



CALIFORNIA STATE UNIVERSITY LONG BEACH

PROCUREMENT AND SUPPORT SERVICES

DATE: March 25, 2008

TO: All Offices

FROM: Charles W. Hughes, Director
Procurement and Support Services

SUBJECT: Procurement Procedures for the Acquisition of Accessible
Electronic & Information Technology (E & IT) Goods and Services

PSS MEMO: 08 - 03

Authority & References:

California Government Code Sec. 11135
CSU Executive Order 926
Section 508 of the Rehabilitation Act of 1973
California Senate Bill 105, Stats.2002, c. 1002
California Senate Bill 302, Stats.2003, c. 783
http://www.calstate.edu/accessibility/EIT_Procurement/index.shtml
<http://www.csulb.edu/divisions/students2/committees/ati/>

A. PURPOSE AND BACKGROUND

The California State University (CSU) has an ongoing commitment to make information technology resources and services accessible to all CSU students, faculty, staff and the general public regardless of disability. These requirements are outlined in CSU Executive Order Order 926 – The CSU Board of Trustees Policy on Disability Support and Accommodations (<http://www.calstate.edu/EO/EO-926.html>)

CSULB will incorporate the Electronic & Information Technology (E & IT) requirements as recommended by the Trustees. This procedure is intended to provide the campus with guidance in the procurement of accessible E&IT goods and services as required by CSU Executive Order 926.

B. DEFINITIONS:

Electronic and Information Technology (E & IT) is information technology (IT) and any equipment or interconnected system or subsystem of equipment, that is used in the creation,

conversion or duplication of data or information . EIT is defined by the Access Board at 36CFR 1194.4 and in the FAR at 2.101.

E & IT includes:

- Telecommunication products, such as telephones
- Information Kiosks
- Transaction machines
- World Wide Web sites
- Software and Operating Systems
- Computers
- Multimedia (including videotapes)
- Office Equipment, such as copiers and fax machines

Requestor: – Person or department requesting the purchase of E&IT goods and/or services.

Accessibility requirements: – requirements contained in California Government Code Sec. 11135

For Additional definitions, refer to:

<http://www.csulb.edu/divisions/students2/committees/ati/glossary/>

C TRANSITION SCHEDULE FOR APPLICABILITY: The Section 508 requirements apply to all purchases of E&IT goods and services. However, due to the complexity of this program, there is a phased approach for compliance:

9/01/07	All E & IT Procurements for acquisitions greater than \$50,000
9/01/08	All E & IT Procurements for acquisitions greater than \$ 2,500
9/01/09	All E & IT Procurement Card acquisitions greater than \$ 2,500
9/01/10	All E & IT Procurements, regardless of price

D. PROCEDURE:

1. E&IT acquisitions – Reference: CSU Policy Manual For Contracting & Procurement sections 301 A and B, 401 A and B, 501 A, B, C, and D:

Requisitions submitted for purchase of E&IT goods and services must address the Section 508 Compliance requirements and include an approval, waiver or determination that accessibility requirements are not applicable by the *Campus Section 508 Compliance Officer* for the specific procurement. In the event that accessibility requirements are waived or are not applicable to the E&IT goods and services to be purchased, the requisition must include a written justification approved by the *Campus Section 508 Compliance Officer*.

Buyers shall only purchase E&IT goods and services that are in compliance with the E&IT accessibility requirements or where the requirements have been waived or deemed not applicable by the *Campus Section 508 Compliance Officer*. Purchase orders/contracts for E&IT goods and services subject to accessibility requirements must include the following clause:

“Contractor warrants that it complies with California and federal disabilities laws and regulations. Contractor hereby warrants that the products or services to be provided under this contract comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless the CSU from any claims arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach and be grounds for termination of this Contract.”

2. Acquisitions governed by formal bidding requirements [defined as over \$50,000] Reference: CSU Policy Manual For Contracting & Procurement Sections 302, 402, and 502:

Bid specifications for E&IT products and services shall include all applicable accessibility requirements. Any exceptions to accessibility requirements must include a written justification approved by the *Campus Section 508 Compliance Officer*.

Vendors shall submit, with their bid, completed Voluntary Product Evaluation (VPAT) forms and the bid evaluation shall include the determination of whether or not a product offered meets the Section 508 requirements. The bid award will be made to the lowest evaluated which meets the minimum Section 508 requirements.

A Request for Proposal (RFP) whereby factors including price are evaluated and rated may be conducted to select the *best choice* for a particular E & IT goods or service. The *Campus Section 508 Compliance Officer* must be a member of all RFP evaluation project teams.

Criteria used for the evaluation of RFP proposals that are subject to accessibility requirements must include factors for the evaluation of these requirements.

