

CIOP CHAPTER 1351.23

Electronic and Information Technology (EIT) Accessibility Policy

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Section 23.1 Purpose

23.1.1 This chapter establishes policy, roles, and responsibilities for ensuring accessibility of the Department of Transportation’s (DOT) electronic and information technology (EIT).

23.1.2 Federal agencies are required to ensure that any time the Government maintains, procures, develops, or uses EIT that it is accessible to persons with disabilities, in accordance with Section 508 of the Rehabilitation Act (“Section 508”).

Section 23.2 Background

23.2.1 More than 54 million Americans are persons with disabilities and more than 7 million people with disabilities work for the government. In 1998, Congress amended Section 508 of the Rehabilitation Act of 1973, to require that when Federal agencies develop, procure, maintain, or use EIT:

- Individuals with disabilities who are Federal employees 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 who are not individuals with disabilities; and
- Individuals with disabilities who are members of the public seeking information or services from a Federal department or 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 such members of the public who are not individuals with disabilities.

23.2.2 Comparable access is not required if certain exceptions apply, including if it would impose an undue burden on the agency or a fundamental alteration in the nature of the EIT.

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Section 508 Distinctions from Other Policies Affecting EIT Accessibility

23.2.3 Section 508 and Sections 501 and 504 of the Rehabilitation Act of 1973 are often confused with each other— there is some overlap between these laws, but the laws have different scopes and applications.

23.2.4 Section 508 is *technology-centered* and focuses on whether mainstream EIT products meet Architectural and Transportation Barriers Compliance Board (Access Board) EIT Standards for Section 508, even if an agency has not identified employees or members of the public with disabilities who will be using the EIT. This policy specifically addresses EIT accessibility.

23.2.5 The reasonable accommodation provisions of Section 501 and 504 are *person-centered* and focus on how a specific individual's disability should be accommodated in a particular setting.

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Understanding the Scope of Electronic and Information Technology

23.2.6 In Section 508, Congress directed the Access Board to develop technical and functional criteria for implementation of Section 508.

23.2.7 In the standards published by the Access Board, the definition of EIT includes “electronic and 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, internal communications platforms, multimedia, and office equipment such as copiers and fax machines.”

23.2.8 The Access Board defines “information technology” as “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.”
- The term “information technology” 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. Equipment that is not EIT, as defined by Section 508, includes “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.”¹

23.2.9 While Section 508 does not specifically reference documents and information in formats other than html (e.g., electronic mail, messaging, and other communications methods), the intent of the legislation is clear. Therefore, DOT considers final versions of agency documents that are available to the public, or final or draft versions that are generally available to DOT employees (e.g., DOTNET, broadcast email, SharePoint, Executive correspondence) subject to the applicable Access Board EIT Accessibility Standards and Section 508 requirements based on the characteristics of the content, not the file format.

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EIT Accessibility Standards (Technical Standards)

23.2.10 Section 508 required the Access Board to develop EIT accessibility standards setting forth technical and functional performance criteria for implementing Section 508 requirements. These are referred to as the “Electronic and Information Technology Accessibility Standards” (referred to as Access Board EIT Accessibility Standards in this document). The Access Board EIT Accessibility Standards include technical provisions for different types of EIT technologies and also include performance-based requirements that address the functional capabilities of EIT.

23.2.11 The Access Board’s **technical provisions** include:

- Requirements specific to each type of technology (Subpart B of the Access Board’s standards);

¹ [Pub. L. 105-220, § 508\(a\)\(2\)\(A\)\(i\); 40 U.S.C. § 1401\(3\).](#)

- Functional performance criteria relating to the functional capabilities of covered technologies (Subpart C); and
- Requirements for information, documentation, and support (Subpart D).

23.2.12 **Subpart B:** The technology-specific provisions address the following areas:

- Software applications and operating systems;
- Web-based information or applications;
- Telecommunications products;
- Video or multi-media products;
- Self-contained, closed products such as office equipment and kiosks; and
- Desktop and portable computing devices.

23.2.13 **Subpart C:** Subpart C provides the functional performance criteria that should be used in evaluating whether EIT meets Section 508 requirements overall and also should be used for evaluating technologies or components where no specific requirement is found in the technology categories in Subpart B.

23.2.14 Functional performance criteria contained in Subpart C of the Technical Standards are required in addition to the specific and applicable technical requirements of Subpart B. In other words, a product that complies with the applicable technical requirements but still does not meet the functional performance criteria is considered non-compliant.

23.2.15 These functional criteria were included to assure that the components of electronic and information technologies – even when individually accessible – still work together to create an accessible product. The functional criteria address the operation of the product, including input and control functions, and the operation and access to visual and audible information.

23.2.16 **Subpart D:** Subpart D deals with access to all information, documentation, and support provided to end users (employees) of covered technologies.

