



Approved On:

OCT 15 2015


## DOJ Order

### ACCESSIBLE ELECTRONICS AND INFORMATION TECHNOLOGY

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- PURPOSE:** Establishes policy and assigns administrative responsibility to the Deputy Assistant Attorney General for Information Resources Management / Chief Information Officer to ensure that the Department's Electronic and Information Technology is accessible to DOJ employees and the public who have disabilities
- SCOPE:** All DOJ components
- ORIGINATOR:** Justice Management Division, Office of the Chief Information Officer
- CATEGORY:** (1) Administrative, (II) Information Technology
- AUTHORITY:** 29 U.S.C. § 794d; 36 C.F.R. Part 1194; 48 C.F.R. Chapter 1, Parts 2, 7, 10, 11, 12, and 39
- CANCELLATION:** DOJ 2830.4 dated March 4, 1987
- DISTRIBUTION:** Electronically distributed to those components referenced in the "SCOPE" section as well as posted to the DOJ Directives electronic repository (SharePoint)

**APPROVED BY:**

  
*Lee J. Lofthus*  
*Assistant Attorney General for Administration*

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## ACTION LOG

All DOJ directives are reviewed, at minimum, every 5 years, and revisions are made as necessary. The action log records dates of approval, recertification, and cancellation, as well as major and minor revisions to this directive. A brief summary of all revisions will be noted. In the event this directive is cancelled, superseded, or supersedes another directive, that will also be noted in the action log.

Action	Authorized by	Date	Summary
Initial Document Approval	Lee J. Lofthus Assistant Attorney General for Administration	10/15/2015	Establishes policy and assigns administrative responsibility to the Deputy Assistant Attorney General for Information Resources Management / Chief Information Officer to ensure that the Department's Electronic and Information Technology is accessible to DOJ employees and the public who have disabilities.
Minor change	Lee J. Lofthus Assistant Attorney General for Administration	13 MAY 2016	Updates this Order to include the responsibilities of the Associate Attorney General (ASG) outlined in 28 C.F.R. Part 0.19 (c). Under the regulation, the authority for final determinations on a component's request for a 508 exception based on undue burden or fundamental alteration rests solely with the ASG. The approval process for 508 exceptions outlined in the previous Order did not reflect the ASG's role and exclusive authority for these determinations; consequently, relevant provisions of this Order were amended to recognize the ASG's regulatory role where 508 exceptions are claimed on the basis of undue burden or fundamental alteration. In addition, several other nonsubstantive clarifications and minor wording changes have been made to the Order.

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## DEFINITIONS

Term	Definition
Access Board	An independent federal agency established under section 502 of the Rehabilitation Act of 1973 and responsible for developing and maintaining accessibility standards and guidelines for buildings, transit vehicles, telecommunications equipment, medical diagnostic equipment, and information technology.
Alternate Method	Different methods, mechanisms, or means of providing access or information to people with disabilities that include, but are not limited to, voice, fax, relay service, teletypewriter (TTY), web-based posting, captioning, text-to-speech synthesis, and audio description.
Assistive Technology	Any item, piece of equipment, or system commonly used to increase, maintain, or improve the functional capabilities of individuals with disabilities. It can be acquired commercially, modified, or customized.
Commercial Non-Availability	When an agency is unable to find a commercial item that meets applicable Section 508 Standards for Electronic and Information Technology or when an item cannot be furnished in time to satisfy the agency's delivery requirements.
Electronic and Information Technology (EIT)	Any equipment or interconnected system or subsystem of equipment that is used to create, convert, or duplicate data or information. Also, any equipment or interconnected system or subsystem of equipment that is used to automatically acquire, store, manipulate, manage, move, control, display, switch, interchange, transmit, or receive data or information. It includes computer hardware, software, networks and peripheral equipment; telephones; copiers; fax machines; and video and multimedia products, as well as many other electronic and communications devices commonly used in offices.
Exception	A specific circumstance in which the law allows acquisition of products or services that do not fully conform to the Section 508 Standards for EIT. These circumstances include: products incidental to a contract, commercial non-availability, back-office equipment, fundamental alteration of the product, national security systems, and undue burden.
Federal Acquisition Regulation	The primary regulation used by federal executive agencies when acquiring supplies and services.

