



TO: Heads of Contracting Activity
Section 508 Officials

JAN 16 2008

FROM: Martin J. Brown
Deputy Assistant Secretary
for Acquisition Management and Policy

Eileen Elias, M.Ed.
Deputy Director, Office on Disability

SUBJECT: Interim Section 508 Acquisition Policy Guidance

In 1998, Congress amended Section 508 of the Rehabilitation Act (29 USC 794d) to significantly expand and strengthen the requirement that Federal agencies make their electronic and information technology (EIT) products and services accessible to persons with disabilities.

The HHS Office on Disability (OD) is responsible for department-wide implementation of, and adherence to, this law. Each Operating/Staff Division (OPDIV/STAFFDIV), through its designated Section 508 Officials and Coordinators, is responsible for providing local direction and ensuring compliance with the HHS implementation of the statute.

Due to recent concerns regarding unsubstantiated vendor claims related to Section 508 standards conformance, and to minimize potential agency risk, the OD and the Section 508 Program Team (comprised of designated OPDIV/STAFFDIV Section 508 Coordinators and other representatives) coordinated with the ASAM Office of Acquisition Management and Policy to develop revised acquisition guidance for implementation of HHS Section 508 program policy. The attached Health and Human Services Acquisition Regulation (HHSAR) interim guidance explains the purpose of the regulatory changes, which expand on existing guidance and strengthen HHS' implementation of Section 508 program policy.

Effective upon issuance of this memorandum, these changes apply to new contracts and orders for applicable EIT product and service requirements. We plan to formally incorporate this guidance in the next HHSAR update. Additional guidance regarding the acquisition of Section 508-compliant communications products and services and HHS website management services will be provided separately. Further, we plan to update the Acquisition Workforce Training and Certification Handbook to include the Section 508 training offered by the OD, as well as the HHS Purchase Card Guide to reinforce the need for Section 508 compliance for purchase card transactions.

HHS Section 508 EIT policy, other resource materials, and the list of responsible Section 508 Officials, Coordinators, and other contacts/technical resources for each OPDIV/STAFFDIV are available at: <http://508.hhs.gov/>.

If you have any questions regarding the HHS Section 508 policy, please direct them to Ms. Eileen Elias, M.Ed., Deputy Director, Office on Disability. Ms. Elias may be reached at eileen.elias@hhs.gov or on 202-205-1104. For any questions on contractual implementation of Section 508 policy, please contact Cheryl Howe, ASAM/OAMP at cheryl.howe@hhs.gov or on 202-690-5552.

Attachment

cc: Executive Officers
Section 508 Program Team
Prudence Goforth, OASPA
Mary Oliver-Anderson, OCIO

Interim Guidance

1. Interim regulatory guidance description: Health and Human Services Acquisition Regulation (HHSAR) policy regarding acquisition of Electronic and Information Technology (EIT) under Section 508 EIT Accessibility Provisions.

2. Background: Federal Acquisition Regulation (FAR) Subpart 39.2, Electronic and Information Technology, implements Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (Public Law 105-220), and the Architectural and Transportation Barriers Compliance Board EIT Accessibility Provisions.

Section 508 of the Rehabilitation Act requires that, unless certain exceptions apply, when Federal agencies develop, acquire, maintain, or use EIT products and services:

- (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).

Also, in light of the HHS Assistant Secretary for Public Affairs' increased scrutiny on this matter, please note that contractors that prepare or post content on an HHS-funded or HHS-managed website, whether or not the content relates to an EIT project, must also comply with Section 508 provisions.

3. Impact on the HHSAR: The proposed interim regulatory language affects the following parts of the HHSAR:

- Part 307 – Acquisition Planning
- Part 311 – Describing Agency Needs
- Part 312 – Acquisition of Commercial Items
- Part 313 – Simplified Acquisition Procedures
- Part 314 – Sealed Bidding
- Part 315 – Contracting by Negotiation
- Part 317 – Special Contracting Methods
- Part 332 – Contracting Financing
- Part 339 – Acquisition of Information Technology

- Part 342 – Contract Administration and Audit Services
- Part 352 – Solicitation Provisions and Contract Clauses.

