriate;
- Disseminating information on CMS' Section 508 policies, standards, procedures, and guidance;
- Disseminating information on available assistive technologies for use by employees with disabilities;
- Ensuring that only EIT that is Section 508 compliant or that has otherwise been granted a documented exception operates in the CMS production environment; and
- Coordinating the identification and remediation of all EIT operating in a production environment that is non-compliant with Section 508.

5.G. Office of Operations Management (OOM)

OOM is responsible for the following activities:

- Developing, maintaining, and implementing a Section 508 Training Plan for CMS;
- Advising the Agency on human resources policy matters affecting accessibility of EIT for individuals with disabilities within the CMS community; and
- Tracking and monitoring CMS compliance with Section 508 requirements as it relates to employment-related matters.

5.H. Office of Equal Opportunity and Civil Rights (OEOCR)

OEOCR is responsible for the following activities:

- Developing, maintaining, and implementing procedures for accepting and handling employment-related complaints filed by Federal employees and applicants for

employment at CMS alleging a failure to comply with Section 508, which are consistent with the procedures set forth in 29 CFR 1614;

- Maintaining a system to record and track all Section 508 complaints received by CMS;
- Providing reports and survey data on the number and status of Section 508 complaints received by CMS to the appropriate government and other oversight organizations;
- Ensuring Section 508 employment discrimination complaints are forwarded to the HHS Equal Employment Opportunity Program Group (EEOPG), Office of Human Resources (OHR), Office of the Assistant Secretary for Administration & Management (ASAM), and Office of the Secretary (OS);
- Ensuring non-employment-related complaints from CMS employees, applicants for employment, or members of the public alleging a failure to comply with Section 508 are forwarded to the HHS Office of Civil Rights (OCR) for investigation and resolution; and
- Evaluating the effectiveness of CMS' procedures for accepting and handling Section 508 complaints for possible improvements.

5.I. Office of Acquisition and Grants Management (OAGM) Procurement Officials (Contracting Officers)

The Procurement Officials (Contracting Officers) in the OAGM are responsible for the following activities:

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

5.J. Office of Beneficiary Information Services (OBIS)

OBIS is responsible for the following activities:

- Ensuring that there is a process in place for publishing content on CMS' public-facing websites (www.cms.hhs.gov and www.medicare.gov) and the CMS intranet, which is Section 508 compliant in accordance with applicable Section 508 accessibility standards and procedures;
- Ensuring the framework templates for CMS' public-facing websites and the CMS intranet are Section 508 compliant;
- Performing random audits to verify that content published on CMS' public-facing websites and the CMS intranet are Section 508 compliant;
- Denying new content from being published on CMS' public-facing websites and the CMS intranet if it is not Section 508 compliant; and

- Assisting in the development of remediation plans for achieving Section 508 compliance of non-compliant content published on CMS' public-facing websites and the CMS intranet.

5.K. All CMS Employees

All CMS employees are responsible for the following activities:

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

5.L. CMS Requesting Officials (Purchase Requestors), Business Owners, and/or Project Managers

All CMS Requesting Officials (Purchase Requestors), Business Owners, and/or Project Managers are responsible for the following activities:

- Adhering to the requirements of this CMS policy and its associated procedures;
- Reviewing the Access Board standards and determining which Section 508 Accessibility Standards (36 CFR Part 1194) apply to the specific EIT product or service being procured;
- Conducting market research, in accordance with CMS 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;
- Determining and documenting EIT exceptions for compliance with Section 508, as applicable, and forwarding for approval in accordance with CMS procedures;
- Ensuring that all applicable technical provisions of the Access Board's standards are included in requirements documents, statements of work, and task orders;
- 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 CMS procedures; and
- Developing and implementing appropriate remediation plans for EIT operating in a production environment that is determined to be non-compliant with Section 508.

5.M. CMS Business Partners, Vendors, System Developers, & System Maintainers

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

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

6. APPLICABLE LAWS/GUIDANCE

The following laws, regulations, and guidance are applicable to this policy:

- 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.
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended.
- Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. § 791), as amended.
- "Electronic and Information Technology (EIT) Accessibility Standards" (36 CFR Part 1194); Published as a final rule in the *Federal Register* (65 Fed. Reg. 80499) on December 21, 2000 by the Architectural and Transportation Barriers Compliance Board (a.k.a., Access Board) and effective June 21, 2001.
- "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); Published as a final rule in the *Federal Register* (66 Fed. Reg. 20894) on April 25, 2001 by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) and effective June 25, 2001.
- Federal Sector Equal Employment Opportunity (29 CFR 1614)
- Americans with Disabilities Act of 1990 (P.L. 101-336).
- Telecommunications Accessibility Enhancement Act of 1988 (P.L. 100-542).
- Telecommunications for the Disabled Act of 1992 (P.L. 97-410).
- Hearing Aid Compatibility Act of 1988 (P.L. 100-394).
- OMB Circular A-130, Management of Federal Information Resources, November 30, 2000.

- OMB Circular A-11, Preparation, Submission, and Execution of the Budget, Section 33.4 Systems Acquisition and Section 53.1 Agency IT Investment Portfolios (Exhibit 53), revised 2003.
- HHS Policy for Section 508 Electronic and Information Technology (EIT), January 2005.
- CMS Administrator's Electronic and Information Technology (EIT) Accessibility Policy Statement, March 25, 2008

7. INFORMATION AND ASSISTANCE

Contact the CMS Section 508 Official for further information regarding this policy.

8. EFFECTIVE DATE/IMPLEMENTATION

This policy becomes effective on the date that the CMS Section 508 Official signs it and remains in effect until officially superseded or cancelled by the CMS Section 508 Official.

9. APPROVED

/s/ 03/28/2008

Julie C. Boughn
Chief Information Officer and
CMS Section 508 Official

Date of Issuance

10. ATTACHMENTS

The following documents augment this policy:

- Procedure: Conducting Market Research
- Procedure: Determining Section 508 Compliance
- Procedure: Section 508 Complaints
- Procedure: Section 508 Exceptions
- Form: CMS Section 508 Product Assessment

GLOSSARY

Alternate Methods

Different means of providing information to users of products, including product documentation such as voice, fax 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 OR;
2) Emails sent as final documents, intended for distribution to other Federal Officials or to members of the public seeking information and services.

CMS Section 508 Product Assessment

An Agency-tailored version of the VPAT, which is CMS' mechanism for providing information regarding an EIT product's 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 CMS.

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 non-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 Scope section of this document 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 Scope section of this document for a detailed definition.

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

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.

Self-Contained Closed Products

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

An abbreviation for teletypewriter. Machinery or equipment that employs interactive text-based communications through the transmission of coded signals across the telephone network. Also called text telephones.

Undue Burden

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.

Voluntary Product Accessibility Template (VPAT)

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 (GSA). 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 websites, and link them to GSA's “Buy Accessible” website.