Term	Definition
Fundamental Alteration	Alteration of EIT products or services to meet Section 508 Standards for EIT (from 36 C.F.R. § 1194.21-26) that would require changing the design of the product’s purpose or function. A fundamental alteration changes the nature of a product to the point where it may no longer be usable for the function for which it was intended.
Market Research	The mechanism for determining the availability of EIT products compliant with Section 508, and comparing products that meet the Government’s requirements for accessibility.
Multi-media	The integration of multiple forms of media including text, graphics, audio, and video.
National Security Systems	Any telecommunications or information system operated by the United States Government whose functions, operation, or use involves intelligence activities related to national security, cryptologic activities related to national security, command and control of military forces, equipment that is an integral part of weapons or weapons systems, or is critical to the direct fulfillment of military or intelligence missions. This does not include systems that are used for routine administrative and business applications, such as payroll, finance, logistics, and personnel management applications.
Products Incidental to a Contract	Products acquired by a contractor that are neither used nor accessed by federal employees or the public (contracted employees in their professional capacity are not considered the public).
Requiring Official	Government personnel who are delegated the responsibility for developing EIT requirements, identifying applicable technical provisions of the EIT accessibility standards, conducting market research, drafting specifications, and documenting non-availability and undue burden determinations.
Section 504 of the Rehabilitation Act	Prohibits discrimination based on disability in federally-funded and federally-conducted programs or activities in the United States, including employment programs.
Section 508 of the Rehabilitation Act	Specifies the requirement that federal agencies’ EIT be accessible to people with disabilities, including employees and the public.
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.

Term	Definition
Undue Burden	A significant difficulty or expense to the agency.
Web Content Accessibility Guidelines (WCAG)	The guidelines are part of a series of web accessibility guidelines published by the World Wide Web Consortium (W3C), the main international standards organization for the internet.

## ACRONYMS

Acronym	Meaning
AAG/A	Assistant Attorney General for Administration
AG	Attorney General
ASG	Associate Attorney General
C.F.R.	Code of Federal Regulations
DAG	Deputy Attorney General
DOJ	Department of Justice
DVD	Digital Versatile Disk
EIT	Electronic and Information Technology
FAR	Federal Acquisition Regulations
FPC	Functional Performance Criteria
IT	Information Technology
TTY	Teletypewriter
U.S.C.	United States Code
V.H.S.	Video Home Service
WCAG	Web Content Accessibility Guidelines

## **I. Policy**

The Department of Justice (DOJ or Department) and its components must ensure that Electronic and Information Technology (EIT) in use throughout the Department is accessible to individuals with disabilities and that EIT system development, procurement, and maintenance by the Department and its components adhere to the regulatory and statutory requirements associated with Section 508 standards and the requirements of this Order. The purpose of Section 508 is to eliminate barriers to the accessibility of EIT, to provide new opportunities for people with disabilities, and to encourage technological development to help achieve these goals.

This Order establishes procedures to provide federal employees and the public who have disabilities with access to DOJ's EIT that is comparable to that of individuals without disabilities and to ensure compliance with the U.S. Access Board's Section 508 Standards for EIT (36 C.F.R. Part 1194). It cancels Order DOJ 2830.4, Administrative Information Technology Support for Employees with Disabilities (March 4, 1987).

### **A. Applicability**

This Order applies to all Department components.

### **B. Authority**

Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), requires that, when federal agencies develop, procure, maintain, or use EIT, they must ensure that:

1. Federal employees with disabilities 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 without disabilities; and
2. Individuals with disabilities who are members of the public and seek information or services from a federal 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 members of the public without disabilities.

