



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Release
1-1765

Date
03/09/2015

MANUAL TRANSMITTAL SHEET

Subject

MS-1297 Section 508 Manual

1. Explanation of Material Transmitted: Section 508 of the Rehabilitation Act of 1973 (Section 508), as amended (29 U.S.C. 794d), requires federal agencies' electronic and information technology to be accessible to people with disabilities, including employees and members of the public. The Section 508 Program guides the implementation of Section 508 under the guidance of the U.S. Access Board. This manual provides an introduction to Section 508 and Section 508 resources.

2. Reports Required: None.

3. Material Superseded: None.

4. Filing Instructions: File as directed below.

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Total: 12 sheets

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Chapter 1. Overview

1.1 Purpose

The Bureau of Land Management (BLM) Section 508 Program guides the implementation of Section 508 of the Rehabilitation Act of 1973 (Section 508), as amended (29 U.S.C. 794d), under the guidance of the U.S. Access Board (Access Board). This manual provides an introduction to Section 508 and Section 508 resources. The most recent technical guidance on Section 508 Standards, as promulgated by the Access Board, is available at www.access-board.gov.

Section 508 requires federal agencies' electronic and information technology (E&IT) to be accessible to people with disabilities, including employees and members of the public. This mandate applies to all federal agencies when they develop, procure, maintain, or use technologies to the extent it does not pose an "undue burden." Section 508 applies to internal and external E&IT.

Section 502 of the Rehabilitation Act of 1973 created the U.S. Access Board (Access Board). The Access Board is a federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards. The Section 508 Program supports the Access Board's Section 508 Standards addressing covered technologies. Covered technologies include computers, hardware, software, websites, and electronic office equipment. The Access Board is structured to function as a coordinating body among federal agencies to directly represent the public, particularly people with disabilities. The Access Board is responsible for developing and keeping up to date accessibility standards that would be incorporated into the federal government's procurement regulations.

1.2 Objectives

The BLM Section 508 Program—

- a. Organizes and supports the implementation of Section 508 within the BLM.
- b. Incorporates new requirements into policy and practice.
- c. Responds to and satisfies reporting requirements.

1.3 Authority

- a. Section 508 of the Rehabilitation Act (29 U.S.C. '794 d), as amended by the Workforce Investment Act of 1998 (Pub.L. 105 - 220).
- b. Telecommunications Act of 1996 (Pub.L. 104-104).
- c. Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 328 (1990).

- d. Final Federal Acquisitions Regulation Rule For Implementing Section 508 of the Rehabilitation Act Electronic and Information Technology (E&IT) Accessibility for Persons with Disabilities As published in the Federal Register April 25, 2001.
- e. Office of the Chief Information Officer (OCIO) Directive 2007-003, Creating Accessible Portable Document Files, May 20, 2007.

1.4 Responsibility

- a. *The Director and the Deputy Directors* are responsible for the overall compliance with Section 508. This responsibility is exercised through the Assistant Director, Information Resources Management. The Director and Deputy Directors are responsible for BLM's adherence to Section 508.
- b. *The Assistant Director, Business, Fiscal, and Information Resources Management (AD, BFIRM)* has the ultimate responsibility for decisions about the content of Section 508 policies and implementation involving program policies or procedures within his or her assigned program areas. The AD, BFIRM is responsible for managing BLM's E&IT resources and, therefore, appropriately applying Section 508 within the agency.
- c. *The BLM Section 508 Coordinator* is responsible for organizing and supporting the implementation of Section 508 within his or her respective agency and has been appointed by the agency as the central point of contact for information concerning accessibility issues and solutions. The BLM Section 508 Coordinator is located in the Directorate of Business, Fiscal, and Information Resources Management. The responsibilities of the Section 508 Coordinator include but are not limited to:
 - 1. Developing and implementing methods for monitoring adherence to Section 508 policies and procedures.
 - 2. Assembling a Section 508 IT Accessibility Team to assist in the understanding and implementation Section 508 standards.
 - 3. Coordinating and providing sources of education and training to key personnel within the BLM, identify available resources, and stay abreast of procurement changes to the Federal Acquisitions Regulation (FAR) that will affect the purchase of any new equipment or software.
 - 4. Establishing contacts with other department/agency coordinators to share information about your organization's implementation strategies.
 - 5. Monitoring the Access Board (www.access-board.gov) and the General Services Administration (GSA) (www.section508.gov) web sites for new guidance and training opportunities.

