

SUMMARY OF DOCUMENTATION TOOLS

1. Section 508 Determination and Findings for Purchase Requests

This tool is for the requiring official to complete even before s/he completes the Purchase Request. It walks the customer through the process of determining whether he has a procurement requirement subject to Section 508. This form assumes no prior knowledge of Section 508 by the customer. The customer is required to certify as to his/her determination and findings (D&F). This D&F is provided in a “long form,” which includes step-by-step guidance, and a “short form,” which includes only the required determination.

Attachments to this Determination and Findings (D&F) document include: Attachment A, EIT Commercial Non-Availability Certification; Attachment B, EIT Undue Burden Exception Determination and Certification; and, Attachment C, Section 508 Decision Tree for Procurement Requestor Processing.

Attachment A, the EIT Commercial Non-Availability Certification, may also be used as a standalone document for the requiring official to document non-availability if receipt of proposals indicates that he was mistaken to have certified that compliant products were available at the time of submitting his/her purchase request.

Attachment B, the EIT Undue Burden Exception Determination and Certification, would be completed when compliance with any part of the standards would impose an undue burden. This would typically be determined either before the completion of the Purchase Request, or during offer/proposal evaluation.

Attachment C, Section 508 Decision Tree for Procurement Requestor Processing graphically portrays the decision process formatted in the D&F. It may prove most useful to walk a customer through the decision tree to achieve a general grasp of the decision process before s/he reviews the text documents of the package.

NOTE: This D&F form should be widely distributed as soon as possible to procurement customers in order to encourage early understanding of their responsibilities in implementing Section 508.

2. Suggested Language for Inclusion in Statement of Work Section

The suggested language implements the standards developed by the Architectural and Transportation Barriers Compliance Board Final Rule (36 CFR Part 1194, Electronic and Information Technology Accessibility Standards). It places the burden on offerors to certify compliance/noncompliance with the 75 separate standards listed, all of which may or may not apply to a specific item of EIT.

For purposes of educating requesters, and to assist in the development of documentation to support a non-availability determination or an undue burden determination, a detailed explanation of the included standards is attached. The sequence of this attachment is identical to the sequence of the content of the Access Board Final Rule so that easy cross-reference is possible. Also, the numbering of the Technical Standards is identical to the Access Board Final Rule.

3. Indefinite Delivery Indefinite Quantity (IDIQ) Contracts

Since IDIQ contracts themselves are not subject to Section 508, but ordering (including any quantity ordered as a part of the initial contract—e.g., the guaranteed minimum) against them is, some special considerations exist for them. This section enables the contracting officer to better manage changes to Sections C, L and M reflective of the unique status of IDIQ contracts, including a suggested Section C provision.

4. Sample Solicitation Section M Section 508 Technical Evaluation

This narrative statement provides some guidance on conducting the proposal technical evaluation vis-a-vis the accessibility standards on other than IDIQ requirements. An Excel spreadsheet tool has been developed to assist the contractor in submitting his proposal, and the customer and contracting officer in evaluating it. It can be used regardless of the solicitation's overall technical evaluation method. Like the standards incorporated in the SOW, the offeror may find several standards "not applicable," the whole spreadsheet needs to be provided to the offeror and returned by him due to the interrelationships of the standards.

The spreadsheets may also be used by the purchase requestor during market research to more easily assess the comparative compliance of products.

5. Draft Proposed Section 508 Clauses

These draft clauses are proposed for use until such time as the Federal Acquisition Regulations are amended to include standard government-wide clauses.

The representation clause attests to the completeness and accuracy of the Solicitation Section M Section 508 Technical Evaluation Excel spreadsheet submission. The representation clause should not be used for IDIQ solicitations since both compliant and non-compliant supplies and services may be offered in response to them.

The Warranty clause protects the Government against products found to be out of compliance with Section 508 as stipulated in the contract, and provides remedies for correction or replacement.

6. Approval Requirements

Final policy has not yet been issued by the Department of Commerce. However, in order to provide interim guidance, the following information is provided. This information is based on the current draft of the DOC Section 508 Policy. As final policy is published, information will be provided on any changes as soon as they are received.

Approvals of EIT Commercial Non-Availability Certifications and EIT Undue Burden Exception Determination and Certification are as follows:

FOR IT PRODUCTS AND SERVICES:

Operating Unit CIOs will have authority to approve these determinations within the following thresholds:

NWS	<\$10,000,000
NESDIS	<\$10,000,000
NOS	<\$2,500,000
NMFS	<\$2,500,000
OAR	<\$2,500,000
OMAO	<\$2,500,000
OFA	<\$2,500,000

Above these thresholds, the Determination and Certification will need to be submitted to the Department of Commerce CIO approval. Such requests must be submitted through the Operating Unit CIO.

