



Office of Information Services  
Centers for Medicare & Medicaid Services

Procedure:  
Conducting Market Research

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## 1. PURPOSE

This document establishes the procedure for the Centers for Medicare & Medicaid Services (CMS) to conduct and document the results of market research for each acquisition of electronic and information technology (EIT). Market research is conducted to determine the availability of products and services in the marketplace that meet the applicable technical provisions of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 (d)), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.

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## 2. REFERENCES

- CMS Policy for Section 508 Compliance
- Procedure: Determining Section 508 Compliance

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## 3. SCOPE

This procedure applies to the act of collecting and analyzing information about capabilities within the marketplace to satisfy CMS' EIT needs in response to Federal regulations and the *CMS Policy for Section 508 Compliance*. Market research is an essential element of building an effective strategy for the acquisition of commercial items and establishes the foundation for CMS' description of the need, the solicitation, and the resulting contract.

Market research is used to gauge the state of the EIT industry in meeting the requirements of the specific EIT product or service that is to be purchased, and is a method for identifying available products and services that meet Section 508 requirements. Market research for products or services for the disabled is merely a part of the normal government acquisition process. It is no different than any other acquisition except for the provisions of Section 508.

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.

The extent of market research for EIT products or services will vary depending on the urgency, estimated dollar value, and complexity of the procurement, as well as past experience.

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## **4. ROLES AND RESPONSIBILITIES**

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

### **4.A. CMS Requesting Officials (Purchase Requestors), Business Owners, and/or Project Managers**

For the purposes of this procedure, CMS Requesting Officials (Purchase Requestors), Business Owners, and/or Project Managers are responsible for the following activities:

- Identifying what is to be purchased (i.e., a commercial-off-the-shelf (COTS) product, IT development or customization of an EIT product, EIT services (e.g., integration, training, audio-visual/multimedia, or help desk), or a combination);
- Identifying and documenting the business requirements for the EIT product or service that is to be purchased;
- 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 this procedure, to identify what EIT products, if any, are available in the marketplace to meet the business requirements and associated technical provisions of the Access Board's standards and appropriately documenting the results;

- Based on the results of the market research, determining if an exception exists and appropriately documenting it in accordance with the *Procedure: Section 508 Exceptions*, and/or identifying which product should be purchased; and
- Attaching all market research documentation to the purchase request and proceeding with completion of the *Procedure: Determining Section 508 Compliance* and the standard CMS procurement process as appropriate for the purchase request.

#### **4.B. CMS Section 508 Clearance Officer**

For the purposes of this procedure, the CMS Section 508 Clearance Officer is responsible for the following:

- Providing assistance in determining the Section 508 EIT Accessibility Standards that apply to the development or procurement of a specific EIT product or service for CMS;
- Providing assistance in evaluating EIT products/services for Section 508 compliance;
- Reviewing new purchase requests originating within the CMS business component to ensure CMS' compliance with Federal requirements relative to Section 508;
- Certifying that a "Commercial Non-Availability" or "Undue Burden" exception applies to a specific purchase request as a result of the market research in accordance with the *Procedure: Section 508 Exceptions*; and
- 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 product or service with applicable Section 508 accessibility standards.

#### **4.C. CMS Section 508 Coordinator**

For the purposes of this procedure, the CMS Section 508 Coordinator is responsible for the following:

- Providing assistance in determining the Section 508 EIT Accessibility Standards that apply to the development or procurement of a specific EIT product or service for CMS;
- Providing assistance in evaluating EIT products/services for Section 508 compliance;
- Certifying that a "Commercial Non-Availability" or "Undue Burden" exception applies to a specific purchase request as a result of the market research in accordance with the *Procedure: Section 508 Exceptions*; and
- 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 product or service with applicable Section 508 accessibility standards.

#### **4.D. Office of Acquisition and Grants Management (OAGM) Procurement Officials (Contracting Officers) and Individual Credit Card Purchasers**

For the purposes of this procedure, the Procurement Officials (Contracting Officers) in the OAGM and Individual Credit Card Purchasers are responsible for the following:

- Ensuring that the results from market research are reflected appropriately in subsequent solicitations and contracts/agreements for all EIT procurements; and
  - Ensuring the results from market research are maintained in the contract or purchase documentation files for all EIT procurements.
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## 5. PROCEDURE

The following describes the sequence of steps that comprise the procedure for ensuring CMS' compliance with Federal requirements to conduct market research prior to the procurement of an EIT product or service:

**STEP 1:** The Requesting Official (Purchase Requestor) identifies what is to be purchased (i.e., a commercial-off-the-shelf (COTS) product, IT development or customization of an EIT product, EIT services (e.g., integration, training, audio-visual/multimedia, or help desk), or a combination).