4. Summary of Changes: The interim regulatory language is intended to address the following issues:

- **Ensure definition of accessibility requirements** – Requires HHS staff who define agency needs for EIT products and services, and perform market research to meet those needs, to document EIT requirements, identify the applicable Section 508 standards and document the market research.
- **Establish a technical evaluation factor to address Section 508 conformance** – Requires that an evaluation factor be developed in a collaborative effort among the Contracting Officer, Contracting Officer's Technical Representative (also known as Project Officer or Contracting officer's Representative), and Section 508 coordinator. Such factor must be included in applicable HHS EIT solicitations to give vendors the incentive to provide full, open, and standardized disclosure of accessibility conformance for EIT products and services so that requiring and acquisition officials may make a compliant purchase. Also, requires the Section 508 Official or designee to review and approve the technical evaluation panel's assessment of vendor responses to the solicitation's Section 508 technical evaluation factor to ensure risk mitigation and accessibility of applicable EIT products and services.
- **Update solicitation provision and contract clause language** – Requires that information be provided by offerors and awardees to determine accessibility of vendor EIT products and services. Also includes a new requirement for the Section 508 Official, or designee, Contracting Officer, and Contracting Officer's Technical Representative (also known as Project Officer or Contracting Officer's Representative) to review and approve a Section 508 Annual Report prior to final payment or option exercise/incremental funding action for designated contracts/orders.

5. HHS Section 508 Policy Responsibilities: The Assistant Secretary for Administration and Management/Office of Acquisition Management and Policy (ASAM/OAMP) is responsible for issuing and maintaining the HHSAR. The HHS Office on Disability (OD), in consultation with and through the ASAM/OAMP, is responsible for: a) providing content updates to applicable subparts of the HHSAR as they relate to HHS Section 508 policy including any associated templates (e.g., the Section 508 Product Assessment Template, the Annual Report template), b) guidance on agency interpretation and evaluation of completed forms, and c) training or technical assistance regarding Section 508 policy.

Proposed HHSAR Changes

PART 307—ACQUISITION PLANNING

See: “Proposed Changes to HHSAR Subpart 307.71 – Acquisition Plan,” which follows the HHSAR changes in parts 311, 312, 313, 314, 315, 317, 332, 339, 342, and 352 below.

PART 311—DESCRIBING AGENCY NEEDS

Revised 311.003 title to read as follows: “**311.003 Defining Electronic and Information Technology requirements.**”

Revised 311.003 to read as follows: “HHS staff who define agency needs for electronic and information technology (EIT) products and services, including EIT deliverables such as electronic documents and reports, and perform market research to meet those needs, shall document EIT requirements, identify the applicable Section 508 standards, and document the market research. OPDIVs may develop procedures for these activities, based on the level of agency investment and risk, and shall ensure any procedures developed are in conformance with FAR Part 10. Procedures for defining EIT requirements may, but are not required to, include the use of the Buy Accessible Wizard (<http://www.buyaccessible.gov>), managed by the General Services Administration, or other Federal agency tools.”

PART 312—ACQUISITION OF COMMERCIAL ITEMS

Added: “**Subpart 312.2 – Special Requirements for the Acquisition of Commercial Items**”

Added: “**312.202(d) Market research and description of agency need.**”

Added: “Whenever an OPDIV/STAFFDIV requires electronic and information technology (EIT) products and services subject to Section 508 of the Rehabilitation Act of 1973, as amended, commercially available products and services shall be acquired to the maximum extent possible while ensuring Section 508 compliance. Consistent with paragraph 4.3.1 of the HHS Section 508 policy (see <http://508.hhs.gov/>), if products and services are commercially available that meet some but not all of the applicable Section 508 standards, and no commercially available products or services meet all of the applicable Section 508 standards, an OPDIV/STAFFDIV shall acquire the products and services that best meet the applicable Section 508 standards. Commercial nonavailability exception determinations for EIT products and services that do not meet some or all of the applicable Section 508 standards shall be processed in accordance with 339.203.”

PART 313 – SIMPLIFIED ACQUISITION PROCEDURES

Added: “**313.003 Policy.**”

Added: “Electronic and information technology (EIT) products and services acquired pursuant to FAR part 13 shall comply with Section 508 of the Rehabilitation Act of 1973, as amended. Consistent with paragraph 4.3.1 of the HHS Section 508 policy (see <http://508.hhs.gov/>), if

products and services, including commercially available items, meet some but not all of the applicable Section 508 standards, and no commercially available products or services meet all of the applicable Section 508 standards, an OPDIV/STAFFDIV shall acquire the products and services that best meet the applicable Section 508 standards. Commercial nonavailability exception determinations for EIT products and services that do not meet some or all of the applicable Section 508 standards shall be processed in accordance with 339.203.”