FOR OTHER EIT PRODUCTS AND SERVICES:

Responsibility for approving these Determinations and Certifications will rest with the CFO. We do not, however, currently have any details on thresholds. As an interim policy, utilize the same thresholds as stated above for IT Products and Services.

**Section 508 Determination and Findings for Purchase Requests
(Long Version)
(06/04/01)**

To be completed by the Requiring Official (Purchase Requestor)

The purpose of this document is to help you comply with a new federal requirement relative to any new purchase of electronic and information technology (EIT).

This completed document must be provided to your servicing procurement office.

A new law, Section 508 of the Rehabilitation Act Amendments of 1998 (29 U.S.C. § 794(d)) as enacted in the Workforce Investment Act of 1998, required that the Architectural and Transportation Barriers Compliance Board (Access Board) create **new federal standards for electronic and information technology (EIT) products to make them more accessible to individuals with disabilities**. The Access Board is an independent Federal agency established by Section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities.

In more detail, the purpose is the following:

“Section 508 requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, Federal *employees with disabilities have access to and use of information and data that is comparable to the access and use by Federal employees who are not individuals with disabilities*, unless an undue burden would be imposed on the agency.” (emphasis added)

“Section 508 also requires that *individuals with disabilities, who are members of the public seeking information or services from a Federal agency, have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities*, unless an undue burden would be imposed on the agency.” (emphasis added)

To better portray the process for your Section 508 compliance, refer to Attachment C, “Section 508 Decision Tree for Procurement Requestor Processing.”

Proceed through the below sections as directed.

SECTION 1: Do I have a need that potentially relates to information technology (IT) as a procurement deliverable?

CERTIFICATION 1:

IF your answer is “**NO**,”

(a) Complete the certification line below, and attach this document to your procurement request;

(b) READ Sections 2 and 3 but do not certify to them;

If your answer is “**YES**,” proceed to Section 2.

Signature

Printed Name

Date

Phone Number

SECTION 2: Do I have an EIT procurement requirement in my purchase request?

The new standards only apply to Electronic and Information Technology (EIT), a new term defined as:

Any equipment or interconnected system or subsystem of equipment, that is used in the creation, conversion, or duplication of data or information, or used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.

The term electronic and information technology includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, office equipment such as copiers and fax machines. It includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

The term 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 creation, conversion, duplication, acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

The term excludes any EIT acquired by a contractor incidental to a contract, or which is neither used nor accessed by Federal employees or members of the public. Contractor employees and all personnel related to the contract are not considered members of the public.

SECTION 4: Can I procure a compliant product from the commercial marketplace?

Refer to “**Addendum SECTION 508 TECHNICAL STANDARDS**” of Attachment A, “EIT Commercial Non-Availability Certification” to review the standards essential to compliance. Seek assistance from your Office of the Chief Information Officer if you need assistance in interpreting the standards.

CERTIFICATION 4:

If your answer is “**Yes**,” complete the certification line below, and attach this document to your purchase request. You are finished.

If your answer is “**No**,” proceed to Section 5.

Signature	Printed Name	Date	Phone Number
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SECTION 5: Will a commercial or non-commercial fully compliant product be produced in response to my solicitation?

CERTIFICATION 5:

If your answer is “**Yes**,” complete the certification line below, and attach this document to your purchase request. You are finished.

If your answer is “**No**,” proceed to Section 6.

Signature	Printed Name	Date	Phone Number
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SECTION 6: Is it a commercial product by FAR definition?

“X” one: ____ Yes ____ No

CERTIFICATION 6:

If your answer is “**Yes**,” **complete the EIT Commercial Non-Availability Certification for a less than fully compliant product that is included as Attachment A**, attach it to this document, and affix both to your procurement request. You are finished.

If your answer is “**No**,” **complete the EIT Undue Burden Determination and Certification that is included hereon as Attachment B**, attach it to this document, and affix both to your procurement request. You are finished.

Section 508 Determination and Findings for Purchase Requests
Short Version
06/04/01

SECTION 1: Do I have a need that potentially relates to information technology (IT) as a procurement deliverable?

No - Complete certification line below and attach this document to your purchase request. Read Sections 2 and 3 but do not certify to them.

Yes - Proceed to Section 2.

SECTION 2: Do I have an EIT procurement requirement in my purchase request?

No - Complete certification line below and attach this document to your purchase request. You are finished.

Yes - Proceed to Section 3.

SECTION 3: Is it an EIT Exception?

No - Proceed to Section 4.

Yes - Place an "X" before the applicable exception(s), complete the certification line below, and attach this document to your purchase request. You are finished.

