Digital Accessibility Conformance in Acquisitions

OS Digital Accessibility Program

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Common Digital Accessibility Misnomers

<Insert product/service name> is used at <insert agency name>, so it is accessible.

An automated scanning tool or checker was run, and came back with no errors, so <product/service> is accessible.

If I create an accessible <product/document> in <application X> and convert it to PDF, it will be accessible by default.

<Product/service> had a Section 508 evaluation <insert # 1+ years ago> and had no issues, so it is accessible.

The <product/service> was used with a screen reader and worked just fine, so it is accessible.

No one using <product/service> has a disability, so it doesn't need to be accessible.

Accessibility takes too much time.

The content must be black & white text to be accessible, and I want colorful design elements.

I'm not real familiar with accessibility [Section 508], but our team has made it accessible!

No issues appear in the vendor's ACR; therefore, it is conformant.

The <product/service> is approved for use, has an ATO, is FedRAMP certified, or is on the GSA schedule, so it is accessible.

FALSE

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How Does Section 508 Apply?

Timeline:

- All ICT developed or modified on or after January 18, 2018, must conform to the revised Section 508 standards
- ICT developed between 2001 and prior to January 18, 2018 (that has not been modified since) must conform to the original Section 508 standards.

Applicable Types and Formats:

External public facing content, non-public facing official agency communications, and internal applications. Examples:

- Laptops, printers, scanners, [desk & mobile] phones, kiosks, and any hardware with a user interface;
- COTS and GOTS licenses, software used but not purchased by the federal government;
- Email, PDFs, Microsoft Office documents, support material;
- Educational or training materials;
- Audio and/or video, webinars, recorded meetings;
- Posting to and the use of social media sites;
- Intranet content designed as a webpage or application
- External website or web application

Applies to all, including services-only, contract deliverables!

(Additional examples available on the Digital Accessibility @ HHS website.)

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Analyzing Conformance Risk in Acquisition

Acquisition Process Steps

1) Project Requirements
2) Market Research
3) Langauge in SOO/SOW/PWS
4) ACR Collected
5) SME on TEP
6) Accessibility Life Cycle Milestones

FAQ

What are some risk factors to account for during the acquisition process?

a) Audience size – How many users?
b) Visibility – Team, OpDiv, Department, Public?
c) Conformance – Comparatively, most accessible product meeting business needs?
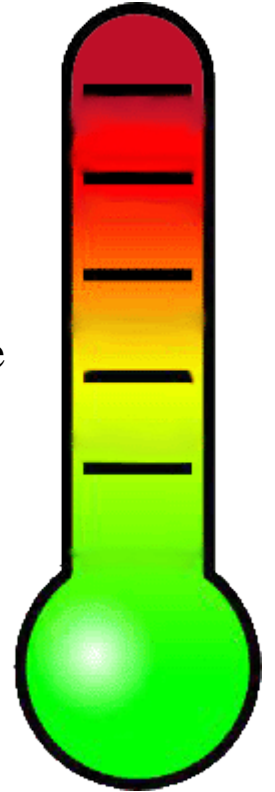
Levels of Engagement

Exclude: Does not include or consider accessibility

Acknowledge: Checks a box

Guidance: Seek out information from an authoritative source

Collaborate: Interact with authoritative source to make specific ICT decisions

Embed: Accessibility drives decisions

Consider the **inclusion severity** of each step. Is it: Negligible, Moderate, Critical, or Catastrophic?

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Improve Project Requirements

Rise Above Exclusion

- **Acknowledge** that accessibility is a requirement and therefore accessibility must be considered when developing requirements for tools or services.

- **Guidance** is gained when independent research is conducted to determine what accessibility properties are available in the tools being used to meet the business need and how to design accessible features.

- **Collaborate** with the accessibility program to receive recommendations on the most accessible implementation of the project requirements.

- **Embed** the accessibility program to provide specific recommendations based on the business need to ensure the highest level of compliance.

FAQs

1) **Which Section 508 requirements apply to my project?**
   a) Applicable technical requirements depend on the format of the product or content. Multiple chapters of the standards may apply. Review the [508 Chapter 2: Scoping Requirements](#) and [255 Chapter 2: Scoping Requirements](#) to identify applicable provisions. GSA's [Accessibility Requirements Tool (ART)](#) can also assist with determining applicable requirements through guided questions.

2) **Can my project get a Section 508 exception?**
   a. Most exceptions only apply to specific features or functions. The whole project will not likely be granted an exception. There are seven [types of exceptions](#), and each has unique criteria and documentation requirements. Exceptions can only be granted by HHS and OpDiv Digital Accessibility Program officials.

