

The 508 Standards and RFPs

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What is Section 508?

- Federal law
- Part of Rehabilitation Act of 1973, as amended in 1998
- Section 508 standards added in 2001
 - Previously was a guideline; standards carry the weight of law.
- Applies to federal government

The 508 Philosophy

- Section 508 is about creating an open door
- Section 508 uses the purchasing power of the government to induce vendors to create accessible products
- The overall goal of Section 508 is a more accessible society

However...

- California is not part of the federal government

California State Law

- SB 105
 - Applied standards of Section 508 to California
 - Passed September 29, 2002
 - Effective January 1, 2003
 - Became part of Govt. Code 11135
- SB 302
 - For the CSUs
 - “Yes, we meant you, too.”

Cal. Gov. Code §11135(d)(2)

- "In order to improve accessibility of existing technology, and therefore increase the successful employment of individuals with disabilities, particularly blind and visually impaired and deaf and hard-of-hearing persons, state governmental entities, in developing, procuring, maintaining, or using electronic or information technology, either indirectly or through the use of state funds by other entities, shall **comply with the accessibility requirements of Section 508** of the Rehabilitation Act of 1973, as amended (29 U.S.C. Sec. 794d), **and regulations implementing that act** as set forth in Part 1194 of Title 36 of the Federal Code of Regulations."

One Difference

- California state law actually puts some responsibility for conforming to the standards on the vendor.

§11135(d)(3) states:

- "Any entity that contracts with a state or local entity subject to this section for the provision of electronic or information technology or for the provision of related services shall agree to respond to, and resolve any complaint regarding accessibility of its products or services that is brought to the attention of the entity."

Debunking the Myths

- Lots of confusion surrounding the Section 508 standards and why and how they apply
- First we will confront the myths
- Then we will look at how to proceed

Myth #1

- Section 508 applies to postsecondary schools because we received federal funding (TTIP).

False

- Section 504 follows the money.
- Section 508 does not.
- Section 508 applies because of California state laws that adopted the Section 508 standards.
 - SB 105
 - SB 302

Myth #2

- We always have to buy the most accessible product—no matter what.

False

- In fact, technical requirements drive procurement.
- Determine your needs first then consider accessibility.
- You do not have to fundamentally alter your needs in order to comply with Section 508.

Myth #3

- We cannot legally buy an inaccessible product.

False

- Again, the needs of the department/entity ordering the product drive procurement.
- The specific needs for the product are given first priority then accessibility is considered.
- In some cases, there may be no accessible products that meet the needs.

Myth #4

- Conforming to Section 508 is expensive.

False

- The Social Security Administration has found that accessible products generally cost little if any more than inaccessible ones.
- Buying accessible saved USPTO over \$1,200,000 in one year on accommodations.
- Responding to complaints is far more expensive (in both time and money).

Myth #5

- Conforming to the Section 508 standards is very time consuming.

False

- Retrofitting is very time consuming.
- Buying accessible in the first place needn't be that time consuming.
- HOWEVER, until your procedures are in place and streamlined, you may be spending a lot of extra time training staff and trying to implement a system.

Myth #6

- Section 508 applies to everything we buy.

False

- Section 508 applies to electronic and information technology (E&IT) only.
- If it requires electricity, has a screen or display to interact with, and transfers information it probably falls under Section 508.
 - Microwave ovens don't count...unless they send e-mail.

Myth #7

- Conforming to Section 508 will interfere with academic freedom.

False

- Academic freedom is about the content.
- Conforming to Section 508 simply allows access to that content.
- Conforming to Section 508 should no more interfere with academic freedom than requiring a ramp does.

Myth #8

- You only need to conform to Section 508 when making purchases for something used by students.

False

- Section 508 applies to all purchases.
- Technically any E&IT that is “DUMPed” falls under 508:
 - **D**eveloped
 - **U**sed
 - **M**aintained
 - **P**rocured
- However, only purchases are subject to legal liability.

Myth #9

- We only need to conform to Section 508 when we have a disabled student in the class.

False

- Section 504 deals with specific accommodations for specific persons; Section 508 deals with general access for all persons.
- The idea is to have the access already in place whenever someone who needs it shows up—even if you didn’t know the person was coming.

Myth #10

- The folks in disabled student services offices should handle the section 508 issues.

False

- Conforming to Section 508 is no more a disability services issue than conforming to the architectural standards for elevators and curb cuts is.
- Disability services may function as an information resource, but Section 508 is not specifically their issue.
- Disability services is concerned with Section 504.

Myth #11

- The folks in the IT department should be in charge of Section 508 conformance.

False

- Although these folks can be helpful, they are not involved in the purchase of every fax machine, copier, scanner, telephone system, video, etc. on campus.

Myth #12

- No one's really going to force us to comply with Section 508.

False

- Compliance with Section 508 is enforced by user complaints.
- The example of Arkansas
 - New payroll process implemented online
 - Was not accessible and two blind employees filed complaints
 - Judge ordered the Web site taken down and made accessible
 - Cost the state \$57 million to rework and took over a year
- It costs far less to ensure access in the first place.

Procurement Issues

Where Do We Begin

- Only electronic and information technology (E&IT) is covered by Section 508.
- First determine if the proposed purchase is E&IT.

Categories of E&IT

- Software applications and operating systems
- Web-based information and applications
- Telecommunications products
- Video and multimedia products
- Self-contained, closed products (e.g., many office products, kiosks)
- Desktop and portable computers

Legal Definition

- E&IT is defined by federal regulations as any equipment or interconnected system 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 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.