EIT operated by agencies, the function, operation or use of which involves intelligence activities, cryptographic activities related to national security, command and control of military forces, equipment as an integral part of a weapon or weapon system; or systems critical to the direct fulfillment of military or intelligence missions

Products to be acquired by a contractor incidental to a contract

Products or components of products that would require a fundamental alteration in their nature

Products located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring

A one-time purchase that totals \$2,500 or less, made on the open market, not under an existing contract (micro-purchases made as part of a larger requirement exceeding \$2,500 are subject to Section 508).

SECTION 4: Can I procure a compliant product from the commercial marketplace?

<input type="checkbox"/> No - Proceed to Section 5.
<input type="checkbox"/> Yes - Complete the certification line below and attach this document to your purchase request. You are finished.

SECTION 5: Will a commercial or non-commercial fully compliant product be produced in response to my solicitation?

<input type="checkbox"/> No - Proceed to Section 6.
<input type="checkbox"/> Yes - Complete the certification line below and attach this document to your purchase request. You are finished.

SECTION 6: Is it a commercial product by FAR definition?

<input type="checkbox"/> No - Complete the EIT Undue Burden Determination and Certification, attach it to this document, and affix both to your procurement request. You are finished.
<input type="checkbox"/> Yes - Complete the EIT Commercial Non-Availability Certification for a less than fully compliant product, attach it to this document and affix both to your procurement request. You are finished.

CERTIFICATION:

Signature	Printed Name	Date	Phone Number
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**EIT Commercial Non-Availability Certification
(06/04/01)**

To be completed by the Requiring Official (Purchase Requestor) for purchase requests involving Electronic and Information Technology (EIT)

The following quote from FAR subpart 2.101 defines items that are commercial:

“Commercial item” means—

(a) Any item, other than real property, that is of a type customarily used for nongovernmental purposes and that—

(1) Has been sold, leased, or licensed to the general public; or

(2) Has been offered for sale, lease, or license to the general public;

(b) Any item that evolved from an item described in paragraph (a) of this definition through advances in technology or performance and that is not yet available in the commercial marketplace, but will be available in the commercial marketplace in time to satisfy the delivery requirements under a Government solicitation;

(c) Any item that would satisfy a criterion expressed in paragraphs (a) or (b) of this definition, but for—

(1) Modifications of a type customarily available in the commercial marketplace; or

(2) Minor modifications of a type not customarily available in the commercial marketplace made to meet Federal Government requirements. Minor modifications means modifications that do not significantly alter the nongovernmental function or essential physical characteristics of an item or component, or change the purpose of a process. Factors to be considered in determining whether a modification is minor include the value and size of the modification and the comparative value and size of the final product. Dollar values and percentages may be used as guideposts, but are not conclusive evidence that a modification is minor;

(d) Any combination of items meeting the requirements of paragraphs (a), (b), (c), or (e) of this definition that are of a type customarily combined and sold in combination to the general public;

(e) Installation services, maintenance services, repair services, training services, and other services if such services are procured for support of an item referred to in paragraphs (a), (b), (c), or (d) of this definition, and if the source of such services—

(1) Offers such services to the general public and the Federal Government contemporaneously and under similar terms and conditions; and

(2) Offers to use the same work force for providing the Federal Government with such services as the source uses for providing such services to the general public;

3. What sources did you use to investigate the availability of compliant commercial items (e.g., other federal agencies; contacts with industry trade associations; accessible product organizations such as IRS Information Resources Accessibility Program (IRAP) and GSA’s Center for IT Accommodation; GSA’s FSS; IRS’ Disabled Employees Support Acquisitions Contract (DESAC II); Internet market research; industry consultation; Request for Information (RFI) in Federal Business Opportunities (FedBizOpps, or FBO))?

NOTE: Even if not fully compliant, you are required to acquire the commercial product that provides the greatest degree of compliance while satisfying other functional requirements (36 CFR subpart 1194.2(b))

I have determined and hereby certify that the product(s) that I require to have procured is not now available in a compliant version in the commercial marketplace, nor expected to become available in a compliant version in time to satisfy agency delivery requirements.

Signature	Printed Name	Date	Phone Number
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() Approved () Concur:

Operating Unit Chief Information/Finance Officer	Date
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Approved*:

Chief Information/Finance Officer Department of Commerce	Date
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*DOC CIO/CFO Approval required for NWS/NESDIS Acquisitions >\$10,000,000 and NOS/NMFS/OAR/OMAO/OFA Acquisitions >\$2,500,000

Attach this document to the “Section 508 Determination and Findings for Purchase Requests” form and affix both to your procurement request.

I have determined and hereby certify that the product(s) that I require to have procured is not now available in a compliant version in the commercial marketplace, nor expected to become available in a compliant version in time to satisfy agency delivery requirements.