Revised 313.301(b), Government-wide commercial purchase card, to read as follows:

“313.301(b) Government-wide commercial purchase card

(b) The Department has issued general guidance concerning the use of the Government-wide commercial purchase card and has authorized the OPDIVs to establish procedures for (1) its use, administration, and management control and (2) the training necessary to comply with FAR 13.301. See 313.003 and the HHS Purchase Card Guide for information regarding acquiring electronic and information technology (EIT) products and services subject to Section 508 of the Rehabilitation Act of 1973, as amended.”

PART 314 – SEALED BIDDING

Added: **“Subpart 314.1 – Use of Sealed Bidding”**

Added: **“314.103 Policy.”**

Added: “Electronic and information technology (EIT) products and services, including EIT deliverables such as electronic documents and reports, acquired using sealed-bid procedures shall comply with Section 508 of the Rehabilitation Act of 1973, as amended. Consistent with paragraph 4.3.1 of the HHS Section 508 policy (see <http://508.hhs.gov/>), if products and services, including commercially available items, meet some but not all of the applicable Section 508 standards, and no commercially available products or services meet all of the applicable Section 508 standards, an OPDIV/STAFFDIV shall acquire the products and services that best meet the applicable Section 508 standards. Commercial nonavailability exception determinations for EIT products and services that do not meet some or all of the applicable Section 508 standards shall be processed in accordance with 339.203.”

PART 315 – CONTRACTING BY NEGOTIATION

Added: **“315.070 Policy.”**

Added: “Electronic and information technology (EIT) products and services, including EIT deliverables such as electronic documents and reports, acquired using negotiated procedures shall comply with Section 508 of the Rehabilitation Act of 1973, as amended. Consistent with paragraph 4.3.1 of the HHS Section 508 policy (see <http://508.hhs.gov/>), if products and services, including commercially available items, meet some but not all of the applicable Section 508 standards, and no commercially available products or services meet all of the applicable Section 508 standards, an OPDIV/STAFFDIV shall acquire the products and services that best meet the applicable Section 508 standards. Commercial nonavailability exception determinations for EIT products and services that do not meet some or all of the applicable Section 508 standards shall be processed in accordance with 339.203.”

Added: “315.304 Evaluation Factors.”

Added: “A solicitation for electronic and information technology (EIT) products and services, including EIT deliverables such as electronic documents and reports, shall include a separate technical evaluation factor (which may be in the form of a technical evaluation criterion or a mandatory qualification criterion, as appropriate) developed by the Contracting Officer, Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative), and the OPDIV Section 508 Coordinator to determine vendor compliance with applicable Section 508 standards. The technical evaluation panel’s assessment of Section 508 standards conformance shall be based on the Section 508 Product Assessment Template (see <http://508.hhs.gov/>), and any other pertinent information, that offerors provide in response to a solicitation. The HHS Office on Disability is responsible for providing technical assistance in evaluation factor development, including technical evaluation factor examples and identifying best practices.

Before conducting negotiations or making an award, the Contracting Officer shall provide a summary of the technical evaluation panel’s assessment of vendor responses to the solicitation’s Section 508 evaluation factor for review by the Section 508 Official or designee. The Section 508 Official or designee shall indicate approval/disapproval of the evaluation panel’s assessment. The Contracting Officer shall coordinate the resolution of any issues raised by the Section 508 Official or designee with the chair of the technical evaluation panel or Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative), as appropriate. Acquisition processing shall not proceed unless and until the Section 508 Official or designee has approved the technical evaluation panel’s assessment. The Contracting Officer shall include the assessment in the official contract file. See 339.203 regarding processing exception determination requests.”

Added: “(B)(6)” to 315.305(a)(3)(i) under 315.305 Proposal evaluation.

Added: “a description of the methodology for evaluation of key elements in the Technical Evaluation Plan, including any solicitation evaluation factor involving the acquisition of electronic and information technology (EIT) products and services subject to Section 508 provisions.”

PART 317 – SPECIAL CONTRACTING METHODS

Added: “317.207 Exercise of options.”