**STEP 2:** The Requesting Official (Purchase Requestor) identifies the business requirements for the EIT product or service to be purchased and identifies the Access Board's technical provisions (36 CFR Subparts 1194.21 through 1194.41) that are applicable to the EIT purchase. To the maximum extent practicable, requirements should be stated in terms of the functions to be performed, performance required, and essential physical characteristics. Also include the requirements of any laws and regulations that are unique to the item being acquired. Refer to the Section 508 EIT Accessibility Standards available at <http://www.access-board.gov/sec508/standards.htm>, the **CMS Section 508 Product Assessment**, and/or use the *Buy Accessible Wizard* at <http://www.buyaccessible.gov/> to assist in determining the technical provisions that apply. Seek assistance from the CMS Section 508 Clearance Officer, CMS Section 508 Coordinator, or the HHS Office on Disability if help is needed to interpret the standards.

**STEP 3:** The Requesting Official (Purchase Requestor) conducts research to identify and compile a list of the vendors that can provide an EIT product/service that meets the identified business requirements and applicable technical provisions. This may be accomplished through the use of one or more of the following methods:

- Reviewing similar procurements by other CMS components, CMS business partners, and/or other Federal agencies.
- Visiting the *Buy Accessible Wizard* located on the Government Services Administration (GSA) website at <http://www.buyaccessible.gov/>, which is a web-based application that guides the user through a process of gathering data and providing information about EIT and Section 508 compliance. The *Buy Accessible Wizard* compiles a running summary documenting the process and its results.
- Contacting knowledgeable individuals in Government and industry regarding market capabilities to meet requirements.
- Reviewing the results of recent market research/surveys undertaken to meet similar or identical requirements.

- Publishing formal requests for information in appropriate technical or scientific journals, business publications, or in electronic data exchanges.
- Participating in interactive, on-line communication among industry, acquisition personnel, and customers.
- Attending trade shows and receiving capability and “futures” briefings from original equipment manufacturers and developers.
- Obtaining source lists of similar items from other Federal agencies, contracting activities, trade associations, or other sources.
- Reviewing catalogs and other generally available product literature published by manufacturers, vendors, distributors, and dealers.
- Using technical analysis publications.
- Using the Internet to post requests for information or to search for technical information.
- Conducting interchange meetings or holding pre-solicitation conferences to involve potential offerors early in the acquisition process.
- Releasing information on planned acquisitions and draft solicitations to industry using a published vehicle (e.g., sources-sought announcements in the *Federal Business Opportunities* (FedBizOpps)), which often prompts contractors or vendors to submit comments and information on products and capabilities.
- Searching Government Accountability Office (GAO) decisions and opinions issued in areas of Federal law such as appropriations, bid protests, and Federal agency rulemaking available from <http://gpoaccess.gov/gaodecisions/index.html>.
- Querying Government databases that provide information relevant to agency acquisitions (e.g., search award announcements in FedBizOpps to find sources as well as review descriptions).
- Reviewing Government-managed websites/databases that provide information on products and pricing (often available from existing Government contracts). Examples include GSA Advantage and the Commercial Advocates Forum, which can be used to locate potential sources by industry, product description, Federal Supply Classification, or Federal Supply Group.

**STEP 4:** For each EIT product or service being considered, the Requesting Official (Purchase Requestor) identifies and documents the product’s functionalities, its capabilities, and the level of compliance for each of the applicable Section 508 accessibility standards.

The Requesting Official (Purchase Requestor) should ensure that the market research covers all aspects of EIT products or services according to the market. While the value, type, and complexity of the needed products will influence the data gathered, you may need to obtain the following categories of information from the market investigation: Product Availability Data, Industry Data, Market Acceptance Data, and Product Support Data.

Request that each vendor supply a written proposal and/or obtain a completed **Voluntary Product Accessibility Template (VPAT)** or **CMS Section 508 Product Assessment** from each

vendor that documents the Section 508 compliance of their EIT product or service. Also consider requesting a demonstration of each product’s accessibility features.

If a given EIT product/service cannot meet the Section 508 requirements, a determination of “equivalent facilitation” may be applicable and/or an alternative means may exist for providing access where the product/service is deficient. 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.

**STEP 5:** Utilizing the **Standards Evaluation Spreadsheet**, the Requesting Official (Purchase Requestor) compiles the information from the individual VPATs or CMS Section 508 Product Assessments that were obtained, for comparison as follows:

- (1.) Identify by name and vendor what the individual products are that are being evaluated and record in the appropriate columns of the spreadsheet. Note that additional columns may be added to the spreadsheet as needed to accommodate more than three products being evaluated.
- (2.) For each EIT product, determine if the product **does** or **does not** meet the individual Criteria elements listed in the 1<sup>st</sup> column for each applicable section of the spreadsheet. Utilizing the guidance provided in the following table, provide the appropriate responses for each Criteria element for each EIT product being evaluated.