Signature	Printed Name	Date	Phone Number
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() Approved () Concur:

Operating Unit Chief Information/Finance Officer	Date
--------------------------------------------------	------

Approved*:

Chief Information/Finance Officer Department of Commerce	Date
-------------------------------------------------------------	------

***DOC CIO/CFO Approval required for NWS/NESDIS Acquisitions >\$10,000,000 and NOS/NMFS/OAR/OMAO/OFA Acquisitions >\$2,500,000**
Attach this document to the "Section 508 Determination and Findings for Purchase Requests" form, and affix both to your procurement request.

SECTION 508 DEFINITIONS AND TECHNICAL STANDARDS

A. Definitions (Reference 36 CFR 1194.4)

Agency. Any Federal department or agency, including the United States Postal Service.

Alternate formats. Alternate formats usable by people with disabilities may include, but are not limited to, Braille, ASCII text, large print, recorded audio, and electronic formats that comply with this part.

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

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.

Electronic and information technology. Includes information technology and any equipment or interconnected system or subsystem of equipment, that is used in the creation, conversion, or duplication of data or information. The term electronic and information technology includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, World Wide Web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology.

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

Operable controls. A component of a product that requires physical contact for normal operation. Operable controls include, but are not limited to, mechanically operated controls, input and output trays, card slots, keyboards, or keypads.

Product. Electronic and information technology.

Self Contained, Closed Products. Products that generally have embedded software and are commonly designed in such a fashion that a user cannot easily attach or install assistive technology. These products include, but are not limited to, information kiosks and information transaction machines, copiers, printers, calculators, fax machines, and other similar types of products.

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. TTYs may include, for example, devices known as TDDs (telecommunication display devices or telecommunication devices for deaf persons) or computers with special modems. TTYs are also called text telephones.

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

B. Technical Standards (Sections are numbered below identically to the Architectural and Transportation Barriers Compliance Board EIT Accessibility Standards)

1194.21 Software applications and operating systems.

(a) When software is designed to run on a system that has a keyboard, product functions shall be executable from a keyboard where the function itself or the result of performing a function can be discerned textually.

(b) Applications shall not disrupt or disable activated features of other products that are identified as accessibility features, where those features are developed and documented according to industry standards. Applications also shall not disrupt or disable activated features of any operating system that are identified as accessibility features where the application programming interface for those accessibility features has been documented by the manufacturer of the operating system and is available to the product developer.

(c) A well-defined on-screen indication of the current focus shall be provided that moves among interactive interface elements as the input focus changes. The focus shall be programmatically exposed so that assistive technology can track focus and focus changes.

(d) Sufficient information about a user interface element including the identify, operation and state of the element shall be available to assistive technology. When an image represents a program element, the information conveyed by the image must also be available in text.

(e) When bitmap images are used to identify controls, status indicators, or other programmatic elements, the meaning assigned to those images shall be consistent throughout an application's performance.

(f) Textual information shall be provided through operating system functions for displaying text. The minimum information that shall be made available is text content, text input caret location, and text attributes.

(g) Applications shall not override user selected contrast and color selections and other individual display attributes.

(h) When animation is displayed, the information shall be displayable in at least one non-animated presentation mode at the option of the user.

(i) Color coding shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element.

(j) When a product permits a user to adjust color and contrast settings, a variety of color selections capable of producing a range of contrasts levels shall be provided.

(k) Software shall not use flashing or blinking text, objects, or other elements having a flash or blink frequency greater than 2 Hz and lower than 55 Hz.

(l) When electronic forms are used, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.

1194.22 Web-based intranet and internet information and applications.

(a) A text equivalent for every non-text element shall be provided (e.g., via "alt", "longdesc", or in element content).

(b) Equivalent alternatives for any multimedia presentation shall be synchronized with the presentation.

(c) Web pages shall be designed so that all information conveyed with color is also available without color, for example from context or markup.

(d) Documents shall be organized so they are readable without requiring an associated style sheet.

(e) Redundant text links shall be provided for each active region of a server-side image map.

(f) Client-side image maps shall be provided instead of server-side image maps except where the regions cannot be defined with an available geometric shape.

(g) Row and column headers shall be identified for data tables.

(h) Markup shall be used to associate data cells and header cells for data tables that have two or more logical levels of row or column headers.

(i) Frames shall be titled with text that facilitates frame identification and navigation.

(j) Pages shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.

(k) A text-only page, with equivalent information or functionality, shall be provided to make a web site comply with the provisions of this part, when compliance cannot be accomplished in any other way. The content of the text-only page shall be updated whenever the primary page changes.

(l) When pages utilize scripting languages to display content, or to create interface elements, the information provided by the script shall be identified with functional text that can be read by assistive technology.

(m) When a web page requires that an applet, plug-in or other application be present on the client system to interpret page content, the page must provide a link to a plug-in or applet that complies with § 1194.21 (a) through (l).