23.2.17 At DOT, this should be considered to include user guides, installation guides for end-user installable devices, and customer support and technical support communications. Subpart D requires that such information must be available in alternate formats upon request at no additional charge. Alternate formats or methods of communication can include Braille, cassette recordings, large print, electronic text, Internet postings, tele-typewriter for the deaf (TTY) access, and captioning and audio description for video materials.

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Federal EIT Procurement

- 23.2.18 Access Board EIT Accessibility Standards under Section 508 have been included in the Federal Acquisition Regulation (Section 508 Federal Acquisition Regulation [FAR] Final Rule) and are to be included in the acquisition regulations of all DOT Components, except for those Components that are not covered by the FAR.
- 23.2.19 Interagency agreements, memoranda of understanding, and other procurement agreements between Federal government agencies are considered federally conducted programs and are subject to Access Board EIT Accessibility Standards and Section 508 requirements under the FAR (Section 508 FAR Final Rule).
- 23.2.20 Procurement awards made on or after June 25, 2001, are subject to the Section 508 FAR Final Rule, except indefinite-delivery indefinite-quantity (IDIQ) contracts. For IDIQ contracts, the FAR rule is applicable to delivery orders or task orders issued on or after June 25, 2001.
- 23.2.21 DOT Components not covered by the FAR may exercise flexibility in the solutions used to meet EIT accessibility and Section 508 acquisition regulations; however, the directives or measures chosen must meet the minimum accessibility requirements of the EIT and Section 508 acquisition regulations.
- 23.2.22 DOT Components not covered by the FAR are still required to comply with the relevant DOT regulations and IT policies for acquisitions.

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Section 23.3 Scope and Applicability

- 23.3.1 This policy applies to all DOT Components, including offices, modes, and Operating Administrations (OAs).
- 23.3.2 This policy applies to all EIT as defined in this document by the Access Board.
- 23.3.3 The provisions of this policy apply to all DOT EIT developed, procured, maintained, or used by DOT Components on or after June 21, 2001. Unless an exception applies, acquisitions of EIT supplies and services must meet the applicable accessibility standards pursuant to the Access Board EIT Accessibility Standards and Section 508 requirements.
- 23.3.4 This policy references the Access Board, FAR, and other EIT accessibility requirements. When referenced, the final, published version of these guidelines and requirements are applicable.

23.3.5 Departmental organizations may issue additional policies, instructions and/or guidance related to the Access Board EIT Accessibility Standards and Section 508 as necessary, provided they comply with existing laws, regulations, and departmental policies and procedures, including this chapter.

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Exceptions to Meeting Section 508 Requirements

23.3.6 Access Board EIT Accessibility Standards and Section 508 requirements do not apply to EIT that:

- Is a micro-purchase made prior to January 1, 2003;
- Is for a national security system;
- Is acquired by a contractor incidental to a contract;
- Is located in spaces frequented only by service personnel for maintenance, repair or occasional monitoring of equipment;
- Would impose an undue burden on the agency;
- Imposes a fundamental alteration in the nature of the EIT product or its components; or
- Is commercially unavailable.

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Undue Burden and Fundamental Alteration

23.3.7 If it is determined that conformance with the Access Board standards would impose an undue burden or would result in a fundamental alteration in the nature of the product, conformance is only required to the extent that it does not impose an undue burden or result in a fundamental alteration. All justifications of undue burden or fundamental alteration must be documented in writing.

23.3.8 Compliance with Access Board EIT Accessibility Standards and Section 508 requirements is not required if it would impose an undue burden on the agency. Access through alternative means is still required if an undue burden exception applies. Undue burden means “significant difficulty or expense” when considering all agency resources available to the program or component for which the product is being developed, procured, maintained or used.

23.3.9 Determination of undue burden must always be made on a case-by-case basis, considering factors that include the nature and cost of the accommodation and the impact of the accommodation on the operations of the agency. Requiring offices should not expect to assert that compliance with Section 508 is an undue burden merely because it would be more expensive than non-compliance.

23.3.10 Requests for WCAG exemption are considered undue burden claims, rather than policy exemptions, and must follow the undue burden review process.

23.3.11 All undue burden claims and other applicable documents must be documented and submitted to the DOT Chief Technology Officer (CTO), who will coordinate with the DOT Secretary for approval in accordance with the undue burden review process. The DOT Secretary or his or her designee is authorized to make the determination whether an undue burden or fundamental alteration exception is granted. If a claim of undue burden or fundamental alteration is determined, individuals with disabilities must be provided access to and use of information and data by an alternative means of access.

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Equivalent Facilitation

23.3.12 Access Board EIT Accessibility Standards provide that agencies may accept EIT offered by vendors that use designs or technologies that do not meet the applicable technical provisions in Subpart B but provide substantially equivalent or greater access to and use of a product for people with disabilities. This is referred to as "equivalent facilitation."