Added: “Before exercising an option for a subsequent performance period/additional quantity under a multiple-year contract/order [see 339.201-70(c)], which involves the acquisition of electronic and information technology (EIT) products and services, including EIT deliverables such as electronic documents and reports, subject to Section 508 of the Rehabilitation Act of 1973, as amended, the Contracting Officer shall ensure that the contractor has provided to the Contracting Officer and Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative) a properly completed HHS Section 508 Annual Report (see <http://508.hhs.gov/>). The Contracting Officer shall request that the contractor provide the report in sufficient time for its review and approval by the Contracting Officer, Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative), and the Section 508 Official or designee, prior to exercise of an

option. The Contracting Officer shall ensure that the report and all related approvals are made a part of the official contract/order file.”

PART 332 – CONTRACT FINANCING

Revised 332.702, Policy, to include a new subparagraph (c), as follows:

332.702 Policy.

“(c) Before adding incremental funding for a subsequent performance period to a multiple-year contract/order [see 339.201-70(c)] that involves the acquisition of electronic and information technology (EIT) products and services, including EIT deliverables such as electronic documents and reports, subject to Section 508 of the Rehabilitation Act of 1973, as amended, the Contracting Officer shall ensure that the contractor has provided to the Contracting Officer and Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative) a properly completed HHS Section 508 Annual Report (see <http://508.hhs.gov/>). The Contracting Officer shall request that the contractor provide the report in sufficient time for its review and approval by the Contracting Officer, Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative), and the Section 508 Official or designee, prior to funding performance beyond the currently funded contract performance period. The Contracting Officer shall ensure that the report and all related approvals are made a part of the official contract/order file. The Section 508 Official or designee shall monitor the Annual Reports, direct corrective measures to improve their submission and quality, and report improvement actions taken to the HHS Office on Disability.

PART 339 – ACQUISITION OF INFORMATION TECHNOLOGY

Revised narrative of 339.201-70, Required provision and contract clause, to read as follows:

339.201-70 Required provision and contract clause.

(a) The Contracting Officer shall insert the provision at 352.270–19(a) in all new solicitations, regardless of dollar amount, for projects involving the development, acquisition, maintenance, or use of EIT products and services subject to Section 508 of the Rehabilitation Act of 1973, as amended, including EIT deliverables such as electronic documents and reports. (Note: exceptions to this requirement can be found at FAR 39.204.) After approval of the Section 508 Official or designee, the Contracting Officer may waive the requirement for offerors to provide a HHS Section 508 Product Assessment Template if Section 508 EIT conformance can be determined conclusively through other less formal methods. The Contracting Officer shall document in the contract file any waiver for submission of the Product Assessment Template. The approval of a waiver by the Section 508 Official does not, however, eliminate the requirement for product assessment against Section 508 standards.

“(b) The Contracting Officer shall insert the clause at 352.270–19(b) in all new contracts and orders, regardless of dollar amount, for projects involving the development, acquisition, maintenance, or use of EIT products and services, including EIT deliverables such as electronic documents and reports, subject to Section 508 of the Rehabilitation Act of 1973, as amended, unless the EIT products and services are incidental to the project. (Note: Other exceptions to this requirement can be found at FAR 39.204.)”

(c) When acquiring EIT products and services subject to Section 508 of the Rehabilitation Act of 1973, as amended, in the following circumstances, the Contracting Officer shall insert the paragraph at 352.270-19(c), which requires a contractor to provide an HHS Section 508 Annual Report, at the end of the contract clause in 352.270-19(b) and cite the schedule for report submission, where indicated. NOTE: “Multiple-year” contract/order means a contract/order having a performance period of more than 1 year.

(1) new multiple-year, incrementally funded contracts;

(2) existing multiple-year, incrementally funded contracts with a performance period of 1 year or more remaining as of the date of HHSAR issuance requiring inclusion of the clause; (NOTE: This should be accomplished via contract modification at the earliest possible date.)

(3) new multiple-year task and delivery orders exceeding \$100,000 awarded under indefinite-delivery, indefinite-quantity (IDIQ) or Federal Supply Schedule (FSS) contracts;

(4) existing multiple-year task and delivery orders exceeding \$100,000 awarded under IDIQ or FSS contracts, with a task/delivery order performance period of 1 year or more remaining as of the date of HHSAR issuance requiring inclusion of the clause; (NOTE: This should be accomplished via task/delivery order modification at the earliest possible date.)

(5) new multiple-year Blanket Purchase Agreement (BPA) orders that exceed \$100,000;

(6) existing multiple-year BPA orders with a performance period of 1 year or more remaining as of the date of HHSAR issuance requiring inclusion of the clause; (NOTE: This should be accomplished via BPA order modification at the earliest possible date.)

