

# Frequently Asked Questions on Compliance with Section 508 of the Rehabilitation Act

## Implications for Challenge Competition Solicitations

This document is intended for HHS program officials functioning as challenge managers to guide them through issues related to compliance with Section 508 of the Rehabilitation Act (29 U.S.C. 794d). This document also informs HHS officials overseeing compliance with Section 508 by helping to provide an understanding of issues associated with the “challenge mechanism” as a tool for obtaining innovative solutions to pressing mission-related problems. The HHS Innovation Council developed this document for the handling of 508 compliance issues in collaboration with the HHS Office of the Assistant Secretary for Financial Resources, Assistant Secretary for Public Affairs, the HHS Office of Disability, and the HHS Office of the Chief Information Officer. The Frequently Asked Questions (FAQ) discussed herein apply to HHS challenge competitions conducted under the authority of the America Competes Act (Pub. L 111-358, Jan. 4, 2011) 15 U.S.C. § 3719. Challenge competitions conducted under other authorities are strongly encouraged to follow this guidance.

**Question:** How should challenge managers address compliance with Section 508 of the Rehabilitation Act in their challenge competition solicitations?

**Answer:** The America COMPETES Act (15 U.S.C. 3719) does not address the issue of compliance with Section 508 of the Rehabilitation Act, which is a federal law that requires Federal agencies to ensure that persons with disabilities have comparable access to and use of the information and data that they develop, procure, maintain, or use. The Department is committed to ensuring equal access to and use of electronic and information technology (EIT) for persons with disabilities for all EIT procured, used, developed, or maintained by HHS.

This FAQ provides guidance to Challenge Managers on addressing 508 compliance issues in two areas likely to arise in challenge competitions: a) where the Department anticipates that after a challenge competition, it may acquire a solution with EIT for the Government’s use, maintenance, or development; and, b) challenge competitions involving product ideas, theoretical models, or early-stage prototypes.

### a. Acquisition of a Solution with EIT Subsequent to a Challenge Competition

Challenge managers should address Section 508 compliance issues for those challenges where it is known at the time a challenge is launched that the Department anticipates that after the challenge competition, it may obtain by contract under the Federal Acquisition Regulation (FAR) or by any other method, a solution that includes EIT for the Government’s use, maintenance, or development. Before such a solution with EIT can be subsequently obtained by contract or other vehicle, it must comply with Section 508’s accessibility and usability requirements, unless an exemption is provided for. Therefore, challenge managers should ensure that their challenge solicitations inform solution-providers that, as a pre-requisite to any subsequent of solutions with EIT by contract or other method, they may be required to make their solutions 508 compliant at their own expense. For anticipated contracts under the FAR, challenge managers are advised to engage with their cognizant acquisition personnel to assess the potential contract requirements related to compliance with Section 508. In addition, for anticipated

acquisitions of EIT by methods other than under the FAR, you may wish to refer challenge managers to their 508 coordinators.

b. Challenge Competitions Involving Product Ideas, Theoretical Models, or Early-Stage Prototypes

In cases where the Department is seeking product ideas, theoretical models, or early-stage prototypes, it may be premature to require solution-providers to comply with Section 508 requirements in their submissions to an HHS-initiated challenge. In such cases, challenge managers should require solution-providers to submit a statement acknowledging that they understand that, as a pre-requisite to any subsequent acquisition by FAR contract or other method, they may be required to make their proposed solution compliant with Section 508 accessibility and usability requirements at their own expense. Challenge managers should also require solution-providers to submit a short description of how this would be accomplished.

There is a strong business case for challenge managers to build awareness of Section 508 accessibility and usability requirements into their challenge solicitations. Any EIT that is ultimately obtained by HHS for its use, development, or maintenance must meet Section 508 accessibility and usability standards. Past experience has demonstrated that it can be costly for solution-providers to “retrofit” solutions if remediation is later needed.

**Question:** What are the types of technological solutions to HHS-sponsored challenges that would invoke consideration(s) for meeting the requirements of Section 508 of the Rehabilitation Act?

**Answer:** These could include, but are not limited to challenges that seek the following kinds of technological solutions:

- Web-based internet applications
- Videos and multimedia products
- Dashboards, mash-ups or tools that synthesize and present disparate data in novel ways
- Algorithms
- Mobile phone applications
- Information technology-enabled devices or robots

**Question:** What are the obligations of challenge managers in stipulating compliance with Section 508 requirements for a challenge solution that is specifically aimed at an early stage prototype or IT-enabled tool that is not yet ready for procurement, use, or public display by an HHS agency?

**Answer:** In this case, challenge managers must require that solution-providers submit a statement acknowledging that they understand that, as a pre-requisite to any subsequent obtainment by FAR contract or other method, they may be subsequently required to make their proposed solution compliant with Section 508 accessibility and usability requirements at their own expense, and also provide a short description of how this would be accomplished.

The HHS Section 508 Evaluation Product Assessment Template may provide a useful roadmap for developers to review and follow in developing such a statement. It is available at <http://www.hhs.gov/od/vendors/index.html>. This tool is a simple, web-based checklist utilized by HHS officials to allow vendors to document how their products do or do not meet the various Section 508 requirements.

**Question:** In a situation where HHS is interested in obtaining by a contract under the FAR or any other method electronic and information technology developed by a solution-provider that has been determined not to conform to Section 508 accessibility and usability standards, which party is responsible for ensuring that the electronic and information technology meets Section 508 requirements?

**Answer:** Under Section 508, HHS has a legal responsibility to ensure that the electronic and information technology that it procures will be accessible to and usable by persons with disabilities. Therefore, if, after a challenge prize has been awarded, HHS determines that a solution that it is interested in obtaining does not meet Section 508's accessibility and usability requirements, such solution must ultimately conform to the described accessibility and usability in the HHS Section 508 Evaluation Product Assessment Template before it is deployed or utilized by the Government.

**Question:** Where can HHS challenge managers learn about Section 508 Requirements?

**Answer:** Resources for understanding and implementing Section 508 accessibility and usability requirements can be found at <http://www.section508.gov/> (this site provides a broad overview for understanding and implementing Section 508) and <http://www.hhs.gov/web/508/index.html> (this site, developed and managed by HHS, provides additional information on the testing of documents and procedures for making them 508-compliant). In addition, on-line training on this topic is available for HHS employees at <http://intranet.hhs.gov/training/508/index.html>

**Question:** To whom should HHS challenge managers be directed for more information regarding how to meet Section 508 accessibility and usability requirements if they have additional questions?

**Answer:** HHS challenge managers may wish to contact their designated 508 coordinators, which are listed at <http://www.hhs.gov/od/508coordinators/index.html>. Challenge managers in need of additional technical assistance may wish to contact the Access Board. Contact information for the Access Board may be found on their website at <http://www.access-board.gov/508.htm>