23.3.13 Equivalent facilitation is not an exception or variance from the requirement to provide comparable access. Rather, it is recognition 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 envisioned by these standards. Functional outcome, not form, is the key to evaluating whether a technology results in "substantially equivalent or greater access."

23.3.14 The concept of equivalent facilitation is designed to allow the marketplace to offer innovative solutions. For this reason, agencies must draft their solicitations for EIT so that products offering equivalent facilitation are considered along with those that strictly meet the technical requirements of the Access Board EIT Accessibility Standards. Furthermore, as noted in 23.4.1, both Subpart B and Subpart C of the standards must be met for a product to be considered fully compliant.

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Section 23.4 Policy

23.4.1 This policy supersedes Chapter Two of the DOT Information Resources Management Manual (DIRMM), Electronics and Information Technology Accessibility, dated January 2006.

- 23.4.2 All DOT Components should make EIT developed, procured, maintained or used on or after June 21, 2001, and which continues to be in use and maintained, compliant with Access Board EIT Accessibility Standards and Section 508 requirements and all the applicable provisions of the Departmental Web Policy, DOT Order 1351.24 and the Departmental Social Media/Web 2.0 Policy, DOT Order 1351.33. Section 508 requirements do not apply to EIT in use that existed prior to June 21, 2001.
- 23.4.3 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; desktop and portable computers; and agency documents that are available to the public, or are generally available to DOT employees (for example, documents posted on DOTNET and broadcast emails) must be compliant with Access Board EIT Accessibility Standards and Section 508 requirements.
- 23.4.4 Web sites must conform to the standard for accessibility contained in the widely accepted Website Content Accessibility Guidelines (WCAG) 2.0 and meet the Level AA Success Criteria. The accessibility standard for automated airport kiosks set forth in this rule is based, in part, on the standard for automated teller and fare machines established by the Department of Justice in the 2010 amendment to its Americans with Disabilities Act (ADA) rules.
- 23.4.5 DOT has adopted the internationally recognized Web Content Accessibility Guidelines (WCAG) 2.0 at Level AA as the standard to meet the objective of achieving universal accessibility for all public-facing DOT websites to include Sharepoint environments. Accordingly, all DOT Web sites will comply with this new standard no later than September 30, 2014.
- 23.4.6 Where DOT Components cannot meet Access Board EIT Accessibility Standards, the agency shall accommodate access to EIT by other methods.
- 23.4.7 As agencies progress through the EIT maintenance lifecycle, including Operations and Maintenance (O&M), they must still comply with the Access Board EIT Accessibility Standards, Section 508 requirements and applicable acquisition requirements related to EIT accessibility.

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Office of Primary Responsibility

- 23.4.8 This policy assigns administrative responsibility for the implementation of EIT accessibility to the Office of the Chief Information Officer (OCIO), and designates responsibility, authority, and accountability for the coordination and execution of EIT accessibility activities to the Chief Technology Officer (CTO), who serves as the Department's Section 508 Coordinator as defined by the Office of Management and Budget (OMB).

23.4.9 As the party responsible for “for providing support ... and continuity in the organization through knowledge of Departmental Information Technology (IT) initiatives in managing and overseeing the Department's IT resources in a manner consistent with departmental missions and program objectives, and consistent with applicable laws, regulations, principles, and standards.”² the CTO is strategically positioned within the OCIO to execute EIT accessibility compliance responsibilities.

23.4.10 Further, the CTO will ensure Access Board EIT Standards are leveraged within existing DOT governance processes, such as the Technology Control Board (TCB).

23.4.11 The CTO, however, is not solely responsible for executing all of the implementation activities related to the policy. Stakeholders, both internal and external to OCIO, have varying levels of interest and responsibility for policy implementation and may be assigned or delegated responsibilities by the CTO in order to execute EIT accessibility compliance activities as delegated by policy as appropriate.

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Section 23.5 Roles and Responsibilities

23.5.1 Successful implementation of EIT accessibility compliance responsibilities to meet Access Board EIT Accessibility Standards and Section 508 requirements requires the support of each and every DOT employee and contractor personnel involved in the planning, design, development, procurement, or use of EIT. All DOT employees and contractor personnel should understand Access Board EIT Accessibility Standards and Section 508 requirements and how they may apply to their business operations and processes.

23.5.2 This section defines the roles key to implementing this policy across DOT along with specific responsibilities associated with each role.

23.5.3 Additional responsibilities related to EIT accessibility to meet Section 508 requirements may be applicable as defined in other departmental policies, such as the DOT Web Policy, DOT Order (1351.24), and the DOT Social Media/Web 2.0 Policy (DOT Order 1351.33).