??????????

- Anyone else's brain just go TILT?
- Let's try again...

Rule of Thumb

- Is it electronic? And/or does it fit in one of those six categories?
- Does it have a display and/or keypad that humans interact with?
- Does that display have information about creating, converting, sending, receiving, or duplicating any sort of data or information?
- If you answer yes to all of these, you are dealing with E&IT.

Examples of E&IT under 508

- Faxes
- Scanners
- Printers
- Copiers
- PDAs
- Computers
- Computer software
- Computer operating systems
- Phones
- Information kiosks
- ATMs
- Multimedia
- Videos
- World Wide Web

Not E&IT under 508

- Microwaves (unless it sends faxes, too)
- Coffee makers
- Heating and ventilation systems
- Thermostats

The Gray Area

- “Back office” E&IT is exempted
 - Must literally be somewhere that people do not go all the time
 - Applies to equipment that only technicians interact with

How to Buy under 508

- Functional requirements drive the procurement, not Section 508.
- First determine your business needs.
- Then consider 508 accessibility.

The Process

- Figure out as specifically as possible what you need.
- Decide which sections of Part B apply.
- Do market research.
- Use VPATs and/or a checklist.
 - In some cases, may need to do testing.
- Pick the most accessible product that meets your needs.

Step One

- Determine functional requirements

What Do You Need?

- Be clear about your functional requirements
 - What are the technical specifications?
 - How fast? how many pages? how big/small?
 - What features? What functions?
 - What are the minimum requirements?
 - What specific need does the product meet (i.e., what must it do)?
 - Are there specific academic considerations to be taken into account?
- Document your needs.

Requirements may include...

- Campus's ability to support the product
- Campus IT's need to safeguard current network
- Technician's knowledge of maintenance and repair

- Just make sure to document the needs!

Reframe Your Thinking

- It's not, "I have this much to spend."
- It's, "This is what the machine needs to do."

- However, you can look at machines in the price range you want to see what the features out.

Step Two

- Determine what's out there

Add Accessibility into the Equation

- Once you have determined your needs, research the market.
 - You already do market research for models, prices, features, durability, etc.
 - Just make accessibility one more item on the list.

Getting Technical

- Each of the six E&IT categories has a list of technical specifications in Part B of Section 508.
- Determine the appropriate sections of Part B.

Researching Accessibility

- VPATs
 - Voluntary Product Accessibility Templates
 - Done by vendors
 - Not always done well but getting better
- Examples
 - <http://www.microsoft.com/industry/government/section508.msp#ECAA>
 - <http://images.apple.com/accessibility/>

You Can Create Your Own Checklist

- Use the technical standards in Part B as a checklist.
- Some federal agencies send checklists to vendors and only consider vendors who complete the checklists.
- Example
 - http://www.uspto.gov/web/offices/cio/s508/vendor_sw.doc

USPTO Excerpt

Questions for Software and OS Accessibility	Meet Standard and How	Do Not Meet Standard	Not Applicable and Why
(a) If software is designed to run on a system that has a keyboard, are product functions executable from a keyboard where the function itself or the result of performing a function can be discerned textually?			
(b. i) Does the application avoid disrupting or disabling activated features of other products that are identified as accessibility features (where those features are developed and documented according to industry standards)?			

Talk to Vendors

- Ask vendors how their products are accessible, not just whether they are.
- Ask them how they meet the specific standard.
- If you are suspicious of anything on the VPAT, question their representative.
- Don't just accept the statement that they are fully accessible. Ask for specifics.

BEWARE!

- There is no such thing as "508 Certification."
- If a vendor claims that their product has been "certified" as being "508 compliant," they are not being truthful.
- Currently, no independent agency certifies that a product conforms to the 508 standard, nor is there any sort of "508 seal."

Organize the Information

- Using the standards from Part B, create a table listing how each vendor did with a particular standard.
- Add your columns and see who met the most standards.

Step Three

- Pick the most accessible product

Analyze the Competition

Category of Standards	Product A	Product B	Product C
Standard 1	Compliant	Compliant	
Standard 2	Compliant	Compliant	Compliant
Standard 3		Compliant	Compliant
Standard 4			Compliant
Standard 5	Compliant	Compliant	
Total	3	4	3

Choose

- You have already determined that all of these products meet your needs, so choose the most accessible.
- If there is a tie, choose whichever you prefer.
- If you choose a less accessible model, there needs to be a compelling reason (other than price!).

How much will it cost?

- Typically the more accessible products cost the same as or little more than any other product in their class.
- However, the only time cost is taken into account is in the case of a tie!
- But remember, only buy the functionality you need.

Product Testing

- On high-end products, VPATs and checklists may not be enough.
- If testing is required, do you test in-house or outsource?
- In-house
 - Can work with 508 committee, but realize that individuals may not be that skilled.
 - CSUs have CUDA.

Step 4

- Look at exemptions

Four Exemptions

- Fundamental alteration
 - Product does not do what is required
- Technical infeasibility
 - Not possible to make it accessible
- Commercially unavailable
 - It doesn't exist
- Undue burden
 - Would have to prove the cost is high enough to cause a fundamental disruption of the organization
 - Burden of proof on defendant

Bottom Line

- Focus on the functional requirements and you won't have to worry too much about the exemptions
- If no accessible products meet your functional requirements, you still buy what you need.

Reference

- <http://www.access-board.gov/sec508/guide/index.htm>