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Improve Market Research

Rise Above Exclusion

- **Acknowledge** that accessibility is a requirement and therefore accessibility must be considered when assessing tools or services.

- **Guidance** is gained when independent research is conducted to determine the accessibility claims of the tools that meet the business need.

- **Collaborate** with the accessibility program to determine the most accessible option.

- **Embed** the accessibility program to test the different offerings and provide a recommendation.

FAQs

1) **What are some COTS / GOTS conformance considerations to identify during market research?**
   a) Obtain an ACR (e.g., completed VPAT, HHS conformance checklist(s), other agency report).
   b) Meets the HHS conformance requirements.
   c) Functional demo of the product/platform to establish a conformance baseline.
   d) Confirm the supplier or purchaser can modify the product to meet conformance requirements. (Note: Code-level access is important for fixing defects. Low-code options often do not provide flexibility to address conformance.)

2) **How do I consider conformance in market research for services-only contracts?**
   a) Focus on potential vendors that have experience and demonstrate the ability to build conformant products and content.

Improve Contract Language Inclusion

Rise Above Exclusion

- **Acknowledge** that accessibility is a requirement, but the necessary language to include is unknown.

- **Guidance** was obtained by inserting standard Section 508 language

- **Collaborate** with the accessibility program to determine all areas in which have accessibility implications.

- **Embed** the accessibility program to provide specific information to the COR and PM to schedule and accept accessible material.

FAQs

1) **What is sufficient Section 508 contract language?**
   a) Each OpDiv Digital Accessibility Program may have recommended Section 508 language. Situational language is possible. At a minimum, it is recommended to indicate what standards are required, proposed products and platforms require an ACR, that the government must accept deliverables as conformant, and whose responsibility it is to remediate content.

2) **How should Section 508 be referenced in a SOW/SOO/PWS?**
   a. The Section 508 language needs to be inserted as a standalone section to cover the entire project. In most applicable ICT contracts, Section 508 applies to all tasks (not only specific ones). Optionally, additional language can be included in each task.

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Improve ACR Inclusion & Collection

Rise Above Exclusion

- **Acknowledge** that an ACR should be collected.

- **Guidance** is obtained by independent research of what an ACR is and how typical responses appear.

- **Collaborate** with the accessibility program to determine what an ACR contains and how to interpret one.

- **Embed** the accessibility program to provide specific guidance on how to respond to a vender's ACR (i.e., ask if the product can be modified).

FAQs

1) **Are ACRs required for services-only contracts?**
   a) No, ACRs are required when a COTS / GOTS platform or product (including cloud licenses) is being procured.

2) **How do I confirm an ACR provides quality information?**
   a) A SME should perform analysis on the data. However, tips to identify quality responses include:
      I. An "Evaluation Method" is identified and includes manual testing. The sole use of an automated web-crawler, auto-checker, and/or assistive technology are insufficient.
      II. Be suspicious of nearly all "Conformance Levels" listed as "Supports" (there is no perfect product). Likewise, too many "Not Applicable" indicates potential lack of SME knowledge.
      III. "Remarks and Explanations" should not repeat the criteria. Look for descriptive defect location(s) and type of support or lack thereof with remediation plans.

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Improve SME on Technical Evaluation Panel (TEP)

Rise Above Exclusion

- **Acknowledge** that accessibility must be measured during the evaluation of offerors.

- **Guidance** is obtained by independent review of the ACR responses from the offerors.

- **Collaborate** with the Accessibility Program to determine the state of the ACRs provided.

- **Embed** the Accessibility Program to serve as an TEP evaluator.

FAQs

1) **What are some guidelines for Section 508 evaluation criteria?**
   a) Indicate an ACR is required for proposed products or platforms (including subscriptions to software).
   b) Offerors must explain how they will meet the legal framework of Section 508 standards and how the development/creation efforts associated with the objectives will be measured to achieve [HHS digital accessibility conformance standards](#).
   c) Offerors should describe previous experience in meeting Section 508 conformance standards.

2) **What are some criteria that should be noted in an offeror's proposal and technical volume?**
   a) Determine what accessibility credentials and review tools the vendor has & will use to continuously test the ICT in each step/stage.

Improve Digital Accessibility Life Cycle Milestones

Rise Above Exclusion

- **Acknowledge** that accessibility needs to, at a minimum, be fully tested at the end.

- **Guidance** is obtained by independent research and review of the accessibility impacts of each functional release

- **Collaborate** with the Accessibility Program to test the final product

- **Embed** an expert from the Accessibility Program into the development team.