## **II. Requirements**

### **A. Accessibility Standards**

The Access Board is the independent federal agency established under the Rehabilitation Act of 1973 that is responsible for ensuring access to public facilities,



communications, and information technology (IT). The Board develops and maintains the Section 508 Standards for EIT and the Telecommunications Act Guidelines. The Access Board's Section 508 Standards for EIT apply to EIT procured by the Federal Government, including computer hardware and software, websites, electronic documents (including email, word processing, spreadsheets, presentation software, and portable document formats), phone systems/devices, video, fax machines, and copiers. Accessibility requirements vary by type of EIT, and each type has unique standards. Below are the categories of EIT and some examples of accessibility standards for each type. Additional information on the standards is available on the U.S. Access Board website at [www.access-board.gov](http://www.access-board.gov).

The [World Wide Web Consortium](http://www.w3.org), an international standards organization for the web, has developed Web Content Accessibility Guidelines (WCAG) that pertain specifically to web-based intranet and internet applications.

The U.S. Access Board's Section 508 Standards for EIT, which incorporate WCAG, are to be used when developing, procuring, maintaining, and using EIT.

## **B. Technical Standards**

### **1. Software Applications and Operating Systems**

Most accessibility specifications for software pertain to usability for people with vision impairments. For example, provisions include alternative keyboard navigation which is necessary for people with vision impairments who do not use a mouse. Other provisions address how animated displays, color and contrast settings, flash rate, and electronic forms must be formatted and labeled to support screen reader technology.

### **2. Web-based Intranet, Internet Information, and Documents**

The provisions for web-based content ensure access for people with vision impairments who rely on various assistive products, such as screen readers, to access computer-based information. Certain conventions, such as verbal tags or identification of graphics and format devices (e.g., frames) are necessary so that these devices can "read" them for the user in a sensible way. These provisions also address the usability of multimedia presentations, image maps, style sheets, scripting languages, applets and plug-ins, and electronic forms.

### **3. Telecommunications Products**

The accessibility standards for this type of product require that its telephone function provide access to people who are deaf or hard of hearing. This includes

compatibility with hearing aids, cochlear implants, assistive listening devices, and TTYs (devices that enable people with hearing or speech impairments to communicate over the telephone). Other specifications address adjustable volume controls for output, product interface with hearing technologies, and the usability of keys and controls by people who may have impaired vision or limited dexterity or motor control.

#### 4. Video and Multi-media Products

Multimedia products involve more than one type of media, such as video programs, narrated slide production, and computer generated presentations. The standards require captioning and audio description for training and informational multimedia productions developed or procured by federal agencies. Video receivers and displays must support closed captioning, and all training material and mission-related multi-media productions must be open or closed captioned. Closed captions are captions that are encoded, or embedded, into the video and must not be seen unless turned on using the menu on the viewing device (example, the T.V.). Open captions are always visible and cannot be turned off.

#### 5. Self-contained Closed Products

Self-contained closed products include equipment such as information kiosks and information transaction machines, copiers and printers (those that do not provide integrated accessibility features), calculators, fax machines, and other similar types of products. Typically, assistive technology (such as a screen reader) cannot be attached to self-contained products. The same requirements that apply to desktops and portable computers with mechanical controls and keys apply here.

#### 6. Desktop and Portable Computers

Keyboards and other mechanically operated controls, touch screens, biometric forms of identification, and ports and connectors must comply with Section 508 Standards for EIT.

### **C. Functional Performance Criteria**

The functional performance criteria (FPC) are outcome-based provisions that address barriers to using EIT by individuals with certain disabilities, such as those related to vision, hearing, color blindness, speech, and manual dexterity. Agencies must comply with the FPC when the technical requirements do not address one or more features of EIT.

## **D. Information, Documentation, and Support**

These criteria require that product support documentation provided to end-users be made available in alternate formats and address providing alternate formats for product documentation and support.

## **III. Accessible Electronic Content**

All electronic content posted on DOJ's public internet, including websites, documents, media, blog posts, and social media sites are required to be accessible.