<b>Response</b>	<b>Means...</b>
<b>Supports</b>	Product <b>fully meets</b> the letter and intent of the Criteria.
<b>Supports with Exceptions</b>	Product <b>does not entirely meet</b> the letter and intent of the Criteria, but does provide some level of access.
<b>Supports through Equivalent Facilitation</b>	Product <b>provides alternative methods to meet</b> the intent of the Criteria.
<b>Does Not Support</b>	Product <b>does not meet</b> the letter or intent of the Criteria.
<b>Not Applicable</b>	The Criteria <b>does not apply</b> to the product.

(3.) **OPTIONAL:** Additional columns may be added to the spreadsheet to provide for a **Weighted Compliance Level** that is determined for each applicable standard for each identified product/vendor. The Weighted Compliance Level would be assigned as follows:

- Compliance at proposal submission (weight/risk factor = 1);
- Compliance by scheduled delivery after insignificant or no contractor development (weight/risk factor = 2); or



- Compliance by scheduled delivery after significant contractor development (Weight/risk factor = 3).

(4.)For each product/vendor, calculate the total number of applicable standards that the product/vendor “Supports”, “Supports with Exceptions”, “Supports through Equivalent Facilitation”, and “Does Not Support” and record at the end of the spreadsheet.

**STEP 6:** Utilizing the completed **Standards Evaluation Spreadsheet**, the Requesting Official (Purchase Requestor) in collaboration with the business component’s CMS Section 508 Clearance Officer and/or the CMS Section 508 Coordinator conducts a preliminary market analysis to assess the market for commercial availability, fundamental alteration, undue burden, and equivalent facilitation. Each of the identified EIT products/services being considered is evaluated to determine how each product/service meets the following:

- Business requirements
- Applicable Section 508 Accessibility Standards
- Ability to meet the deliverable schedule
- Test approaches used by the vendor to assure compliance
- Cost of the product/service

Also consider terms for licensing, warranties, and maintenance for each product/service.

First determine if commercial items are available, and if not, determine if non-developmental items are available that meet CMS’ requirements, could be modified to meet CMS’ requirements, or could meet CMS’ requirements if those requirements were modified to a reasonable extent.

Best value trade-offs are required if the products being compared meet the technical provisions to the same degree (e.g., the products being compared fully meet applicable technical provisions; or the products being compared partially meet the applicable technical provisions to the same extent). For example, if two of three proposals offer products that fully meet the technical provisions and the third proposal partially meets them, traditional trade-offs between the two offers that fully meet the applicable provisions as to technical merit, price, and past performance are required. However, absent a determination of “undue burden”, a trade-off between proposals that fully meet the applicable provisions and those that only partially meet them can not be made.

**STEP 7:** Based on the results from the market research, the Requesting Official (Purchase Requestor) in collaboration with the business component’s CMS Section 508 Clearance Officer and the CMS Section 508 Coordinator determines if an exception exists, which needs to be appropriately documented in accordance with the *Procedure: Section 508 Exceptions*, and/or which product should be purchased. If a product is to be purchased, the Requesting Official (Purchase Requestor) attaches all information obtained from conducting the market research to the EIT purchase request and proceeds with completion of the *Procedure: Determining Section 508 Compliance* and the standard CMS procurement process as appropriate for the purchase request.

**STEP 8:** The Procurement Official (Contracting Officer) in OAGM or the Individual Credit Card Purchaser reviews the results of the market research obtained for the procurement and

stores the results (including copies of the **Standards Evaluation Spreadsheet** and all completed **Voluntary Product Accessibility Templates (VPATs)** or **CMS Section 508 Product Assessments** that were obtained) in the appropriate contract or purchase documentation file. The Procurement Official (Contracting Officer) in OAGM or the Individual Credit Card Purchaser ensures that the market research information acquired for the procurement is appropriately reflected in the subsequent solicitation and/or contract/agreement.

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## 6. EFFECTIVE DATES

This procedure 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.

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## 7. INFORMATION AND ASSISTANCE

For further information and/or assistance regarding this procedure, please contact the CMS Section 508 Coordinator located in the Office of Information Services (OIS).

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## 8. APPROVED

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Julie C. Boughn  
CMS Section 508 Official

\_\_\_\_7/16/2008\_\_\_\_\_

Date of Issuance

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## 9. ATTACHMENTS

The following documents augment this procedure:

- Form: CMS Section 508 Product Assessment
- Form: Standards Evaluation Spreadsheet
- Procedure: Section 508 Exceptions