

29.01.04.E0.02 Exceptions for the Purchase of Electronic and Information Resource Products

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Standard Administrative Procedure Summary

The Texas A&M Engineering Experiment Station (TEES) supports access to electronic information resources for a diverse population. Conformance to standards for accessibility to electronic information resources is expected by all employees so that risk to the agency is mitigated without impairing the intended functionality for a product. This Standard Administrative Procedure provides guidance for allowable exceptions for Electronic and Information Resources (EIR) that are created, purchased, contracted, or donated.

Definitions

Alternative access - provide users with disabilities with content that is similar or identical to that provided to users without disabilities, but in a format that produces a different user experience ([Section 508 Glossary](#)).

Accessibility Conformance Report – a VPAT completed by a vendor or a formal statement provided by a vendor attesting that a product does or does not conform to Section 508 standards.

Equivalent access - Equivalent access provides users with disabilities with content that is similar or identical to that provided to users without disabilities, in a form that produces a similar user experience ([Section 508 Glossary](#)).

Electronic Information Resources (EIR) – Includes information technology and any equipment or interconnected system or subsystem of equipment used to create, convert, duplicate, or deliver data or information. EIR includes telecommunications products (such as telephones), information kiosks and transaction machines, web sites, multimedia, and office equipment such as copiers and fax machines. 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 acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, thermostats or temperature control devices, and medical equipment that contain information technology that is integral to its operation, are not information technology. If the embedded information technology has an externally available web or computer interface, that interface is considered EIR. Other terms such as, but not limited to, Information and Communications Technology (ICT), Electronic Information Technology (EIT), etc. can be

considered interchangeable terms with EIR for purposes of applicability or compliance with this chapter. (TAC 213.1)

Voluntary Product Accessibility Template (VPAT™) - a document that explains how electronic and information resources such as software, hardware, electronic content, and support documentation meet (conform to) the [Revised 508 Standards](#) for IT accessibility. VPATs™ help agency contracting officials and buyers assess EIR for accessibility when doing market research and evaluating proposals.

Procedures and Responsibilities

1. GENERAL

- 1.1 Completed VPATS known as statements of conformance for accessibility compliance will be acquired for EIR procurements and evaluated for conformance with Texas state requirements. Buyers must contact vendors/manufacturers/donors for VPATs, add it to the AggieBuy requisition and contact the TEES EIR Accessibility Coordinator.
- 1.2 The TEES EIR Accessibility Coordinator will review the VPAT and, when necessary, initiate the exception process on behalf of the EIR owner to formally document a risk management decision or execute a formal approved Exception approved by the TEES Deputy Director or designee (example: Agency Chief Information Officer). Records of decisions will be maintained by the TEES EIR Accessibility Coordinator.

2. RESEARCH

2.1 TEES funded research and procurement exceptions.

Documented risk exceptions may be allowable under the following defined conditions.

- 2.1.1 Hardware or software for which no equivalent accessible option is available.
- 2.1.2 Undue burden (i.e., difficulty or expense) to bring into compliance.
- 2.1.3 Hardware or software is specific to research or development for which no user requires accessibility accommodations.
- 2.1.4 EIR product will only be used within a research group with 10 or fewer participants (principal investigator, staff, and students) and it is not publicly available through a Texas A&M website.
- 2.1.5 A contract for a service such as data research and analysis for which the end-product is a limited distribution report.
- 2.1.6 Software that is required to operate equipment, is integrated into the equipment, and without which the equipment does not function (Example: oscilloscope, electronic microscopes).

- 2.1.7 TEES trusted partner software donations require a VPAT/ conformance report requested from the donor. The donated product will be evaluated for conformance.

3. CYBER-SECURITY

- 3.1 TEES funded cyber-security related hardware and software purchase exceptions.

Documented risk exceptions may be allowable under the following defined conditions.

- 3.1.1 Any EIR product that is used solely for cyber-intelligence activities (example: Varonis).
- 3.1.2 Cyber-security related EIR that are not public-facing and administered by 1 to 3 administrators (example: network monitoring equipment).

4. NO CONFORMANCE REPORT (COMPLETED VPAT)

- 4.1 If a vendor cannot provide a conformance report (e.g. completed VPAT) or a statement of conformance for accessibility, a formal EIR Accessibility Exception Request must be executed and approved by the TEES Agency Director or designee.

5. REVIEW AND APPROVAL

- 5.1 Documented risk exceptions that meet the parameters in sections 2 and 3 above, shall be reviewed by the TEES EIR Accessibility Coordinator, or designee, and the Chief Information Officer/Information Resource Manager.
- 5.2 When an acquisition meets the parameters of sections 2 or 3 above, the acceptance of risk shall be documented and archived by the TEES EIR Accessibility Coordinator or designee. The EIR in question shall be reviewed annually, or as prescribed in the EIR Exception form, or at end-of-life to determine if the parameters still apply.
- 5.3 When an acquisition does not meet the parameters described in sections 2 or 3 above or the vendor conformance report indicates lack of compliance and the need for the acquisition is justified by the requisitioner, a formal EIR Exception Request shall be initiated by the TEES EIR Accessibility Coordinator, or designee, on behalf of the resource owner. The Exception Request shall be approved by the TEES Agency Director or designee and recorded and archived by the TEES EIR Accessibility Coordinator.

6. ALTERNATIVE ACCESS

- 6.1 When an Exception is approved, or if an EIR product does not meet the parameters described in section 2 or 3 above, TEES EIR owner will provide equivalent or alternative access for information and data to persons with disabilities in a timely manner when an accommodation request is presented.

Related Statutes, Policies, or Requirements

[Americans with Disabilities Act of 1990 \(ADA\), as amended](#)
[Section 504 of the Rehabilitation Act of 1973, as amended](#)
[Section 508 of the Rehabilitation Act of 1973, as amended](#)

[Texas Government Code 2054, Subchapter M](#)

[Texas Administrative Code 206](#)

[Texas Administrative Code 213](#)

Contact Office

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APPENDIX

Reference: [Federal OPM guidance](#)

Two exceptions to procurement of EIT. If there are no products that meet the business requirements, including timeliness, and are [not] Section 508 compliant, then a Section 508 compliant product is deemed to be not commercially available. In this case, a non-compliant product may be procured. This non-availability must be documented and be retained in the procurement file and is subject to audit. If there are products that meet the business requirements and that meet some, but not all, of the Section 508 standards, then the product that best meets the standards should be procured.

When a non-compliant product is procured, the program office must identify and be prepared to provide equivalent facilitation or alternative means. Equivalent facilitation is defined as substantially equivalent or greater access to and use of a product for people with disabilities. Alternative means is defined as providing individuals with disabilities with access to the information or data involved by an alternative media, format, or technology that allows the individual to use the information or data.

The second exception to procuring compliant technology relates to an undue burden to provide a compliant product. An undue burden is defined as a significant difficulty or expense. Factors that must be considered when assessing undue burden or hardship include the difficulty or expense of compliance and the agency resources available to its program or component for which the supply or service is being acquired (Federal Acquisition Regulations 48 CFR 39.204(e)). The undue burden must be documented and must explain why the EIT is not compliant, why it cannot be made compliant, and what actions are being taken to provide the information in an alternative format (i.e., equivalent facilitation or alternative means). A Deputy Associate Director or equivalent senior manager must request approval of the undue burden determination, and the request must be submitted to CIS for review as part of the Section 508 assessment process. CIS will coordinate approval of the undue burden determination with the Contracting, Facilities, and Administrative Services Group and the Office of the General Counsel. Undue burden determinations that have a significant impact may require approval by the Director.