(7) new multiple-year contracts with option periods/quantities;

(8) existing multiple-year contracts with option periods/quantities remaining as of the date of HHSAR issuance requiring inclusion of the clause. (NOTE: This should be accomplished via contract modification at the earliest possible date OR at the time of the next option exercise if 6 months or less remain prior to the next option exercise.)”

Added: “Subpart 339.2 – Electronic and Information Technology”

Added: “339.203 Approval of Exceptions.”

Added: “Procedures to document exception and determination requests are set forth in the OPDIV/STAFFDIV Section 508 Implementation Plans required by paragraph 4.1 of the HHS Section 508 policy.

In the development of acquisition plans or other acquisition request documentation, the Contracting Officer must ensure that all Section 508 commercial non-availability or undue burden exception determination requests for applicable EIT requirements are: (a) documented and certified in accordance with the requirements of paragraph 4.3, Section 508 Compliance Exceptions, of the HHS Section 508 policy; (b) signed by the Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative); (c) approved by the OPDIV Section 508 Official or designee; and (d) included in the acquisition request documentation provided by the Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative) to the acquisition office.

In instances where a technical evaluation has been performed, and no organization’s proposed products or services meet some or all of the applicable Section 508 standards, in order to proceed with acquisition processing, the Contracting Officer shall provide an exception determination request along with the technical evaluation panel’s assessment of the Section 508 evaluation factor to the designated Section 508 Official or designee for review and approval/disapproval. See 315.304 regarding obtaining approval of technical evaluation panel assessments by the Section 508 Official or designee. The Contracting Officer shall include the Section 508 Official’s or designee’s approval/disapproval of the exception determination request in the official contract file and reference it, as appropriate, in all source selection documents. For further information, see paragraphs 4.3, Section 508 Compliance Exceptions, and paragraph 11., Appendix A, of HHS Section 508 policy at: <http://508.hhs.gov/>.”

PART 342 – CONTRACT ADMINISTRATION AND AUDIT SERVICES

Added: “**Subpart 342.3 – Contract Administration Office Functions**”

Added: “**342.302(c) Contract administration functions.**”

Added: “In multi-year contracts/orders, the OPDIV’s Section 508 Official or designee, as well as the Contracting Officer and Contracting Officer’s Technical Representative (also known as Project Officer or Contracting Officer’s Representative), shall review and approve all Section 508 Annual Reports before final payment is made or any option is exercised under any applicable contract/order. In contracts/orders of one year or less in duration, the Section 508 conformance certification shall be reviewed and approved by those same officials before final payment is made. The Contracting Officer also shall ensure that the report and all related approvals are made a part of the official contract/order file.”

PART 352 – SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Revised title and narrative of 352.270-19(a) and (b), Electronic Information and Technology Accessibility solicitation provision and contract clause, to read as follows:

“352.270-19–Electronic and information technology accessibility.

(a) The following provision shall be used in solicitations as provided in 339.201-70(a):

Electronic and Information Technology Accessibility (XXXXXXX 2008)

Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998, and the Architectural and Transportation Barriers Compliance Board Electronic and Information (EIT) Accessibility Provisions (36 CFR part 1194), require that, unless an exception applies, all EIT products and services developed, acquired, maintained, or used by any Federal department or agency permit:

(1) Federal employees with disabilities to have access to and use information and data that is comparable to the access and use of information and data by Federal employees who are not individuals with disabilities; and

(2) Members of the public with disabilities seeking information or services from a Federal agency to have access to and use of information and data that is comparable to the access and use of information and data by members of the public who are not individuals with disabilities.

Accordingly, any vendor submitting a proposal/quotation/bid in response to this solicitation must demonstrate compliance with the established EIT accessibility provisions. Information about Section 508 provisions is available at <http://www.section508.gov/>. The complete text of Section 508 Final Provisions can be accessed at <http://www.access-board.gov/sec508/provisions.htm>.

The Section 508 standards applicable to this solicitation are identified in the Statement of Work/Specification/Performance Work Statement. In order to facilitate the Government's evaluation to determine whether EIT products and services proposed meet applicable Section 508 accessibility standards, offerors must prepare an HHS Section 508 Product Assessment Template, in accordance with its completion instructions, and provide a binding statement of conformance. The purpose of the template is to assist HHS acquisition and program officials in determining that EIT products and services proposed support applicable Section 508 accessibility standards. The template allows vendors or developers to self-evaluate their products or services and document in detail how they do or do not conform to a specific Section 508 standard. Instructions for preparing the HHS Section 508 Product Assessment Template may be found at <http://508.hhs.gov>.