Buyers shall include the following clause in all E&IT contracts subject to accessibility requirements:

“Contractor warrants that it complies with California and federal disabilities laws and regulations. Contractor hereby warrants that the

products or services to be provided under this contract comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless the CSU from any claims arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach and be grounds for termination of this Contract.”

E. RESPONSIBILITIES:

1. Requestor:

- Evaluate the product using the sample E & IT Checklist.
- Prepare specifications in accordance with the accessibility requirements.
- Provide vendors with the applicable VPAT forms, and reviews the VPAT submissions for accuracy.
- Submit requisition package to the Purchasing Office which includes:
 1. Adequate specification
 2. CSU E & IT Checklist
 3. Signed VPAT forms, verifying that the Section 508 Requirements have been met.
- Coordinate with Campus Section 508 Compliance Officer on problematic issues to ensure that accessibility requirements are adequate.
- If a waiver or exemption is requested, provide all documentation and justifications to the Section 508 Compliance Officer for their review and approval.
- If an exemption is approved provides a remediation plan outlining how the accessibility needs will be accommodated.
- If exempted from the Section 508 Compliance, the requisition package will include the:
 1. Approved exemption
 2. Approved justification
 3. Approved remediation plan
 4. Separate requisitions required to accomplish the remediation plan.
- Forms may be obtained at:
http://www.calstate.edu/accessibility/EIT_Procurement/index.shtml

2. Campus Section 508 Compliance Officer:

- Audit E&IT purchases for compliance with accessibility requirements.
- Coordinate with the Requestor and Purchasing and appropriate technical staff to resolve EIT issues.
- Review and approve written justification for all exceptions and waivers to accessibility requirements. Reviews and approves all associated remediation plans to ensure compliance with accessibility needs.
- Coordinate with the Requestor, Purchasing and appropriate technical staff to develop accessibility specifications and criteria as needed.
- Participate in all Request for Proposal (RFP) procurements, evaluating proposals for compliance with accessibility requirements against evaluation criteria.

3. Buyer:

- Review requisition and associated documents for compliance with policies and procedures.
- Include required terms and conditions in purchase orders/contracts.
- Include proper instructions in solicitation documents to identify accessibility and documentations requirements to bidders.
- Maintain the EIT documentation with the appropriate purchase order.

**F. APPENDICES: For a complete list of Appendices, refer to:
http://www.calstate.edu/accessibility/EIT_Procurement/index.shtml**

Cc: Sharon Taylor, Associate Vice President, Financial Management
Douglas Robinson, Vice President, Student Services
Jan Reyes, Section Section 508 Compliance Officer
ATI Campus Committee
Purchasing Buyers

Attachments:

1. California Government Code 11135
2. Information to Vendors
3. CSU EIT Procurement Checklist

ATTACHMENT 1: California Government Code 11135

CALIFORNIA CODES

GOVERNMENT CODE

SECTION 11135-11139.8

11135. (a) No person in the State of California shall, on the basis of race, national origin, ethnic group identification, religion, age, sex, color, or disability, be unlawfully denied full and equal access to the benefits of, or be unlawfully subjected to discrimination under, any program or activity that is conducted, operated, or administered by the state or by any state agency, is funded directly by the state, or receives any financial assistance from the state. Notwithstanding Section 11000, this section applies to the California State University.

(b) With respect to discrimination on the basis of disability, programs and activities subject to subdivision (a) shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, except that if the laws of this state prescribe stronger protections and prohibitions, the programs and activities subject to subdivision (a) shall be subject to the stronger protections and prohibitions.

(c) (1) As used in this section, "disability" means any mental or physical disability as defined in Section 12926.

(2) The Legislature finds and declares that the amendments made to this act are declarative of existing law. The Legislature further finds and declares that in enacting Senate Bill 105 of the 2001-02 Regular Session (Chapter 1102 of the Statutes of 2002), it was the intention of the Legislature to apply subdivision (d) to the California State University in the same manner that subdivisions (a), (b), and (c) of this section already applied to the California State University, notwithstanding Section 11000. In clarifying that the California State University is subject to paragraph (2) of subdivision (d), it is not the intention of the Legislature to increase the cost of developing or procuring electronic and information technology. The California State University shall, however, in determining the cost of developing or procuring electronic or information technology, consider whether technology that meets the standards applicable pursuant to paragraph (2) of subdivision (d) will reduce the long-term cost incurred by the California State University in providing access or accommodations to future users of this technology who are persons with disabilities, as required by existing law, including this section, Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 and following), and Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794).

(d) (1) The Legislature finds and declares that the ability to utilize electronic or information technology is often an essential function for successful employment in the current work world.

(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.

(3) 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.