(n) When electronic forms are designed to be completed on-line, the form shall allow people using assistive technology to access the information, field elements, and functionality required for completion and submission of the form, including all directions and cues.

(o) A method shall be provided that permits users to skip repetitive navigation links.

(p) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.

Note to 1. The Board interprets paragraphs (a) through (k) of this section as consistent with the following priority 1 Checkpoints of the Web Content Accessibility Guidelines 1.0 (WCAG 1.0) (May 5, 1999) published by the Web Accessibility Initiative of the World Wide Web Consortium:

Section 1194.22 Paragraph (a) WCAG 1.0 Checkpoint 1.1
Section 1194.22 Paragraph (b) WCAG 1.0 Checkpoint 1.4
Section 1194.22 Paragraph (c) WCAG 1.0 Checkpoint 2.1
Section 1194.22 Paragraph (d) WCAG 1.0 Checkpoint 6.1
Section 1194.22 Paragraph (e) WCAG 1.0 Checkpoint 1.2
Section 1194.22 Paragraph (f) WCAG 1.0 Checkpoint 9.1
Section 1194.22 Paragraph (g) WCAG 1.0 Checkpoint 5.1
Section 1194.22 Paragraph (h) WCAG 1.0 Checkpoint 5.2
Section 1194.22 Paragraph (i) WCAG 1.0 Checkpoint 12.1
Section 1194.22 Paragraph (j) WCAG 1.0 Checkpoint 7.1
Section 1194.22 Paragraph (k) WCAG 1.0 Checkpoint 11.4

2. Paragraphs (l), (m), (n), (o), and (p) of this section are different from WCAG 1.0. Web pages that conform to WCAG 1.0, level A (i.e., all priority 1 checkpoints) must also meet paragraphs (l), (m), (n), (o) and (p) of this section to comply with this section. WCAG 1.0 is available at <http://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505>.

1194.23 Telecommunications products.

(a) Telecommunications products or systems which provide a function allowing voice communication and which do not themselves provide a TTY functionality shall provide a standard non-acoustic connection point for TTYs. Microphones shall be capable of being turned on and off to allow the user to intermix speech with TTY use.

(b) Telecommunications products which include voice communication functionality shall support all commonly used cross-manufacturer non-proprietary standard TTY signal protocols.

(c) Voice mail, auto-attendant and interactive voice response telecommunications systems shall be usable by TTY users with their TTYs.

(d) Voice mail, messaging, auto-attendant, and interactive voice response telecommunications systems that require a response from a user within a time interval, shall give an alert when the time interval is about to run out, and shall provide sufficient time for the user to indicate more time is required.

(e) Where provided, caller identification and similar telecommunications functions shall also be available for users of TTYs, and for users who cannot see displays.

(f) For transmitted voice signals, telecommunications products shall provide a gain adjustable up to a minimum of 20 dB. For incremental volume control, at least one intermediate step of 12 dB of gain shall be provided.

(g) If the telecommunications product allows a user to adjust the receive volume, a function shall be provided to automatically reset the volume to the default level after every use.

(h) Where a telecommunications product delivers output by an audio transducer which is normally held up to the ear, a means for effective magnetic wireless coupling to hearing technologies shall be provided.

(i) Interference to hearing technologies (including hearing aids, cochlear implants, and assistive listening devices) shall be reduced to the lowest possible level that allows a user of hearing technologies to utilize the telecommunications product.

(j) Products that transmit or conduct information or communication, shall pass through cross-manufacturer, non-proprietary, industry-standard codes, translation protocols, formats or other information necessary to provide the information or communication in a usable format. Technologies which use encoding, signal compression, format transformation, or similar techniques shall not remove information needed for access or shall restore it upon delivery.

(k) Products which have mechanically operated controls or keys, shall comply with the following:

(1) Controls and keys shall be tactile discernible without activating the controls or keys.

(2) Controls and keys shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls and keys shall be 5 lbs. (22.2N) maximum.

(3) If key repeat is supported, the delay before repeat shall be adjustable to at least 2 seconds. Key repeat rate shall be adjustable to 2 seconds per character.

(4) The status of all locking or toggle controls or keys shall be visually discernible, and discernible either through touch or sound.

1194.24 Video and multimedia products.

(a) All analog television displays 13 inches and larger, and computer equipment that includes analog television receiver or display circuitry, shall be equipped with caption decoder circuitry which appropriately receives, decodes and displays closed captions from broadcast, cable, videotape, and DVD signals. As soon as practicable, but not later than July 1, 2002, widescreen digital television (DTV) displays measuring at least 7.8 inches vertically, DTV sets with conventional displays measuring at least 13 inches vertically, and stand-alone DTV tuners, whether or not they are marketed with display screens, and computer equipment that includes DTV receiver or display circuitry, shall be equipped with caption decoder circuitry which appropriately receives, decodes, and displays closed captions from broadcast, cable, videotape and DVD signals.