Respondents to this solicitation must also provide any additional detailed information necessary for determining applicable Section 508 standards conformance, as well as for documenting EIT products and/or services that are incidental to the project, which would constitute an exception to Section 508 requirements. If a vendor claims its products and/or services, including EIT deliverables such as electronic documents and reports, meet applicable Section 508 standards in its completed HHS Section 508 Product Assessment Template, and it is later determined by the Government – i.e., after award of a contract/order, that products and/or services delivered do not conform to the described accessibility in the Product Assessment Template, remediation of the products and/or services to the level of conformance specified in the vendor's Product Assessment Template will be the responsibility of the Contractor at its expense.

(End of provision)

(b) The following clause shall be used in contracts and orders as provided in 339.201-70(b):

Electronic and Information Technology Accessibility (XXXXXXX 2008)

Pursuant to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998, all electronic and information technology (EIT) products and services developed, acquired, maintained, and/or used under this contract/order must comply with the "Electronic and Information Technology Accessibility Provisions" set forth by the Architectural and Transportation Barriers Compliance Board (also referred to as the "Access Board") in 36 CFR part 1194. Information about Section 508 provisions is available at <http://www.section508.gov/>. The complete text of Section 508 Final Provisions can be accessed at <http://www.access-board.gov/sec508/provisions.htm>.

The Section 508 standards applicable to this contract/order are identified in the Statement of Work/Specification/Performance Work Statement. The contractor must provide a written Section 508 conformance certification due at the end of each order/contract exceeding \$100,000 when the order/contract duration is one year or less. If it is determined by the Government that EIT products and services provided by the Contractor do not conform to the described accessibility in the Product Assessment Template, remediation of the products and/or services to the level of conformance specified in the vendor's Product Assessment Template will be the responsibility of the Contractor at its own expense

In the event of a modification(s) to this contract/order, which adds new EIT products and services or revises the type of, or specifications for, products and services the Contractor is to provide, including EIT deliverables such as electronic documents and reports, the Contracting Officer may require that the contractor submit a completed HHS Section 508 Product Assessment Template to assist the Government in determining that the EIT products and services support Section 508 accessibility requirements. Instructions for documenting accessibility via the HHS Section 508 Product Assessment Template may be found at <http://508.hhs.gov>

(c) The following paragraph should be added to Electronic and Information Accessibility (XXXXXXX2008 clause as provided in 339.201-70(c):

Prior to the Contracting Officer exercising an option for a subsequent performance period/additional quantity or adding incremental funding for a subsequent performance period under this contract, as applicable, the Contractor must provide a Section 508 Annual Report to the Contracting Officer and Contracting Officer's Technical Representative (also known as Project Officer or Contracting Officer's Representative). Unless otherwise directed by the Contracting Officer in writing, the Contractor shall provide the cited report in accordance with the following schedule. Instructions for completing the report are available at: <http://508.hhs.gov/> under the heading Vendor Information and Documents. The Contractor's failure to submit a timely and properly completed report may jeopardize the Contracting Officer's exercising an option or adding incremental funding, as applicable.

Schedule for Contractor Submission of Section 508 Annual Report"

(to be completed by the Contracting Officer at time of contract/order award)

Proposed Changes to HHSAR Subpart 307.71 – Acquisition Plan (changes are specified in RED and underlined)

1. Added to Part II, Summary Sheet (and renumbered subsequent items):

7. Does the acquisition include Section 508-applicable Electronic and Information Technology (EIT) products and services, including EIT deliverables such as electronic documents or reports? yes no

2. Added to Part III, Project Considerations and Information, (a)(1) Statement of Need:

c. Statement of Work. Provide a Statement of Work (SOW) as an attachment to the AP. The SOW must be comprehensive and include the information necessary for prospective offerors to provide meaningful proposals (see FAR 11.000 and HHSAR 307.7108). If the proposed requirement is for, or includes, the acquisition of EIT products and services, the SOW must also include a list of applicable Section 508 standards from the U.S. Access Board [36 CFR part 1194]. Information about Section 508 provisions is available at <http://www.section508.gov/>. The complete text of Section 508 Final Provisions can be accessed at <http://www.access-board.gov/sec508/provisions.htm>. As appropriate, you may use the General Services Administration's *Buy Accessible Wizard* at <http://www.buyaccessible.gov> or contact your OPDIV Section 508 Official or Coordinator for assistance in determining applicable Section 508 provisions.