23.5.4 Provided below is a summary listing of the roles and the levels in the organization which they reside.

Department Level

- DOT Chief Information Officer (CIO)
- DOT Chief Technology Officer (CTO)

² U.S.Department of Transportation Chief Technology Officer Position Description

- Office of the Senior Procurement Executive (OSPE)
- Office of General Counsel
- Departmental Office of Civil Rights
- Disability Resource Center

Component Level

- Heads of Operating Administrations (OAs) and Secretarial Offices
- Component Chief Information Officer (CIO)
- Component Office of Civil Rights
- EIT Accessibility Coordinator
- Requiring Officials and other authorized Federal representatives
- Contracting Officers (CO) and other authorized Federal representatives

Program Level

- Project/Program Managers
- Web Masters/Managers (or Equivalent), Software Developers

DOT-Wide

- DOT Content Owners (including the Office of Public Affairs)
- Employees, and Contractors

Department Level

23.5.5 Accountability for directing the information and data integrity of the Agency and its groups and for all Information Technology functions resides with the Chief Information Officer (CIO). **The DOT CIO is responsible for, but not limited to:**

23.5.5.1 Ensuring a DOT EIT accessibility program is developed, documented, implemented, and properly resourced in order to comply with Access Board EIT Accessibility Standards and Section 508 requirements.

23.5.5.2 Overseeing DOT's EIT accessibility program and monitoring compliance.

23.5.5.3 Providing input on undue burden and fundamental alteration claims.

23.5.5.4 Reviewing written requests for exceptions to this policy and providing a written waiver or justification for denial.

23.5.6 The CTO within the Office of the Chief Information Officer (OCIO) is the Office of Primary Responsibility (OPR) for this policy and for organizing and supporting the implementation of Section 508 within the Department. **The CTO is responsible for, but not limited to:**

- 23.5.6.1 Performing all duties and responsibilities of the Section 508 Coordinator as enumerated in the Office of Management and Budget's Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act.³
- 23.5.6.2 Providing executive leadership in promoting the interests of the OCIO as it relates to EIT accessibility.
- 23.5.6.3 Establishing internal policies, procedures, and governance structures as necessary to ensure EIT compliance with Access Board EIT Accessibility Standards and Section 508 requirements.
- 23.5.6.4 Establishing and coordinating a formal process for evaluating undue burden claims that includes gathering input from the DOT CIO, DOT General Counsel, Senior Procurement Executive, and the Departmental Office of Civil Rights. Final approval must be documented from the DOT Secretary or his/her designee.
- 23.5.6.5 Providing guidance to DOT Component CIOs related to the creation and implementation of performance measures that are focused on gauging compliance with Access Board EIT Accessibility Standards and Section 508 requirements.
- 23.5.6.6 Directing stakeholder compliance with Office of Management and Budget (OMB) guidance and other government-wide directives related to EIT accessibility and Section 508 requirements.
- 23.5.6.7 Distributing communications related to EIT accessibility and Section 508 to the appropriate stakeholders to ensure awareness of, and compliance with, EIT accessibility requirements.
- 23.5.6.8 Consulting with appropriate stakeholders to maintain currency on pertinent Access Board EIT Accessibility Standards and Section 508 matters.
- 23.5.6.9 Ensuring this policy is maintained and kept current.
- 23.5.7 Management direction of DOT's procurement system, including implementation of the unique procurement policies, regulations, and standards of the Department is the responsibility of the Office of the Senior Procurement Executive (OSPE). **The OSPE is responsible for, but not limited to:**
 - 23.5.7.1 Providing guidance to DOT procurement offices to implement EIT accessibility policy and EIT requirements of the FAR to ensure compliance with Access Board EIT Accessibility Standards and Section 508 requirements.
 - 23.5.7.2 Providing direction on implementing accessible EIT acquisition guidance from the OMB, in coordination with the CTO.
 - 23.5.7.3 Providing direction to ensure DOT contracting officials include all relevant 508 procurement documentation with contract files to ensure that appropriate Access Board EIT Accessibility Standards and Section 508 requirements have been validated and verified.

³ <http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>

23.5.7.4 Working in conjunction with the DOT CTO to ensure objective review of determinations that invoke undue burden as a defense, explanation, or exemption to providing accessible EIT.

23.5.8 The Office of General Counsel (OGC) provides legal advice and guidance to the Secretary and the secretarial offices and provides oversight and support to the Operating Administrations' Chief Counsels' offices. The General Counsel is the Chief Legal Officer of the Department. **OGC is responsible for, but not limited to:**

23.5.8.1 Reviewing and seeking consensus on DOT and DOT Component interpretations, guidance, and policies concerning disability-related statutes and regulations.

23.5.8.2 Working in conjunction with the DOT CTO to ensure objective review of determinations that invoke undue burden as a defense, explanation, or exemption to providing accessible electronic and information technology.