FAQs

1) **As a COR, how do I determine deliverables are conformant before acceptance?**
   a) Perform a few baseline evaluations to establish a high-level assessment.
   b) Confirm an accompanying HHS checklist(s) or report(s) from the respective OpDiv Digital Accessibility Program indicates full conformance.
   c) Contact the respective OpDiv Digital Accessibility Program for conformance questions or concerns.

2) **How often does conformance need to be reviewed post-award and/or release?**
   a) User interface and functionality updates / upgrades / new releases for software, hardware, web (inter- & intra-), mobile, or document versions require review. The OS Conformance Review Guidelines cover more examples.

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Complexity Impacts to Commence Risk

This table is not comprehensive and is broad, general guidance across content formats based on many content reviews. Multiple factors contribute to the risk associated with specific content.

Content Element	Identifiable Examples	Complexity
Headings	Section titles, bolded, colored, and/or large size concise phrases	Low
Lists	Group of bulleted or numbered related items	Low
Color Palette	Colors other than black and white, gradient or patterned backgrounds	Low
Media	Video and/or audio, carousels	Moderate
Simple Graphics	Logos; scenery photo; headshot; clipart; filler graphic	Moderate
Tables	Columns and rows of related information, one or more column and/or row headers, grids	High
Interactive Elements	Links; radio buttons; checkboxes, drop downs; text fields; buttons; list boxes; menus	High
Complex Graphics	Pie charts; bar graphs; organizational charts; process flows; line graphs; floor diagrams; infographics; images of text (i.e. cartoons)	High

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Additional Conformance in Acquisition FAQs

1) **Who is responsible for conformance?**

   a) All acquisition staff (e.g., CO, COR), business owners, technical team members, and other staff involved in the ICT life cycle. Where Section 508 language exists in a contract the contractor is responsible for ensuring conformance. With or without contractors, the government is accountable for conformance and must respond to access requests, litigation, and ensure conformance.

2) **Must the system/product's supplemental documentation, training, or exportable content be conformant?**

   a) All supplemental documentation, training content, or exportable content must independently conform.

3) **Does the use of 3rd party plug-ins to display or generate content require conformance?**

   a) Yes, 3rd party plug-ins and the generated content must also meet HHS conformance requirements.

4) **What is needed to confirm approval of content for distribution or release?**

   a) Per HHS policy, each OpDiv Digital Accessibility Program has the authority to authorize or reject content. Individuals are encouraged to review the appropriate HHS conformance checklist(s) for content-specific guidance. See the OS Digital Accessibility Services page for OS owned or managed conformance process details. Checklists that reflect full conformance indicate content can be distributed or released.

5) **How do I prepare for the risks of complaints?**

   a) Offer contact: Before complaints occur, provide a contact or resource mailbox to send concerns.

   b) Identify a process: Validate complaints are product/content issues versus user preference. Then determine escalation, prioritization, and severity criteria for addressing the defect(s).

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Digital Accessibility @ HHS

OS Digital Accessibility Program

Values:

- Inspire users to boost skills by educating, consulting, and partnering.
- Foster accessible foundations to avoid recoding and reduce life cycle costs.
- Propel accessibility by adapting to the traits of emerging ICT.

Services

- Conformance Reviews
- Critical Partner
- Metrics Reporting
- Training & Guidance
- SME Solutions
- Business Process Consultation
- Acquisitions

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Services:

- Digital accessibility enterprise tools
- Testing as a Service (TaaS)
- Remediation as a Service (RaaS)
- Embedded Digital Accessibility SME
- Enterprise Critical Partner
- Respond to agency reporting requirements

Resources

- HHS Policy for Digital Accessibility and Section 508
- OS Digital Accessibility Program (internet)
- HHS & OS Digital Accessibility Programs (intranet)

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Conformance Resources

HHS Resources

- HHSAR Clause 339.205 Section 508 Accessibility Standards for Contracts
- HHS Policy for Digital Accessibility and Section 508 Compliance of ICT
- HHS Accessibility Conformance Checklists
- Digital Accessibility @ HHS (internet)
- HHS & OS Digital Accessibility Programs (intranet)

OS Resources

- OS Acquisition Resources
- OS Digital Accessibility Services
- OS Conformance Review Guidelines
- OS Conformance Baseline Evaluations
- OS Technical Resources

External Resources

- Revised Section 508 Standards and 255 Guidelines
- FAR Subpart 39.2 - Information and Communication Technology
- ITI's Voluntary Product Accessibility Template (VPAT®)
- GSA's Accessibility Requirements Tool (ART)
- GSA's Content Creation Resources
- GSA's Design and Develop Resources
- GSA's Testing Resources

Applying a11y to each step / phase reduces remediation & project effort, time, and cost.