6. Establishing a team of subject matter experts to assist, and coordinate all reporting requirements.
 - d. *State Directors* are responsible for establishing, operating, and maintaining policies and procedures in compliance with Section 508 within their areas of jurisdiction according to standards and instructions contained in this BLM manual section. State directors may re-delegate these responsibilities to other officials.
 - e. *Center Directors* are responsible for establishing, operating, and maintaining policies and procedures in compliance with Section 508 within their areas of jurisdiction according to standards and instructions contained in this BLM manual section. Center directors may re-delegate these responsibilities to other officials.
 - f. *Bureau Officials Who Develop, Procure, Maintain, or Use Electronic And Information Technology (E&IT)* are responsible for:
 1. Ensuring E&IT utilized within their program areas is compliant with existing bureauwide or higher level Section 508 policy.
 2. Coordinating with the BLM and/or State Section 508 Coordinator when necessary to develop, maintain, procure and use E&IT in conformance with the standards and instructions prescribed in this BLM manual section.
 - g. *Bureau Procurement Chiefs* review procurement and IT acquisition policies and procedures to confirm that Section 508 standards are appropriately considered and clearly stated in solicitations.
 - h. All Employees are responsible for complying with the Section 508 as a source of policy and direction for the development, maintenance, procurement and use of E&IT.

1.5 References

- a. The Access Board, Section 508 Standards:
<http://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-section-508-standards>
- b. The Access Board
<http://www.access-board.gov/the-board>

1.6 Policy

The Section 508 Program is committed to improving access to government information. Equal access requires the implementation and maintenance of an accessible Federal technology environment. The Section 508 Program provides the guidance and support necessary to develop, procure, maintain, and use E&IT in a manner ensuring accessibility to all individuals.

1.7 File and Records Maintenance

All Section 508 records will be managed in accordance with established records retention and disposal policies. See BLM Manual 1220, Records and Information Management, for policies and procedures. See the General Record Schedule for information on the disposition of records.

Chapter 2. Compliance and Enforcement

On December 21, 2000, the Access Board promulgated the Section 508 Electronic and Information Technology Standards (Section 508 Standards). The Section 508 Standards apply to electronic and information technology procured by the federal government, including computer hardware and software, websites, phone systems, and copiers. The Section 508 Standards are part of the Federal Acquisition Regulation (FAR) and address access for people with physical, sensory, or cognitive disabilities. They contain technical criteria specific to various types of technologies and performance-based requirements which focus on functional capabilities of covered products. Specific criteria cover software applications and operating systems, web-based information and applications, computers, telecommunications products, video and multi-media, and self-contained closed products. The complete Section 508 Standards are available at www.access-board.gov and summarized below.

2.1 Accessibility Standards

The BLM must adhere to the E&IT Accessibility Standards (36 CFR Part 1194) as published in the Federal Register of December 21, 2000. Section 508 compliance requires adhering to the Federal Acquisition Regulations on Electronic and Information Technology Accessibility (48 CFR, Chapter 1, Parts 2, 7, 10, 11, 12, and 39) as published in the Federal Register of April 25, 2001. Electronic and information technology developed, procured or maintained for the BLM must also comply with the standards and regulations. Standards are organized into four subparts summarized below:

Subpart A – General (36 CFR §§ 1194.1-1194.5): Describes the types of covered technologies and applications, explains what is exempt, defines terminology, and recognizes that acceptable alternatives that provide equivalent access to and use of a product for people with disabilities are permissible.

Subpart B – Technical Standards (36 CFR § 1194.21-1194.26): Provides criteria specific to various types of technologies and provides performance-based requirements for systems and applications.