23.5.9 The Departmental Office of Civil Rights (DOCR) enforces laws and regulations, which prohibit discrimination on the basis of race, color, national origin, sex, disability, religion, and age in employment and the provision of government services. **DOCR is responsible for, but not limited to:**

23.5.9.1 Developing and implementing policy and procedures governing the processing of complaints alleging a failure to comply with Access Board EIT Accessibility Standards and Section 508 requirements.

23.5.9.2 Working in conjunction with the DOT CTO to ensure objective review of determinations that invoke undue burden as a defense, explanation, or exemption to providing accessible EIT.

23.5.10 DOT's Disability Resource Center (DRC) provides job accommodations and related services to DOT employees and job applicants. **The DRC is responsible for, but not limited to:**

23.5.10.1 Advising the DOT CTO and other stakeholders on Access Board EIT Accessibility Standards and Section 508 requirements and providing technical assistance on applying standards and requirements to particular IT products and documents.

23.5.10.2 Providing EIT accessibility and Section 508 information, and recommending training for specific roles, to DOT employees.

23.5.10.3 Providing the results of DOT Web accessibility reviews to DOT Web Masters/Managers (or the equivalent) for the development and implementation of plans to remediate deficiencies.

Component Level

23.5.11 **Heads of Operating Administrations (OAs) and Secretarial Offices are responsible for, but not limited to:**

23.5.11.1 Establishing an EIT accessibility program to ensure their organization complies with the Access Board EIT Accessibility Standards and Section 508 requirements for procuring, developing, maintaining, and using EIT, and cooperating with DOT efforts to monitor compliance.

23.5.11.2 Designating a point of contact (POC) for the coordination and implementation of Access Board EIT Accessibility Standards and Section 508 requirements throughout their organization.

23.5.11.3 Providing direction to employees within their Components to complete EIT accessibility and Section 508 training.

23.5.12 **Operating Administration CIOs are responsible for, but not limited to:**

23.5.12.1 Providing direction, guidance, and all pertinent information related to achieving EIT compliance with Access Board EIT Accessibility Standards and Section 508 requirements to CIO staff and other appropriate stakeholders within their Component.

23.5.12.2 Working in conjunction with the DOT CTO and Section 508 coordinators within their OA to establish and implement performance measures that are focused on gauging EIT compliance with Access Board EIT Accessibility Standards and Section 508 requirements within their Component.

23.5.12.3 Directing stakeholder compliance with EIT accessibility guidance from the OMB.

23.5.12.4 Ensuring documentation that verifies the Component's compliance with Access Board EIT Accessibility Standards and Section 508 requirements for procuring, developing, maintaining, and using EIT.

23.5.12.5 Consulting with designated Section 508 POCs and other appropriate stakeholders to maintain currency on Access Board EIT Accessibility Standards and Section 508 requirements to ensure compliance with requirements.

23.5.12.6 Complying with DOT efforts to monitor EIT accessibility and Section 508 compliance.

23.5.13 Operating Administration Offices of Civil Rights enforce laws and regulation, which prohibit discrimination on the basis of race, color, national origin, sex, disability, religion, and age in employment and the provision of government services. **Operating Administration Offices of Civil Rights are responsible for, but not limited to:**

23.5.13.1 Ensuring all requests for reasonable accommodation made by or on behalf of DOT employees with disabilities and applicants for employment with disabilities are processed.

- 23.5.13.2 Establishing a formal process for evaluating undue burden and fundamental alteration claims that includes input from the DOT CIO, DOT General Counsel, Senior Procurement Executive, and final approval from the DOT Secretary or his or her designee.
- 23.5.14 OAs establish how the EIT Accessibility coordinator/point of contact within their Component supports the EIT accessibility program and related stakeholders. **EIT Accessibility Coordinators/Points of Contact are responsible for, but not limited to:**
- 23.5.14.1 Implementing an EIT accessibility program to ensure their organization complies with the Access Board EIT Accessibility Standards and Section 508 requirements for procuring, developing, maintaining, and using EIT, and cooperating with DOT efforts to monitor compliance.
- 23.5.14.2 Working with DOOCR and applicable Component-level stakeholders to investigate and resolve complaints alleging a failure to comply with EIT accessibility requirements under Section 508.
- 23.5.14.3 Working with the DOT CTO and CIOs within their OA, and appropriate stakeholders, to ensure implementation of performance measures to gauge DOT's compliance with Access Board EIT Accessibility Standards and Section 508 requirements as related to EIT acquisitions.
- 23.5.14.4 Providing technical advice and guidance to employees within their Component on applying Access Board EIT Accessibility Standards and Section 508 requirements to particular EIT products and documents.
- 23.5.14.5 Educating employees within their Component on Access Board EIT Accessibility Standards to meet Section 508 requirements, DOT EIT policy, and Component-level procedures to achieve compliance.
- 23.5.14.6 Complying with DOT efforts to monitor Section 508 compliance, including periodic reports required by the Department of Justice (OMB Memo, "Improving the Accessibility of Government Information," July 19, 2010).
- 23.5.15 **Requiring officials (i.e., officials in the program office or organization that are funding and/or acquiring the EIT) are responsible for, but not limited to:**
- 23.5.15.1 Ensuring the requested EIT meets Access Board EIT Accessibility Standards and Section 508 requirements, and identifying the applicable technical provisions in their requirements documents.
- 23.5.15.2 Conducting market research to identify what products, if any, are available to meet those provisions or whether an exception applies.
- 23.5.15.3 Drafting accessibility specifications, including appropriate EIT accessibility validation and verification specifications and requirements, and language for Statements of Work (SOW). Specifications requiring end-user testing requirements for all requested EIT, including third-party products, systems or applications, will ensure compatibility within the DOT environment.

