



ASSISTIVE TECHNOLOGY STANDARDS

Policy Number: Operations ITP 02-1

Issue Date: 07/1/2005 (reissued)

Effective Date: 08/13/2002

1. Purpose

To ensure that all information technology contracts and requests comply with the principles and goals contained in the electronic and information technology accessibility standards adopted by the architectural and transportation barriers compliance board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended.

2. Revision History

Revision Date	Revision Number	Change Made	Reviser
08/13/2002		Original issue (by ITOC)	
07/01/2005	01	Re-issue as IOT policy	M. Steele
08/13/2007	02	Reformat	W. Pierce

3. Persons, Groups, Systems Affected

The executive, legislative, judicial, and administrative branches of state and local government (the "Agency")

4. Policy

Any information technology related products or services purchased, used or maintained by the Agency must be compatible with the principles and goals contained in the Electronic and Information Technology Accessibility Standards adopted by the Architectural and Transportation Barriers Compliance Board under Section 508 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended ("Section 508").

The Agency must include compliance to these standards as a requirement in any procurement solicitation or contract for IT related products or services.

If, however, the product or service is commercially unavailable or an undue burden is imposed upon the Agency, then the Agency must obtain a waiver approved by IOT before a special procurement may be awarded. A cost difference of more than 15% will be considered an undue burden.

This policy does not supersede the Americans with Disabilities Act (ADA).

5. Responsibilities

- 5.1. The Agency will ensure that compliance to Section 508 is required for any contract, procurement or request they prepare. If the required product or service is not commercially available or causes the Agency an undue burden, then the Agency will prepare a request for waiver and submit it to IOT. The Agency will reference any exceptions or waivers in the contract, procurement or request.
- 5.2. Contractors or providers will verify that the product or service provided is compliant to Section 508. Contractors or providers may submit exceptions to the Agency using a Voluntary Product Accessibility Template (VPAT) or other similar form.
- 5.3. The Indiana Office of Technology will review and approve or deny any requests for waiver from these standards.

6. Compliance

The Agency may terminate any contract or procurement for default if the Contractor fails to cure a breach of this policy within a reasonable time.

7. Definitions/References

- ◆ Information on Section 508 can be found at:
<http://www.section508.gov/index.cfm?FuseAction=Content&ID=3>
- ◆ The statutory authority for this policy is IC 4-13.1-3
(<http://www.in.gov/legislative/ic/code/title4/ar13.1/ch3.html>)
- ◆ **Commercial Non-Availability.** FAR 39.203(c)(1) indicates that when acquiring commercial items, an agency need only comply with those standards that can be met with supplies or services that are available in the commercial marketplace in time to meet delivery requirements. Agencies need not acquire a noncommercial item in these cases to satisfy the Access Board standards. Commercial non-availability must be addressed on an individual standard basis, and agencies cannot claim a commercial product as a whole is non-available just because it does not meet all the applicable standards. Agencies must include all available standards in the specification unless one of the exceptions in FAR 39.204 applies.

The exceptions in 39.204 include:

Micro-purchases, prior to January 1, 2003. However, for micro-purchases, contracting officers and other individuals designated in accordance with 1.603-3 are strongly encouraged to comply with the applicable accessibility standards to the maximum extent practicable;

Electronic and Information Technology (EIT) for a national security system;

EIT acquired by a contractor incidental to a contract;

EIT located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment; and

EIT that would impose an undue burden on the agency.

- ◆ **Undue Burden.** FAR 39.202 defines undue burden as a significant difficulty or expense. For example, a new contract for the maintenance and support of a noncompliant legacy system may present an undue burden if the cost to make the system compliant would be excessive. It is critical to note, however, that FAR 39.204(e) (1) (ii) requires that in determining undue burden, an agency must consider all resources available to the program or component for which the EIT is being acquired. This means that undue burden cannot be established by simply saying that a compliant product "costs too much" or is more expensive than a noncompliant product. Case law has been compiled over the years as to what qualifies as an undue burden. Center legal counsel should be consulted and must concur on any undue burden determination.