(b) Television tuners, including tuner cards for use in computers, shall be equipped with secondary audio program playback circuitry.

(c) All training and informational video and multimedia products which support the agency's mission, regardless of format, that contain speech or other audio information necessary for the comprehension of the content, shall be open or closed captioned.

(d) All training and informational video and multimedia productions which support the agency's mission, regardless of format, that contain visual information necessary for the comprehension of the content, shall be audio described.

(e) Display or presentation of alternate text presentation or audio descriptions shall be user-selectable unless permanent.

1194.25 Self-contained, closed products.

(a) Self contained products shall be usable by people with disabilities without requiring an end-user to attach assistive technology to the product. Personal headsets for private listening are not assistive technology.

(b) When a timed response is required, the user shall be alerted and given sufficient time to indicate more time is required.

(c) Where a product utilizes touchscreens or contact-sensitive controls, an input method shall be provided that complies with § 1194.23 (k) (1) through (4).

(d) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.

(e) When products provide auditory output, the audio signal shall be provided at a standard signal level through an industry standard connector that will allow for private listening. The product must provide the ability to interrupt, pause, and restart the audio at anytime.

(f) When products deliver voice output in a public area, incremental volume control shall be provided with output amplification up to a level of at least 65 dB. Where the ambient noise level of the environment is above 45 dB, a volume gain of at least 20 dB above the ambient level shall be user selectable. A function shall be provided to automatically reset the volume to the default level after every use.

(g) Color coding shall not be used as the only means of conveying information, indicating an action, prompting a response, or distinguishing a visual element.

(h) When a product permits a user to adjust color and contrast settings, a range of color selections capable of producing a variety of contrast levels shall be provided.

(i) Products shall be designed to avoid causing the screen to flicker with a frequency greater than 2 Hz and lower than 55 Hz.

(j) Products which are freestanding, non-portable, and intended to be used in one location and which have operable controls shall comply with the following:

(1) The position of any operable control shall be determined with respect to a vertical plane, which is 48 inches in length, centered on the operable control, and at the maximum protrusion of the product within the 48 inch length (see Figure 1 of this part).

(2) Where any operable control is 10 inches or less behind the reference plane, the height shall be 54 inches maximum and 15 inches minimum above the floor.

(3) Where any operable control is more than 10 inches and not more than 24 inches behind the reference plane, the height shall be 46 inches maximum and 15 inches minimum above the floor.

(4) Operable controls shall not be more than 24 inches behind the reference plane (see Figure 2 of this part).

1194.26 Desktop and portable computers

(a) All mechanically operated controls and keys shall comply with § 1194.23(k)(1) through (4).

(b) If a product utilizes touchscreens or touch-operated controls, an input method shall be provided that complies with § 1194.23 (k)(1) through (4).

(c) When biometric forms of user identification or control are used, an alternative form of identification or activation, which does not require the user to possess particular biological characteristics, shall also be provided.

(d) Where provided, at least one of each type of expansion slots, ports and connectors shall comply with publicly available industry standards.

C. Functional Performance Criteria

1194.31 Functional performance criteria.

(a) At least one mode of operation and information retrieval that does not require user vision shall be provided, or support for assistive technology used by people who are blind or visually impaired shall be provided.

(b) At least one mode of operation and information retrieval that does not require visual acuity greater than 20/70 shall be provided in audio and enlarged print output working together or independently, or support for assistive technology used by people who are visually impaired shall be provided.

(c) At least one mode of operation and information retrieval that does not require user hearing shall be provided, or support for assistive technology used by people who are deaf or hard of hearing shall be provided.

(d) Where audio information is important for the use of a product, at least one mode of operation and information retrieval shall be provided in an enhanced auditory fashion, or support for assistive hearing devices shall be provided.

(e) At least one mode of operation and information retrieval that does not require user speech shall be provided, or support for assistive technology used by people with disabilities shall be provided.

(f) At least one mode of operation and information retrieval that does not require fine motor control or simultaneous actions and that is operable with limited reach and strength shall be provided.

D. Information, Documentation, and Support

1194.41 Information, documentation, and support.

(a) Product support documentation provided to end-users shall be made available in alternate formats upon request, at no additional charge.

(b) End-users shall have access to a description of the accessibility and compatibility features of products in alternate formats or alternate methods upon request, at no additional charge.

(c) Support services for products shall accommodate the communication needs of end-users with disabilities.