- 23.5.15.4 Ensuring that all solicitations for EIT include a clear statement of the responsibilities vendors and/or service providers have in supplying EIT that meets Access Board EIT Accessibility Standards and Section 508 requirements.
- 23.5.15.5 Documenting undue burden and/or non-commercial availability determinations.
- 23.5.15.6 Obtaining the signature of the OA CIO or his/her designee and approval documents, including commercial unavailability, for inclusion in the contract file and submission to the contracting official.
- 23.5.16 **Contracting officials are responsible for, but not limited to:**
 - 23.5.16.1 Reviewing SOWs and purchase requests to ensure that requiring officials have either included Access Board EIT Accessibility Standards and Section 508 requirements or stated that these requirements are not applicable.
 - 23.5.16.2 Ensuring the contract file contains applicable EIT accessibility documents provided by the requiring official regarding undue burden or non-commercial availability determination, and vendor and/or service provider-documents related to conformance of the offered EIT with Access Board EIT Accessibility Standards and Section 508 requirements.
 - 23.5.16.3 Working with technical staff to ensure remediation plans are developed to address deficiencies reported by General Services Administration's (GSA) Section 508 reviews of a sample of solicitations posted on FedBizOpps.gov. (OMB Memo, "Improving the Accessibility of Government Information," July 19, 2010).

Program Level

- 23.5.17 **Project Managers and/or Business Owners are responsible for, but not limited to:**
 - 23.5.17.1 Developing and implementing a test and/or acceptance plan using available tools during all phases of the project lifecycle to determine if EIT, including third-party products, systems and applications, are compliant with Access Board EIT Standards and Section 508 requirements.
 - 23.5.17.2 Ensuring that all new, updated, and/or upgraded EIT conforms to Access Board EIT Accessibility Standards and Section 508 requirements, unless a documented and approved exception exists. This includes incorporating accessibility provisions into software development lifecycles, whether procured from outside sources or developed in house.
 - 23.5.17.3 Ensuring projects incorporate Access Board EIT Accessibility Standards and Section 508 requirements during the design, development, procurement, or use of EIT and documenting requirements in all applicable project-related documentation.

23.5.18 Web Masters/Managers (or equivalent) and Software Developers are responsible for, but not limited to:

23.5.18.1 Ensuring Access Board EIT Accessibility Standards and Section 508 requirements are built into the early phases of lifecycle development to avoid the time and cost of retrofitting for Section 508 conformance. This applies to both software procured from outside sources or developed in house.

23.5.18.2 Conducting appropriate testing to ensure EIT complies with Access Board EIT Accessibility Standards and Section 508 requirements.

23.5.18.3 Ensuring that the design of internal and external web pages and applications under their direct control, including links to Web applications and files (e.g., Word, PDF, PowerPoint), fully conforms to Access Board EIT Accessibility Standards and Section 508 requirements.

23.5.18.4 Developing, implementing, and maintaining plans to remediate EIT accessibility issues identified by the DRC for the web pages (including SharePoint) and applications under their direct control.

23.5.18.5 Providing means for website visitors to report accessibility problems in accordance with DOT Section 508 compliant procedures and obtain information by alternative means.

23.5.18.6 Providing documentation, including any changes made to correct issues or information provided by alternative means, upon request by DOT or Component civil rights or counsel.

23.5.19 DOT Content Developers (including the Office of Public Affairs), employees and contractors have a collective responsibility for compliance with Section 508's mandate to make our information accessible to individuals with disabilities. DOT Content Developers, Employees and Contractors are responsible for, but not limited to:

23.5.19.1 Ensuring that the content they own or produce (e.g., PDF, video, social media channels), that is shared on DOT Internet, social media/Web 2.0 sites, and SharePoint fully conforms to Access Board EIT Accessibility Standards and Section 508 requirements.

23.5.19.2 Completing Section 508 training as required to ensure the development and production of accessible content. Some DOT staff may be required to complete training specifically related to their role or the tools they use to produce content (e.g., Adobe, SharePoint).