## **IV. Exceptions**

### **A. Types of Exceptions**

Exceptions are special circumstances identified in the statute that allow specific limited deviations as appropriate to each system and subsystem component. In general, exceptions to this Order fall into the following three categories.

#### **1. Undue Burden**

An undue burden is any significant difficulty or expense incurred due to an alteration of policy, procedure, or product. When a component is determining whether an action would result in an undue burden, it must consider all agency resources available to the program or component for which the product is being developed, procured, maintained, or used. A final exception determination will be based on available resources and take into account other available options that would provide equal access to individuals with disabilities. The component must also document its undue burden determination (36 C.F.R. § 1194.2(a)(2)). The authority for final exception determinations based on undue burden rests solely with the Associate Attorney General (ASG).

#### **2. Fundamental Alteration**

This Order does not require a fundamental alteration in the nature of a product or its components. For instance, requiring large screen displays for pocket-sized devices such as cellular phones would fundamentally alter the product and is not required under this Order. The agency must document the fundamental alteration determination which must be supported by market research (FAR § 39.203(c)(2)). The ASG has sole responsibility for determining whether an action would result in a fundamental alteration in the nature of a program or activity and whether individuals with disabilities could achieve the purpose of the program without fundamental alteration.

3. Commercial Non-availability

When purchasing a commercial product, an agency may conclude that no commercial product is available that meets the Section 508 Standards for EIT in time to satisfy the agency's delivery requirements. If products are available that meet some, but not all, applicable standards, an agency cannot claim a product as a whole is non-available just because it does not meet all of the applicable standards. The agency must purchase the product that best meets the standards. The agency must also document the non-availability determinations which must be supported by market research (FAR § 39.203(c)(2)).

4. Other Exceptions

- a. National security systems and other systems critical to the direct fulfillment of military or intelligence missions.
- b. EIT that is acquired by a contractor incidental to a contract – this is products or services that are acquired by a contractor that are neither used nor accessed by federal employees or the public (contracted employees in their professional capacity are not considered the public).
- c. Installation of accessibility-related software or the attachment of an assistive technology device to EIT provided solely to a federal employee who is not an individual with a disability.
- d. Products located in the back-office (spaces frequented only by service personnel for maintaining, repairing, or monitoring equipment).

**B. Exception Approval Requirements**

Requests for approval of undue burden and fundamental alteration exceptions must be submitted for concurrence through the component Section 508 Coordinator and the Department Section 508 Coordinator to the Department CIO who, in turn, will make a recommendation through the Assistant Attorney General for Administration to the ASG for final determination.

When determining whether an action would result in an undue burden, “[the] agency shall consider all agency resources available to the program or component for which the product is being developed, procured, maintained, or used” (*see* “Undue Burden” definition at 36 C.F.R. § 1194.4) and take into account other available options that would provide equal access to individuals with disabilities. The Section 508 Coordinator for the component requesting approval of the exception must document its undue burden or fundamental alteration determination (36 C.F.R. § 1194.2(a) (2)).

Requests for other exceptions to this Order (commercial non-availability, national security systems, EIT acquired by a contractor incidental to a contract, installation of accessibility-related software or the attachment of an assistive technology device to EIT, or products located in the back office) must be submitted to the component's Section 508 Coordinator for concurrence and referral to the component's Oversight Executive for approval. Requests for approval of an exception must include a detailed account of why the specific exception meets the criteria of one or more of the exceptions provided in the Section 508 Standards for EIT. When purchasing new software, hardware, or equipment, the request must also include a market analysis of the possible alternatives that were considered, along with the costs of each alternative and an explanation of the extent to which each alternative provides equal access to individuals with disabilities.

If an exception is granted, the requestor must still provide the information and services through other accessible alternate methods. Examples of alternate methods are voice, FAX, relay service, TTY, web-based posting, captioning, text-to-speech synthesis, and audio description. Therefore, any request for an exception must also describe how alternate access will be provided and how that approach will allow individuals with disabilities to use the information and data.

Documentation and supporting materials for exceptions granted must be maintained as long as the product is in use by the agency.