Engagement + Empowerment
= Effective Conformance

CONTACT US

OS Digital Accessibility Program

Office of the Chief Information Officer

Department of Health and Human Service

Email: OSa11y@hhs.gov

Website: 508.HHS.gov

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Reference Slides & Risk Use Cases

Why Digital Accessibility & Section 508?

Definitions

- **Digital Accessibility:** Incorporates many accessibility standards, guidelines, and practices that provides an inclusive and usable experience for people of all abilities.

- **Section 508**: Set of standards that enable people with disabilities to be informed, perform work, receive government benefits, and conduct business. Applies to anytime the government develops, procures, funds, maintains, or uses information and communications technology (ICT).

- **ICT**: Information & Communications Technology (formerly EIT)

- **ACR**: Accessibility Conformance Report [*Note: Replaces references to HHS Product Accessibility Template (PAT)]*

- **VPAT**: Voluntary Product Accessibility Template

- **A11y**: Eleven characters between "a" & "y"

See HHS Digital Accessibility Terms for additional phrases.

Significant Laws & Regulations

- Rehabilitation Act of 1973, 29 U.S.C. § 701 et seq., as amended, Sections 504 and 508, 29 U.S.C. §§ 794, 794(d), as amended in 2018

- Federal Information Technology Acquisition Reform Act (FITARA), Public Law 113-291, div. A, tit. VIII, Subtitle D, 128 Stat. 3292, 3438-50 (2014)

- HHS Acquisition Regulation (HHSAR)

- HHS Policy for Section 508 Compliance and Accessibility of Information and Communications Technology (ICT)

Risk Use Case: Common Submission

Step	Severity	Engagement	Example
Market Research	Negligible	Excluded	Used an enterprise platform solution, so market research was minimal to what the agency had already procured
Project Requirements	Critical	Acknowledged	Implemented human-centered design, but their humans didn't include individuals with disabilities
Language in SOO/SOW/PWS	Catastrophic	Guidance	Followed the ITAR process including standard accessibility language but did not associate accessibility requirements to the list of deliverables.
ACR Collected	Moderate	Acknowledged	Vendor provided a link to their website in which an ACR exists.
SME on TEP	Negligible	Excluded	There was no accessibility measurement or consideration for reviewing the offers or ACRs.
Accessibility Life Cycle Milestones	Catastrophic	Guidance	Followed the EPLC process that includes Accessibility as a critical partner and ensures the content is tested prior to operational readiness.

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Risk Assessment: Very Risky

Risk Use Case: Prior Agency-Acquired Platform/Tool

Step	Severity	Engagement	Example
Market Research	Negligible	Acknowledged	Used an enterprise platform solution - market research was minimal to what the agency had already procured but the accessibility best meets requirements were acknowledged.
Project Requirements	Negligible	Acknowledged	Purchased a tool that fulfills a business need with no considerations for customizations.
Language in SOO/SOW/PWS	Negligible	Guidance	Followed the ITAR process and inserted standard accessibility language.
ACR Collected	Catastrophic	Guidance	ACRs were retrieved from the vendor websites and values of "satisfied" were identified; therefore, no further investigation occurred.
SME on TEP	Critical	Collaborated	The accessibility team was provided one round of review and recommendations on the TEP.
Accessibility Life Cycle Milestones	Critical	Guidance	HHS Section 508 checklists were completed by the accessibility team post deployment.

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Risk Assessment: Moderate

Risk Use Case: Expected Outcome

Step	Severity	Engagement	Example
Market Research	Negligible	Embedded	Engaged with accessibility program and worked together to determine the most accessible product
Project Requirements	Moderate	Collaborated	Interacted with accessibility program team to review business requirements and receive recommendations for accessibility.
Language in SOO/SOW/PWS	Catastrophic	Embedded	Formed language throughout the acquisition documentation that includes standard paragraphs plus specifics for the project.
ACR Collected	Moderate	Collaborated	Accessibility program team assisted in reviewing the validity of the collected ACR content.
SME on TEP	Negligible	Collaborated	Asked accessibility program team to participate on the TEP and provide scores.
Accessibility Life Cycle Milestones	Catastrophic	Embedded	In conjunction with the accessibility program team a schedule was prepared that incorporates accessibility practices, an accessibility SME is integrated into the project team, and each release/distribution has a conformant HHS checklist(s).

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Risk Assessment: Low