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Section 23.6 Dates

23.6.1 This policy is effective as of the date signed.

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Section 23.7 Cancellations

- 23.7.1 This policy cancels Chapter Two of the Departmental Information Resources Management Manual (DIRMM), Electronic and Information Technology, dated January 2006. In the event of conflict or inconsistency with other DOT directives, the provisions of this policy shall prevail.
- 23.7.2 This policy dissolves the DOT Undue Burden Advisory Board established in January 2003. In the event of conflict or inconsistency with other DOT directives, the provisions of this policy shall prevail.

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Section 23.8 Compliance

- 23.8.1 DOT Components must comply with and support the implementation of this policy.
- 23.8.2 This policy applies to all DOT Components (and organizations conducting business for and on behalf of the Department through contractual relationships when using DOT IT resources). This policy does not supersede any other applicable law, higher-level agency directive, or existing labor management agreement in place as of the effective date of this policy.

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Section 23.9 Policy Exception Requests

- 23.9.1 Requests for exceptions to this policy shall be provided in writing to the DOT CIO. The request must include: (1) justification, (2) provisions to provide alternate means to accommodate access to EIT, (3) risk acceptance, (4) risk mitigation measures, (5) exception period, and (6) milestones to achieve compliance.
- 23.9.2 Undue burden requests are separate from policy exception requests and follow the process outlined in 23.5.7-23.5.10.
- 23.9.3 All requests for exceptions will be evaluated on a case-by-case basis.
- 23.9.4 The DOT CIO shall provide a written exception or justification for denial.

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Section 23.10 Audit Procedures

- 23.10.1 In order to ensure that the Department provides appropriate accountability for EIT compliance with Access Board EIT Accessibility Standards and Section 508 requirements, and active oversight and monitoring of this policy, the DOT CTO shall:

- 23.10.2 Develop and distribute implementation guidance related to this policy to all appropriate stakeholders.
- 23.10.3 Develop and implement oversight activities, in conjunction with the appropriate stakeholders, to monitor DOT compliance with Access Board EIT Accessibility Standards and Section 508 requirements as related to EIT accessibility.
- 23.10.4 Facilitate the review of this policy on an annual basis. The DOT CTO will solicit participation for all appropriate stakeholders to comment on proposed updates to the policy to address amendments to Section 508 regulations, Access Board EIT Accessibility Standards, guidance from OMB, and emerging technology and information technology service delivery models deemed necessary to improve the effectiveness of the policy.
- 23.10.5 Work with the DRC, DOCR and other appropriate stakeholders to make EIT accessibility and Section 508 information, tools, and guidance available for all DOT employees and contractors to help DOT meet its EIT accessibility goals.

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Section 23.11 Approval

This policy has been approved and issued under the authority granted to the Secretary of Transportation, Chief Information Officer.

9/11/2013

 Richard McKinney

Richard McKinney
DOT Chief Information Officer
Signed by: RICHARD MCKINNEY

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Appendix A Definition of Terms

Access Board, also known as the Architectural and Transportation Barriers Compliance Board, is an independent Federal agency responsible for developing and maintaining accessibility standards and guidelines for built environments, transit vehicles, telecommunications equipment, and electronic and information technology. (Source: United States Access Board, www.access-board.gov/)

Alternate Means of Access are different means of providing information, including product documentation, to people with disabilities when meeting the Access Board standards would impose an undue burden or fundamental alteration in the EIT. The term may include, but is not limited to, voice, fax, relay service, TTY, internet posting, captioning, text-to-speech synthesis, and audio description. (Source: Telecommunications Act Accessibility Guidelines, 36 CFR Part 1193)

Assistive Technology Device is any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities. (Source: Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. § 1401(1)(A))

Commercial Unavailability applies when an agency is unable to find a commercial item that meets applicable electronic and information technology accessible standards or when an item cannot be furnished to satisfy the agency's requirements.

Content Owner is anyone who is responsible for the production of content in any form, including electronic documents, videos, web applications, podcasts, etc., of that will be made available on the Web (Internet, Intranet or Extranet) that is accessible by Federal employees or members of the public.

Contracting Officers are personnel who acquire EIT.

Disability is a physical or mental impairment that substantially limits one or more major life activities.