**EIT Undue Burden Exception
Determination and Certification**

(06/04/01)

To be completed by the Requiring Official (Purchase Requestor)

When acquiring commercial items, this Determination is not required to address Sec. 508 technical standards of Electronic and Information Technology (EIT) products that are not yet available in the commercial marketplace in time to meet the agency delivery requirements. (Refer to *Attachment A* if this applies to your requirement.)

For each provision of 36 CFR Part 1194 (see Addendum of Attachment A) that an agency finds to be an undue burden, the Requiring Official must explain below why, and to what extent, compliance with each such provision creates an undue burden. A thorough, rational explanation is required. (The format may be expanded for additional space. Relevant attachments are encouraged. Explanations must be adequate to survive protests and litigation challenges.)

The data and findings providing the basis for my decision are the following:

1. Products or services required to meet the agency's needs:

2. Dollar value of the acquisition, including any options:

3. Applicable Section 508 standards (see CFR part 1194) that are unmet:

4. Market research performed to locate commercial items that meet the applicable standards:

5. The undue burden (i.e., the significant difficulty or expense the Government would incur in order to comply with a particular standard). If the monetary expense is deemed prohibitive, explain the costs and how they were estimated.
 - a. Significant difficulty of compliance:
 - b. Significant expense of compliance:

- c. Insufficient agency resources available to the agency's program or component for which the goods or service is being acquired:
6. Alternative means of access that will be provided that will allow the individuals with disabilities to use the information or data. (29 U.S.C. 794d(a)(1)(B)). Include effort, labor, costs and time required in the whole process to implement the alternative means. (This information must be sufficiently detailed since it may be used in the procurement process technical evaluation.)

I have determined and hereby certify that procurement of the applicable EIT product(s) required by my organization that are subject to Section 508 of the Rehabilitation Act of 1973, as Amended, in accordance with 36 CFR Part 1194 and the Federal Acquisition Regulation Subpart 391.2 (effective June 25, 2001), presents an "undue burden."

Signature	Printed Name	Date	Phone Number
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() Approved () Concur:

Operating Unit Chief Information/Finance Officer	Date	
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Approved*:

Chief Information/Finance Officer Department of Commerce	Date	
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*DOC CIO/CFO Approval required for NWS/NESDIS Acquisitions >\$10,000,000 and NOS/NMFS/OAR/OMAO/OFA Acquisitions >\$2,500,000

Attach this document to the "Section 508 Determination and Findings for Purchase Requests" form, and affix both to your procurement request.

SUGGESTED LANGUAGE
FOR INCLUSION IN
SOLICITATIONS AND CONTRACTS

Suggested language for Section C - Statement of Work:

XX.XX ELECTRONIC AND INFORMATION TECHNOLOGY

All electronic and information technology (EIT) procured through this Contract must meet the applicable accessibility standards at 36 CFR 1194, unless an agency exception to this requirement exists. (36 CFR 1194 implements Section 508 of the Rehabilitation Act of 1973, as amended, and is viewable at <http://www.access-board.gov/sec508/508standards.htm> - PART 1194).

The following standards have been determined applicable to this contract:

- _____ 1194.21 Software applications and operating systems.
- _____ 1194.22 Web-based intranet and internet information and applications
- _____ 1194.23 Telecommunications products
- _____ 1194.24 Video and multimedia products
- _____ 1194.25 Self-contained, closed products
- _____ 1194.26 Desktop and portable computers
- _____ 1194.31 Functional performance criteria
- _____ 1194.41 Information, documentation and support

The standards do not require the *installation* of specific accessibility-related software or the attachment of an assistive technology device, but merely require that the EIT be compatible with such software and devices so that it can be made accessible if so required by the agency in the future.

If the Contracting Officer determines any furnished product or service is not in compliance with the contract, the Contracting Officer will promptly inform the contractor in writing. The Contractor shall, without charge to the government, repair or replace the non-compliant products or services within the period of time to be specified by the Government in writing. If such repair or replacement is not completed within the time specified, the government shall have the following recourses:

Cancellation of the contract, delivery or task order, purchase of line item without termination liabilities; or

In the case of custom EIT being developed for the Government, the Government shall have the right to have any necessary changes made or repairs performed by itself or by another firm and the contractor shall reimburse the Government for any expenses incurred thereby.

Suggested language for Section K - Representations and Certifications

XX.XX REPRESENTATION OF COMPLIANCE WITH THE ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY STANDARDS

- (a) Submission of the representation referenced in paragraph (b) and (c) is a prerequisite imposed by 36 CFR 1194 for making or entering into this contract.
- (b) The offeror represents by fully completing the Electronic and Information Technology Accessibility Standards Evaluation spreadsheet (attachment located in Section J of this solicitation) that the products and services offered in response to this solicitation comply with the Electronic and Information Technology Accessibility Standards at 36 CFR 1194, unless stated otherwise within the spreadsheet.