- Software applications and operating systems (36 CFR § 1194.21)
- Web-based intranet and internet information and applications (1194.22)
- Telecommunications products (36 CFR § 1194.23)
- Video and multimedia products (36 CFR § 1194.24)
- Self contained, closed products (36 CFR § 1194.25)
- Desktop and portable computers (36 CFR § 1194.26)

Subpart C – Functional Performance Criteria (36 CFR § 1194.31): Provides performance requirements for overall product evaluation and for technologies or components for which there is no specific requirement under the technical standards in Subpart B.

Subpart D – Information, Documentation, and Support (36 CFR § 1194.41): Addresses access to all information, documentation, and support provided to end-users of covered technologies, and identifies formats to be used.

2.2 Compliance and Procurement

Procurement awards made on or after June 25, 2001, are subject to the Section 508 FAR Final Rule. In addition, software applications and operating systems; web-based information, systems or applications (internet, intranet or extranet); telecommunications products; video and multimedia products; self-contained, closed products; and desktop and portable computers developed, procured, or used on or after June 21, 2001, must be Section 508 compliant. The Section 508 requirements do not apply retroactively to E&IT existing prior to June 21, 2001, as it relates to enforcement. As agencies upgrade and change their Electronic and Information Technology, they must comply with the standards (FAR Final Rule, Chapter 2.1 Final Standards).

2.3 Procurement Exceptions

Section 508 does not apply to the following:

- a. E&IT for national security systems, as the term is defined in Section 5142 of the Clinger-Cohen Act of 1996 (40 USC 1452). This exception does not include systems used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications) (36 CFR Part 1194.3(a) and FAR 39.204(b)).
- b. E&IT products a contractor develops, procures, maintains, or uses that are incidental to a contract (36 CFR Part 1194.3(b) and FAR 39.204(c)). This exception applies only to materials and products a contractor would use to develop a final product for the government. The final product itself would be subject to Section 508 requirements.
- c. E&IT "back office" equipment located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment, such as telecommunications equipment switches, servers, and other similar equipment that is used for equipment maintenance and administration (36 CFR Part 1194.3(f) and FAR 39.204(d)).

2.4 Procurement Assistance

The General Services Administration (GSA) maintains www.buyaccessible.gov to help agencies fulfill their Section 508 procurement roles and responsibilities. This website provides agencies with tools, guidance and resources including:

- a. The *BuyAccessible Wizard* helps Government buyers:
 - i. Determine if your purchase is subject to Section 508;
 - ii. Find companies and do market research to buy information and communications products and services;
 - iii. Provide guidance documentation for Section 508 compliance.
- b. *Quick Links* provides buyers, micropurchasers and sellers with pre-packaged guidance documentation and templates to achieve Section 508 compliance.

Procurement assistance is also available through the website www.acquisition.gov and your Section 508 Coordinator.

2.5 Undue Burden

A Federal agency does not have to comply with the technology accessibility standards if it would impose an undue burden to do so. This is consistent with language used in the Americans with Disabilities Act (ADA) and other civil rights legislation. The term 'undue burden' is defined as "significant difficulty or expense." (See 36 CFR 1194.4) The agency head or his or her designee will make the undue burden determination. The agency must explain why meeting the standards would pose an undue burden for a given procurement action, and, "provide individuals with disabilities with the information and data involved by an alternative means of access that allows the individual to use the information and data." (See 36 CFR 1194.2 (a)(1))

2.6 Equivalent Facilitation

The Access Board recognized that products could be available that do not meet the Section 508 Subpart B standards, but yet incorporate designs or technologies that provide substantially equivalent or greater access to and use of a product for people with disabilities. (See 36 CFR 1194.5.) This is referred to as "equivalent facilitation."