Electronic and Information Technology (EIT) is information technology (IT), as defined by The Access Board at 36 CFR 1194.4 and by FAR 2.101, and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion or duplication of data or information. EIT includes, but is not limited to: software applications and operating systems, telecommunications products, information kiosks and transaction machines, Web sites (Internet, Intranet and Extranet), video and multimedia products, desktop and portable computers, office equipment such as copiers and fax machines, and documents posted online (e.g., Word, PDF). (Source: 36 CFR 1194.4)

Equivalent Facilitation is the use of an alternative design or technology that results in substantially equivalent or greater access to and use of data and information by

individuals with disabilities than would be provided by conformance to Section 508 standards. (Source: [36 CFR 1192.2](#))

Exception, in limited instances, allows the acquisition of products or services that do not fully comply with Section 508 technical standards and functional performance criteria. These limited instances, as defined by law, include those products incidental to a contract; commercial non-availability, back-office, fundamental nature of change, national security and undue burden. (Source: The Access Board, www.access-board.gov; [36 CFR 1194.4](#))

Federal Acquisition Regulation (FAR): The FAR is the primary regulation for use by Federal executive agencies for acquisition of supplies and services with appropriated funds. The document, published in 1984, consolidated the major procurement regulations of various departments and agencies. The intent was to standardize content and decrease the volume for consistency throughout Government.

Fundamental Alteration is incorporating accessibility features into a product that alters the product in such a way as to reduce substantially the functionality of the product, to render some features inoperable, to impede substantially or deter use of the product by individuals without the specific disability the feature is designed to address, or to alter substantially and materially the shape, size or weight of the product. (Source: The Access Board, www.access-board.gov)

Information Technology is 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 includes computers, ancillary equipment, software, firmware and similar programs or routines, services (including support services), and related resources. (Source: Section 5002(3) of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401(3)))

Mainstream electronic and IT products are those that are commonly used and commercially available.

National Security Systems: Any telecommunications or information system operated by the United States Government, the functions, operation, or use of which involves intelligence activities; involves cryptologic activities related to National Security; involves command and control of military forces; involves equipment that is an integral part of weapon or weapons system; is critical to the direct fulfillment of military or intelligence missions. This does not include a system that is to be used for routine administrative and business applications, such as payroll, finance, logistics, and personnel management applications. (Source: Federal Information Security Management Act (FISMA); 44 U.S.C. § 3542)

Products incidental to a contract are products acquired by a contractor that are neither used nor accessed by Federal employees or members of the public (contracted

employees in their professional capacity are not considered members of the public).
(**Source:** Preamble to the EIT Accessibility Standards, 36 CFR Part 1194)

Requiring Officials are government personnel 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.

Undue Burden means “significant difficulty or expense” when considering “all agency resources available” to the program or component for which the product is being developed, procured, maintained, or used. (**Source:** 36 CFR 1194.4)

Web Content Accessibility Guidelines (WCAG) explain how to make web content more accessible to people with disabilities, including natural information such as text, images, and sounds; and code or markup that defines structure, presentation, etc. (**Source:** W3C, Web Accessibility Initiative, *available at* <http://www.w3.org/WAI/guid-tech.html> (last visited August 23, 2013))

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Appendix B Legal Authorities and Guidance

National Policy, Directives and Memorandum

- The Rehabilitation Act of 1973 § 501, 29 U.S.C. § 791 (1973).
- The Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794 (1973).
- The Rehabilitation Act of 1973 § 505, 29 U.S.C. § 794a (1973).
- The Rehabilitation Act of 1973 § 508, 29 U.S.C. § 794d (1973), as amended by the Workforce Investment Act of 1998, P.L. 105-220, 112 Stat. 939: Electronic and Information Technology Accessibility for Persons with Disabilities.
- Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat.327, 42 U.S.C. § 12101 et. seq. Telecommunications Act Accessibility Guidelines, 36 CFR pt. 1193 (2012).
- 3627 National Policy, Directives and Memorandum Equal Employment Opportunity Commission Procedures for Providing Reasonable Accommodation for Individuals With Disabilities (February 9, 2001), available at: http://www.eeoc.gov/eeoc/internal/reasonable_accommodation.cfm
- Electronic and Information Technology Accessibility Standards, 36 CFR Part 1194 (2012).
- Federal Acquisition Regulation (FAR) for Acquisition of Information Technology, 48 CFR Part 39 (2012).
- Transportation Acquisition Regulations (TAR) for Acquisition of Information Technology, 48 CFR Part 1239.
- Transportation Acquisition Manual (TAM) pt. 1239, available at <http://www.dot.gov/assistant-secretary-administration/procurement/tar-part-1239-acquisition-information-technology> (last updated June 27, 2012).
- OMB Memorandum, Strategic Plan for Improving Management of Section 508 of the Rehabilitation Act, January 2013. <http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/strategic-plan-508-compliance.pdf>

Departmental Policy

- Departmental Policy Statement, DOT Policy on Information Technology Accessibility (December 19, 2013)
- Departmental Web Policy, DOT Order No. 1351.24 (Sept 27, 2010).
- Departmental Web-based Interactive Technologies Policy (Social Media and Web 2.0), DOT Order No.1351.33 (Nov 23, 2010)

National Guidance

- [Section 508.gov](http://Section508.gov), Official website for Section 508 of the US Rehabilitation Act
- [Buy Accessible.gov](http://BuyAccessible.gov), resources and tools for meeting Section 508 requirements

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