Indefinite Delivery Indefinite Quantity (IDIQ) Contracts

(06/04/01)

The suggested Section 508 representation clause need not be used for IDIQ contracts since both compliant and non-compliant products may be offered by such contracts, regardless of award date. However, contracting offices that award indefinite-quantity contracts must indicate to ordering offices which supplies and services the contractor indicates as compliant, and show where full details of compliance can be found (e.g., vendor's or other exact web page location).

Contracting officers may wish to evaluate for initial award the extent of Section 508 compliant products (supplies and services) being offered versus the non-compliant products in order to encourage offerors to emphasize compliant goods and services. This can be done in a variety of ways, including provision by the offeror of a listing of compliant products, since he is required to provide one for ordering officials anyway per the FAR. The contracting officer could evaluate the percentage of compliant products relative to the total variety offered.

The below paragraph may be included in Section C of an IDIQ solicitation to satisfy the new FAR subpart 39.203(b)(2) and provide other assurances. If the contracting officer is also seeking the list for proposal evaluation purposes, he will need to include something similar in solicitation L as well.

"XX.XX Section 508 Compliance

The Contractor shall indicate, for each line item in the schedule, whether each product or service is compliant or noncompliant with the accessibility standards at 36 CFR 1194. Further, the proposal must indicate where full details of compliance can be found (e.g., vendor's website or other exact location."

SOLICITATION SECTION M
SECTION 508 TECHNICAL EVALUATION
(06/04/01)

This suggested section for inclusion in your solicitation is offered with the understanding that the technical evaluation of a procurement process must always be customized to suit the conditions of each procurement action. This section specifically relates to other than indefinite delivery indefinite quantity (IDIQ) contracts.

Hence, no pre-assigned technical evaluation value can be given to compliance with the Electronic and Information Technology accessibility Standards issued by the Architectural and Transportation Barriers Compliance Board (Access Board) in response to Section 508 of the Rehabilitation Act of 1973, 1998 Amendments. Nor does the Federal Acquisition Regulation address the manner in which compliance should be technically evaluated. Evaluation of this set of standards must be considered among all other procurement requirements in reaching an award decision.

Keep in mind that even if not fully compliant, you are required to acquire the commercial product that provides the greatest degree of compliance while satisfying other functional requirements. Hence, some form of graduated evaluation is necessary. Depending on the planned use of the subject products, the technical evaluation values of compliance with the various Board standards will vary. All other requirements of the agency and requiring official are still relevant and evaluated as well. Section 508 standards constitute an additional set of requirements to be evaluated with the others.

A "best value" approach to evaluating offers or proposals appears to be the best for accommodating Section 508. This method generally ensures maximum flexibility in consideration of the multiple requirements to be satisfied. One of the reasons for this is that should your procurement process require an "undue burden" justification, either at the point of initial purchase request development or during offer/proposal evaluation, the requiring official is required by regulation to provide for an alternative means of access to allow an individual with a disability to use the information or data. (See the "EIT Undue Burden Exception Determination and Certification" provided at Attachment B to the "Section 508 Determination and Findings for Purchase Requests.") This alternative means will usually have associated effort, labor cost and time, yet it is not a requirement within the procurement process. But, it needs to be included in the best value determination.

In order to help simplify an otherwise complex and potentially confusing technical evaluation requirement, the attached Excel spreadsheet, Electronic and Information Technology Accessibility Standards Evaluation, may offer assistance. It may be used or referenced in Section C and placed in Section J of the solicitation for completion by the offeror as part of his/her proposal. Additionally, procurement requesters (requiring officials) may use it during market research to assess their findings relative to compliance levels of various products. Then, s/he may include it as part of either the EIT Commercial Non-Availability Certification or the EIT Undue Burden Exception Determination and Certification. The contracting officer must clearly and firmly prohibit the offeror from altering the spreadsheet format in any manner. The offeror must assure this, and only complete the spreadsheet as provided.

The contracting officer may modify any of the evaluative aspects of the spreadsheet to suit his/her specific procurement process. However, deletion of any of the standards is not recommended due to cross-references and their interdependence.

The Electronic and Information Technology Accessibility Standards Evaluation spreadsheet uses the same EIT section categories and numbering scheme as the original Access Board standards themselves. Only applicable sections need to be used. Each section will automatically total. Allowance is made for weighting standards, as appropriate. The proposal offeror completes the Product and Compliance Level columns on the spreadsheet, using one of the three pre-determined values for the latter.

The offeror must indicate under the "Product" column whether he has used "equivalent facilitation," which is provision of substantially equivalent or greater access than the accessibility standards through means other than those stated or implied by the standards. The offeror must cross-reference such notation to an explanation of how the equivalent facilitation accomplishes the functional capability.