3. Added to Part III Project Considerations and Information, (b)(1) (a) Potential Sources:

1. Commercial Items. Discuss whether commercial items or non-developmental items are available to meet the Government's needs or could be modified to meet the requirement (see FAR 12.101). Include in the discussion any Section 508 accessibility issues or concerns with any EIT products and services to be acquired, including EIT deliverables such as electronic documents and reports.

4. Added to Part III Project Considerations and Information, (b)(3) Source-selection procedures, criteria, and instructions:

a. Technical Evaluation Criteria: (Add as the last sentence to the cited paragraph) If the proposed requirement is for, or includes, the acquisition of EIT products and services that are subject to Section 508 conformance provisions, specify the technical evaluation factor that will be used to evaluate solicitation respondents' products and services.

5. Added to Part III Project Considerations and Information, (b)(4) (j) Special Factors:

11. Audiovisual Materials, Publications, and Public Affairs Services. Discuss whether the intended acquisition involves the production of audiovisual materials, publications, or public affairs services. Reference (through <http://508.hhs.gov/>) HHS Section 508 requirements for making all files, including captioning, audio descriptions, videos, tables, graphics/pictures, registration forms, presentations (both audio and video) or other types of proprietary format files – e.g., PDF, PPT, and EXCEL documents, fully 508 compliant.

6. Added to Part III Project Considerations and Information:

(5) Electronic and Information Technology Accessibility Provisions. Provide a description and purpose of all EIT to be developed, acquired, maintained, or used under this proposed acquisition. Discuss, in terms of the “EIT Accessibility Provisions” (36 CFR part 1194), how accessibility for all Federal employees and public users with disabilities will be ensured, including addressing how forms and other proprietary format files – e.g., PDF, PPT, and EXCEL documents, will be made accessible. Discuss the evaluation, acceptance, and quality assurance criteria to be used for this proposed acquisition (see FAR 39.2). Explain any exceptions (see FAR 39.204) that may apply and the specific standard(s) in 36 CFR part 1194 that qualify for an exception. Attach appropriate documentation supporting any exceptions – i.e., approval by the OPDIV/STAFFDIV Section 508 Official or designee.

7. Added to Part III Project Considerations and Information, (b):

(8) Post-Award Administration and Monitoring. Discuss the need for a post-award conference and site visits during performance. Specify milestones that require periodic evaluation of the contractor’s progress (including annual past performance evaluations). Delineate the frequency of performance evaluations as required by FAR 42.15. If the proposed requirement is for, or includes, the acquisition of EIT products and services that are subject to Section 508 conformance provisions, specify whether the contractor will be required to provide an HHS Section 508 Annual Report and how the contractor’s standards for delivered products and services will be monitored throughout the life of the contract/order to ensure compliance. Discuss procedures for monitoring the contractor’s progress, including use of any specific formal management system (such as an EVMS), test and evaluation program, inspection and acceptance criteria, or quality assurance procedures (see FAR 42.302 and HHSAR 342.7002). If an EVMS is to be used, discuss the methodology the Government will employ to analyze and use the earned value data to assess and monitor contract performance. Also, specify how the offeror’s/contractor’s EVMS will be verified for compliance with the American National Standards Institute/Electronics Industries Alliance Standard – 748, and the timing (pre- or post-award) and conduct of integrated baseline reviews (see FAR 34.202).

8. Added to Part IV – Clearance/Approval Checklist (and renumbered “Other Clearances” as #10):

9. EIT Approvals. Approval of the OPDIV/OS Section 508 Official or designee is required when claiming an exception from Section 508 of the Rehabilitation Act (see HHS Section 508 policy at <http://508.hhs.gov/>). Approval of the Information Technology Investment Review Board is required for major and tactical information technology investments as defined in OMB Circular A-130, Management of Federal Information Resources and OMB Instructions for E-300 Investment Business Case (see <http://www.whitehouse.gov/omb/circulars/a130/a130trans4.html>). As appropriate, consult with your OPDIV/OS/STAFFDIV/HHS Chief Information Officer on the latter issue.

9. Revised second bullet in Part VII – Attachments:

- Approved Section 508 Undue Burden or Commercial Non-Availability Request