11136. Whenever a state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state, has reasonable cause to believe that a contractor, grantee, or local agency has violated the provisions of Section **11135**, or any regulation adopted to implement such section, the head of the state agency shall notify the contractor, grantee, or local agency of such violation and shall, after considering all relevant evidence, determine whether there is probable cause to believe that a violation of the provisions of Section **11135**, or any regulation adopted to implement such section, has occurred. In the event that it is determined that there is probable cause to believe that the provisions of Section **11135**, or any regulation adopted to implement such section, have been violated, the head of the state agency shall cause to be instituted a hearing conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of this part to determine whether a violation has occurred.

11137. If it is determined that a contractor, grantee, or local agency has violated the provisions of this article, the state agency that administers the program or activity involved shall take action to curtail state funding in whole or in part to such contractor, grantee, or local agency.

11138. Each state agency that administers a program or activity that is funded directly by the state or receives any financial assistance from the state and that enters into contracts for the performance of services to be provided to the public in an aggregate amount in excess of one hundred thousand dollars (\$100,000) per year shall, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of this part, adopt such rules and regulations as are necessary to carry out the purpose and provisions of this article.

11139. The prohibitions and sanctions imposed by this article are in addition to any other prohibitions and sanctions imposed by law.

This article shall not be interpreted in a manner that would frustrate its purpose.

This article shall not be interpreted in a manner that would adversely affect lawful programs which benefit the disabled, the aged, minorities, and women.

This article and regulations adopted pursuant to this article may be enforced by a civil action for equitable relief, which shall be independent of any other rights and remedies.

ATTACHMENT 2:

Information to Vendors

CSU Accessibility Requirement

California Government Code 11135 requires the CSU to comply with Section 508 *of the Rehabilitation Act of 1973, as amended*, and to apply the accessibility standards published by the U.S. Access Board for [electronic and information technology \(EIT\)](#) products and services that it buys, creates, uses and maintains.

EIT is information technology (IT) 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:

- telecommunication products, such as telephones;
- information kiosks;
- transaction machines;
- World Wide Web sites;
- Software and Operating Systems
- Computers
- multimedia (including videotapes); and
- office equipment, such as copiers and fax machines.

EIT is defined by the Access Board at 36 CFR 1194.4 and in the FAR at 2.101

The CSU procurement and contract process for EIT acquisition is amended to include *the Electronic and Information Technology Accessibility Standards at 36 CFR Part 1194*. Vendors who wish to do business with the CSU must provide information about their product's conformance to applicable accessibility standards via the Section 508 Evaluation Template also known as the Voluntary Product Accessibility Template (VPAT). [The CSU Guide to Voluntary Product Accessibility Template](#) and the [templates](#) themselves are available to assist vendors in this process.

Completion and submission of the VPAT is a requirement for CSU contracts for products and services where electronic and information technology is involved. Proposals or bids without a completed VPAT may be disqualified from the competition.

Attachmt 3

CSU EIT Procurement Checklist

for Section 508 Compliance

Requestor _____	Requisition Number	
Department/Unit _____	E&IT Officer Review	
Product Description _____ (include purpose)		
Product Users _____ (who will be using & % of total for each type of users: students, employees, public)		
Product Usage _____ (how will the product be used)		
Cost _____ (estimate the amount of this acquisition)		

Initial all
appropriate
boxes

Pre-Award Action for EIT Procurements

General Exemptions to Sect. 508 Only E&IT Officer can authorize an exemption

Back-Office (Includes mostly data centers and comm closets type-equipment)	
Fundamental Alteration (e.g., cell phones, PDAs, pagers, hand-held devices)	

Subparts and Categories for Section 508 Compliance

Subpart B - Technical categories of standards (may require more than one)	
Software applications and operating systems (36 CFR part 1194.21)	
Web-based internet and intranet information and applications (36 CFR part 1194.22)	
Telecommunication products (36 CFR part 1194.23) <i>(phone systems, voice mail systems)</i>	
Video and multimedia products (36 CFR part 1194.24) <i>(videos, tv tuners & displays)</i>	
Self-contained, closed products (36 CFR part 1194.25) <i>(printers, fax machines, kiosks, ITMs)</i>	
Desktop and portable computers (36 CFR part 1194.26)	

Subpart C - Functional performance criteria	
Subpart D - Information, documentation, and support documentation (always required)	

Market Analysis for Section 508 Compliance

All products that meet the functional requirements are 508 conformant	
One product meets more 508 standards than the others (attach supporting analysis)	
Product previously purchased and is still conformant (e.g., desktop computer contract)	
Only one product meets functional specifications (e.g., sole source)(attach justification)	

Note: For an EIT procurement to be awarded, it must have a completed procurement checklist and the vendor supplied VPAT. This includes sole source procurements. Exempt and previously purchased products only require a procurement checklist.

Requestor _____ **Date** _____
 Signature required to certify accuracy and completeness of the checklist and Section 508 compliance.

E&IT Officer _____ **Date** _____
 Jan Reyes, CSULB Section 508Compliance