## **V. Roles and Responsibilities**

### **A. Coordination and Oversight of the Section 508 Program**

#### **1. Associate Attorney General**

The Associate Attorney General (ASG) is the Attorney General's designee with non-delegable authority for approving exceptions based on undue burden or fundamental alteration (See 28 C.F.R. § 0.19(c) and Section IV.B. of this Order).

#### **2. Assistant Attorney General for Administration**

The Assistant Attorney General for Administration (AAG/A) has overall responsibility for the Section 508 Program. The AAG/A establishes policy for the administration of the Department's Section 508 Program and approves all DOJ directives that fall under the AAG/A's area of responsibility, consistent with delegations of authority reflected in 28 C.F.R. The AAG/A is responsible for ensuring compliance with EIT standards for both traditional IT and for the standards for office equipment not traditionally overseen by the DOJ CIO (such as

VHS and DVD players, copiers, fax machines, and other self-contained IT products).

3. Heads of Components

Heads of the Department's organizational units will ensure that any EIT system development, procurement, maintenance, or use by their component adheres to the regulatory or statutory requirements associated with Section 508 Standards for EIT and the requirements of this Order. They may assign the direct responsibility for compliance to their component CIO or whoever in the organization is responsible for implementing the Section 508 Program (the component Section 508 Oversight Executive).

4. Department Chief Information Officer

Working under the direction of the AAG/A, the Department CIO is responsible for the implementation of the departmental Section 508 Program. Specific Section 508 duties of the Department CIO include:

- a. Overseeing the departmental Section 508 Program and designating a Department Section 508 Coordinator who will report to the Department CIO and be responsible for managing the Department's Section 508 Program.
- b. Ensuring that EIT systems comply with Section 508 of the Rehabilitation Act and publishing departmental acceptance guidelines for evaluating EIT for Section 508 compliance.
- c. Approving Department and component requests (as appropriate) for exceptions from Section 508 requirements.

5. Component Section 508 Oversight Executive (component CIO or other officer)

The component Section 508 Oversight Executive is responsible for managing the Section 508 Program within the component including identifying a Section 508 Coordinator. Below are the specific responsibilities:

- a. Provide adequate funding, staffing, resources, and authority to the component Section 508 Coordinator to accomplish his or her responsibilities.
- b. Implement this Order regarding EIT accessibility practices, procedures, standards, and guidance.

- c. Receive and approve (where appropriate) requests for exceptions from the component Section 508 Coordinator.
6. Department and component Section 508 Coordinators (at their respective organizational levels)
  - a. Manage the Section 508 Program, including publication of policies, procedures, and contact information to ensure compliance with the requirements of this Order and Section 508.
  - b. Coordinate the Department's response to the Section 508 surveys and data calls regarding Section 508 compliance, exceptions, and other information.
  - c. Review requests for exceptions from Section 508 requirements; maintain documentation of approved and disapproved exception requests, remediation, or alternative accessibility plans for any non-compliant EIT; and audit system owner records as necessary.
  - d. Identify Section 508 training programs for staff involved in procuring, developing, testing, using, and maintaining EIT and work with the professional development staff to coordinate this training.
  - e. Establish a standard testing and acceptance process to ensure that new and legacy EIT made available to employees or members of the public comply with the Section 508 requirements.
  - f. Serve as the point of contact for employees' questions and concerns regarding inaccessible EIT and coordinate with the owner of the EIT to resolve the accessibility concerns.
  - g. Ensure that the public facing web pages provide a link to an accessibility mailbox and respond to inquiries from the public regarding accessibility of the web pages.
7. Departmental Equal Employment Opportunity Staff

Maintain records of formal Section 508 complaints filed by individuals with disabilities and process complaints of noncompliance with Section 508 in accordance with Section 504 of the Rehabilitation Act.