Equivalent facilitation does not constitute a "waiver" or "variance" from the requirement to provide accessibility, but 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 foreseen by these standards. The Access Board stresses that, in evaluating whether a technology results in "substantially equivalent or greater access," it is the functional outcome, not the form, which is important. The Access Board uses the example of an information kiosk

which is not accessible to a person who is blind, but might be made accessible by having a telephone handset that connects to a computer that responds to touch-tone commands and delivers the same information audibly. Other examples could include the use of voice recognition and activation as potentially reasonable substitutes for some or all keyboard input functions. In effect, compliance with the functional performance criteria of §1194.31 is the test for equivalent facilitation.

2.7 Complaints of Non-compliance

Section 508 sets up an administrative process under which individuals with disabilities can file a complaint alleging that a Federal agency has not complied with the standards. This process uses the same complaint procedures established under section 504 of the Rehabilitation Act (which covers access to Federally funded programs and services). The BLM utilizes the Public Civil Rights complaint process to resolve complaints of non-compliance from the public.

Accordingly, public complaints should be filed with the BLM Office Civil Rights or the DOI Office of Civil Rights. Federal employees can utilize the Reasonable Accommodation Process and/or the Equal Employment Opportunity complaint process.

2.8 Civil Action Seeking Injunctive Relief

Individuals may also file a civil action against an agency to seek injunctive relief and attorney's fees (but not compensatory or punitive damages). The enforcement provisions of Section 508 take effect six months from the date the Access Board published its final standards. The Access Board published its standards on December 21, 2000. Therefore, the enforcement provisions of Section 508 were effective as of June 21, 2001. By statute, the enforcement provisions of Section 508 apply only to electronic and information technology procured on or after the effective date. As a result, Section 508 does not authorize complaints or lawsuits to retrofit technology procured before this date to meet the Access Board's standards.

Chapter 3. Reporting

Section 508 requires the Attorney General to report every two years to the President and Congress on the state of Federal department and agency compliance with the requirements of Section 508, including actions regarding individual complaints under the law. Section 508 also requires each head of a Federal department or agency to provide to the Attorney General such information as the Attorney General determines is necessary to conduct the biannual evaluations. (Reference: <http://www.usdoj.gov/crt/508/>)

Glossary of Terms

-A-

Access Board. An independent federal agency that develops and maintains accessibility requirements, provides, technical assistance and training on the standards, and enforces accessibility standards for federally funded activities.

-B-

BuyAccessible Solicitation Template. The Solicitation Template is a solicitation documentation tool produced by the BuyAccessible Wizard. The Solicitation Template is a simple tool to assist Federal contracting and procurement officials in producing good language for their solicitations for E&IT products and services. The Solicitation Template provides specific example text recommended to be included in the solicitation document.

-D-

Desktop and Portable Computers. These Section 508 technical requirements apply to personal computers (desktop, notebook, portable, including displays). Developments in technology are leading to a blurring of features between computers and telecommunications, video, multimedia, standalone software, and other technologies. As a result, a computer or computer system may provide telecommunication, multimedia, and Web functionality and would therefore have to comply with or conform to the provisions in those sections as well (in addition to 1194.31, Functional performance criteria).

-E-

Electronic and Information Technology. Electronic and information technology is defined to include 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. It includes computer hardware, software, networks, telephones, copiers, fax machines and peripherals as well as many electronic and communications devices commonly used in offices. Video and multimedia products are also covered.

Exceptions to Section 508 Requirements. Unless an exception at FAR 39.204 applies, acquisitions of E&IT supplies and services must meet the applicable accessibility standards at 36 CFR part 1194. The exceptions in 39.204 include, (1) Micro-purchases prior to April 1, 2005; (2) E&IT for a national security system; (3) E&IT acquired by a contractor incidental to a contract; (4) E&IT located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment; and (4) E&IT that would impose an undue burden on the agency.

-F-

Federal Acquisition Regulation (FAR). Official document of policies and procedures for acquisition that is used by all executive agencies. The FAR was established to codify uniform policies for acquisition of supplies and services by executive agencies. Statutory authorities to issue and revise the FAR have been delegated to the Procurement Executives in DOD, GSA and NASA.

-S-

Software. Computer programs, computer databases, and related documentation.