## **B. Acquisition of Electronic and Information Technology**

When conducting market research and defining requirements for information systems or products to be acquired, the applicable accessibility requirements defined by the U.S. Access Board in 36 C.F.R. Part 1194 must be considered. The specific responsibilities of the departmental personnel involved in the acquisitions process are described below:

1. The Department's Chief Acquisition Officer provides guidance to DOJ component procurement offices to ensure that acquisitions of products and services comply with the Federal Acquisition Regulation (FAR) – Subpart 39.2.
2. The Section 508 Coordinator for the component works with the procurement staff to ensure that Section 508 compliance criteria are effectively incorporated into the entire EIT procurement process, including requirements development, market analysis, solicitation preparation and release, bid review, contract preparation, product/system testing, remediation, and acceptance.
3. The Contracting Officer must comply with the FAR – Subpart 39.2, and maintain records related to Section 508 compliance and exceptions for acquisitions or purchase card procurements.
4. When acquiring EIT, the Requiring Official is the government person delegated the responsibility for developing EIT requirements, identifying applicable technical provisions of the EIT accessibility standards, conducting market research, drafting specifications, and working with the Section 508 Coordinator to document the need for exceptions and to maintain exception determinations. The Official must select the product or service that best meets mission needs and Section 508 requirements, document results of findings, ensure that purchase requests have appropriate documentation and signatures, and forward that information to the Contracting Officer.
5. When acquiring commercial items, the Requiring Official must examine supplies and services that are available in the commercial marketplace to determine how well each product meets the business need and complies with the applicable Section 508 Standards for EIT. He or she must document individual provisions that cannot be met with a copy to the contract file.
6. The Contracting Officer and the Requiring Official are responsible for complying with the accessibility requirements in FAR – Subpart 39.2 regardless of whether the technology being purchased is traditionally overseen by the Department CIO (e.g., office equipment such as DVD players, copiers, and fax machines). All



purchases, including micro-purchases and government credit card purchases, are subject to the Section 508 accessibility requirements.

### **C. Development and Maintenance of Electronic and Information Technology**

This section applies to any individual who is involved in the development and maintenance of EIT. It includes system owners, as well as employees and contractors who create digital files such as broadcast emails, documents, multi-media, and other digital files that are disseminated internally or externally. Systems include web-based information, software, and mobile applications, as well as any other interface that is included with the EIT technology. Below are the specific responsibilities.

1. System owners, employees, and contractors must incorporate applicable Section 508 functional requirements in planning, acquiring, developing, and maintaining EIT systems, products, services, websites, files, and other electronic content.
2. System owners must develop and implement a test or acceptance plan for all phases of the product lifecycle, including ongoing maintenance, to determine if EIT is Section 508 compliant. They must test and document accessibility conformance prior to accepting delivered EIT.
3. System owners, employees, and testers must send requests for exceptions to the component's Section 508 Coordinator. The exception request must identify the accessibility issue(s) and include plans and a timeline to remediate the deficiency.
4. System owners, employees, and contractors must maintain records of non-compliant content that was accepted for use. The records must contain the reason that compliance was not required and the predetermined remediation plan. Copies must be provided to the component Section 508 Coordinator.

### **D. Professional Development**

The staff at the component level that develop training content are responsible for:

1. Identifying and facilitating delivery of Section 508 training to all staff involved in procuring, developing, testing, using, and maintaining EIT. The staff responsible for training will do this in collaboration with the Section 508 Coordinator.
2. Ensuring that Section 508 requirements are incorporated into the specifications for all training materials, including presentations, computer-based training, and multi-media materials developed or purchased for use by employees of the Department.

## **VI. Complaints**

Individuals with disabilities are urged to contact the owner of the EIT and their Section 508 Coordinator within the agency to notify them of an accessibility issue with EIT. If this does not result in a resolution to the accessibility issue, the individual has a right under the enforcement provisions of Section 508 to file a complaint or a lawsuit alleging that a federal agency's EIT fails to comply with the statute. Administrative complaints by Department employees citing non-compliance with the Section 508 Standards for EIT will be managed according to the process used to manage complaints under Section 504 of the Rehabilitation Act (See 28 C.F.R. Part 39).